

By Senator Simpson

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1 A bill to be entitled
2 An act relating to fossil fuel combustion products;
3 creating s. 403.7047, F.S.; providing definitions;
4 providing standards for storage of certain fossil fuel
5 combustion products; providing an exemption for
6 beneficial use of fossil fuel combustion products from
7 certain rules; providing that the act does not
8 prohibit the Department of Environmental Protection
9 from taking appropriate action to regulate a
10 beneficial use in certain circumstances; providing
11 that the act does not limit other requirements
12 applicable to the beneficial use of fossil fuel
13 combustion products; providing that the act does not
14 limit the recovery of beneficial use products or the
15 authority of the department to approve the beneficial
16 use of materials other than fossil fuel combustion
17 products; clarifying that the act does not limit or
18 modify any fossil fuel combustion product beneficial
19 use previously approved by the department; amending s.
20 403.7222, F.S.; excluding certain types of facilities
21 from provisions on hazardous waste landfills;
22 providing an effective date.

23
24 WHEREAS, fossil fuel combustion products are currently used
25 in a variety of beneficial applications, and

26 WHEREAS, beneficial use of fossil fuel combustion products
27 allows certain industries and end users to avoid the mining and
28 processing of virgin materials through the substitution of
29 fossil fuel combustion products for virgin materials, thereby

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30 preserving natural resources and minimizing environmental
31 emissions, and

32 WHEREAS, beneficial use of fossil fuel combustion products
33 reduces the volume of materials placed in disposal facilities
34 and ultimately lowers overall energy consumption required for
35 processing and disposing of fossil fuel combustion products, and

36 WHEREAS, beneficial use of fossil fuel combustion products
37 promotes economic activity, and

38 WHEREAS, beneficial use of fossil fuel combustion products
39 is consistent with the purpose of Florida's Resource Recovery
40 and Management Act and furthers the purpose of the act by
41 encouraging waste reduction and recycling as a means of managing
42 solid waste and conserving resources, and

43 WHEREAS, after balancing all the competing needs of the
44 state, the Legislature has determined that it is in the state's
45 best interest to conserve natural resources, reduce overall
46 energy consumption, reduce or eliminate the need to dispose of
47 fossil fuel combustion products in disposal facilities, and
48 facilitate the development of readily available markets for
49 fossil fuel combustion products, NOW, THEREFORE,

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51 Be It Enacted by the Legislature of the State of Florida:

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53 Section 1. Section 403.7047, Florida Statutes, is created
54 to read:

55 403.7047 Regulation of fossil fuel combustion products.—

56 (1) As used in this section, the term:

57 (a) "Beneficial use" means the use of fossil fuel
58 combustion products as substitutes for raw materials or

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59 products, or as necessary ingredients or additives in other
60 products according to accepted industry practices. The term
61 includes the following:

62 1. Encapsulation, including asphalt, concrete or cement
63 products, flowable fill, and roller-compacted concrete.

64 2. Structural fill, pavement aggregate, or pipe-bedding
65 aggregate that meets the following requirements:

66 a. The fossil fuel combustion product is not in contact
67 with groundwater, surface water bodies, or wetlands and is not
68 placed within 25 feet of a potable well that is being used or
69 might be used for human or livestock water consumption; and

70 b. The placement of the fossil fuel combustion product does
71 not extend more than 4 feet beyond the outside edge of the
72 structure, pavement, or pipeline. Placement of the structure,
73 pavement, or pipeline must be completed as soon as practical
74 after placement of the fill materials.

75 3. Substitute for roofing materials, blasting grit, or
76 aggregate in products.

77 4. Fertilizer products, including the use of flue-gas
78 emission control materials, in accordance with applicable
79 requirements of the Department of Agriculture and Consumer
80 Services.

81 5. Wallboard products, plastics, paints, and insulation
82 products.

83 6. Metallurgical applications.

84 7. Filter cloth precoat for sludge dewatering.

85 8. Extraction or recovery of materials and compounds
86 contained within fossil fuel combustion products.

87 9. Waste stabilization or initial or intermediate cover

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88 material used for lined Class I, Class II, or Class III
89 landfills, provided that the material meets applicable
90 department rules for landfill cover or a landfill's permit
91 conditions for cover.

92 10. Land application use for an agronomic value, land
93 reclamation, or pilot demonstration project, or any other use
94 that meets the criteria of s. 403.7045(1)(f) or can be
95 demonstrated to have an equivalent or reduced potential for
96 environmental impacts when compared to the raw products or
97 materials other than the fossil fuel combustion products that
98 are currently used for a similar purpose.

99 (b) "Fossil fuel combustion products" means fly ash; bottom
100 ash; boiler slag; flue-gas emission control materials, including
101 blowdown; and other nonhazardous materials, such as gasifier
102 slag, fluidized-bed combustion system products, and similar
103 combustion materials produced from the operation of a fossil
104 fuel-fired electric or steam generation facility, from a clean
105 coal or other innovative technology process at a fossil fuel-
106 fired electric or steam generation facility, or from any
107 combination thereof.

108 (c) "Fossil fuel-fired electric or steam generation
109 facility" means any electric or steam generation facility that
110 is fueled with coal, alone or in combination with petroleum
111 coke, oil, coal gas, natural gas, other fossil fuels, or
112 alternative fuels.

113 (d) "Pavement aggregate" means fossil fuel combustion
114 products used as sub-base material under or immediately adjacent
115 to a paved road, sidewalk, walkway, or parking lot as a
116 substitute for conventional aggregate, raw material, or soil.

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117 (e) "Pipe-bedding aggregate" means fossil fuel combustion
118 products used as a substitute for conventional aggregate, raw
119 material, or soil under, around, or immediately adjacent to a
120 water, sewer, or other pipeline.

121 (f) "Structural fill" means the use of a fossil fuel
122 combustion product as a substitute for a conventional aggregate,
123 raw material, or soil under or immediately adjacent to an
124 industrial or commercial building or structure. Structural fill
125 does not include uses of fossil fuel combustion products that
126 involve general filling or grading operations or valley fills.

127 (2) The storage of fossil fuel combustion products destined
128 for beneficial use must comply with applicable department rules
129 and be conducted in a manner that does not pose a significant
130 risk to public health or violate applicable air or water quality
131 standards.

132 (3) The beneficial use of fossil fuel combustion products
133 as provided in this section is exempt from regulation pursuant
134 to this part and rules hereunder, but the department may take
135 appropriate action if the beneficial use is demonstrated to be
136 causing violations of applicable air or water quality standards
137 or criteria in department rules, or if such beneficial use poses
138 a significant risk to public health. This section does not limit
139 any other requirements applicable to the beneficial use of
140 fossil fuel combustion products established under this chapter
141 or chapter 376 or under local or federal laws, including
142 requirements governing air pollution control permits, national
143 pollutant discharge elimination system permits, and water
144 quality certifications pursuant to s. 401 of the Clean Water
145 Act.

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146 (4) Nothing in this section shall be construed to limit the
147 department's authority to approve the beneficial use of
148 materials other than fossil fuel combustion products as defined
149 in this section pursuant to other provisions of this part. This
150 section may not be construed to limit or otherwise modify any
151 fossil fuel combustion product beneficial use previously
152 approved by the department, or the recovery of these products
153 for beneficial use from fossil fuel combustion product
154 landfills, impoundments, or storage areas.

155 Section 2. Section 403.7222, Florida Statutes, is amended
156 to read:

157 403.7222 Prohibition of hazardous waste landfills.—

158 (1) As used in this section, the term "hazardous waste
159 landfill" means a disposal facility or part of a facility at
160 which hazardous waste that has not undergone treatment is placed
161 in or on land, including an injection well, which is not a land
162 treatment facility. However, hazardous waste may not be disposed
163 of through an injection well or other subsurface method of
164 disposal, which is defined as a Class IV well in 40 C.F.R. s.
165 144.6(d), except those Class I wells permitted for hazardous
166 waste disposal as of January 1, 1992. The department shall
167 annually review the operations of any such Class I well
168 permitted as of January 1, 1992, and prepare a report analyzing
169 any impact on groundwater systems. ~~Nothing in~~ This section may
170 not shall be construed to refer to the products of membrane
171 technology, including reverse osmosis, for the production of
172 potable water where disposal is through a Class I well as
173 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
174 corrective action activities conducted in accordance with 40

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175 C.F.R. s. 144.13.

176 (2) The Legislature declares that, due to the permeability
177 of the soil and high water table in Florida, future hazardous
178 waste landfills are prohibited. Therefore, the department may
179 not issue a permit pursuant to s. 403.722 for a newly
180 constructed hazardous waste landfill. However, if by executive
181 order the Governor declares a hazardous waste management
182 emergency, the department may issue a permit for a temporary
183 hazardous waste landfill. Any such landfill shall be used only
184 until such time as an appropriate alternative method of disposal
185 can be derived and implemented. Such a permit may not be issued
186 for a period exceeding 6 months without a further declaration of
187 the Governor. A Class IV injection well, as defined in 40 C.F.R.
188 s. 144.6(d), may not be permitted for construction or operation
189 under this section.

190 (3) This section does not prohibit the department from
191 banning the disposal of hazardous waste in other types of waste
192 management units in a manner consistent with federal
193 requirements, except as provided under s. 403.804(2).

194 (4) This section does not apply to a disposal facility or
195 part of a facility that accepts fly ash, bottom ash, boiler
196 slag, or flue-gas emission control materials, including
197 blowdown, from the operation of a fossil fuel-fired electric or
198 steam generation facility, from a clean coal or other innovative
199 technology process at a fossil fuel-fired electric or steam
200 generation facility, or from any combination thereof.

201 Section 3. This act shall take effect July 1, 2013.