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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2013	.	
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The Committee on Environmental Preservation and Conservation
(Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

403.7047 Regulation of fossil fuel combustion products.—

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

(a) "Beneficial use" means the use of fossil fuel
combustion products as substitutes for raw materials or
products, or as necessary ingredients or additives in other
products according to accepted industry practices, including the



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13 following:

14 1. Asphalt, concrete or cement products, flowable fill, and
15 roller-compacted concrete.

16 2. Structural fill or pavement aggregate that meets the
17 following requirements:

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

22 b. The placement of the fossil fuel combustion product does
23 not extend more than 4 feet beyond the outside edge of the
24 structure or pavement and is covered with 2 feet of soil.
25 Placement of the structure, pavement, or soil must be completed
26 as soon as practicable after placement of the fossil fuel
27 combustion product.

28 3. Roofing materials, blasting grit, or aggregate in
29 products.

30 4. Use of flue-gas emission control materials, which meet
31 the definition of gypsum and are used in accordance with
32 applicable Department of Agriculture and Consumer Services
33 rules.

34 5. Wallboard products, plastics, paints, and insulation
35 products.

36 6. Extraction or recovery of materials and compounds
37 contained within fossil fuel combustion products.

38 7. Waste stabilization or initial or intermediate cover
39 material used for lined Class I or Class III landfills, provided
40 that the material meets applicable department rules for landfill
41 cover or a landfill's permit conditions for cover.



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42 8. Any other use that meets the criteria of s.
43 403.7045(1)(f) or that is approved by the department before use
44 as having an equivalent or reduced potential for environmental
45 impacts, when used in equivalent quantities, compared to the
46 substituted raw products or materials.

47 (b) "Fossil fuel combustion products" means fly ash, bottom
48 ash, boiler slag, flue-gas emission control materials, and other
49 nonhazardous materials, such as gasifier slag, fluidized-bed
50 combustion system products, and similar combustion materials
51 produced from the operation of a fossil fuel-fired electric or
52 steam generation facility, from a clean coal or other innovative
53 technology process at a fossil fuel-fired electric or steam
54 generation facility, or from any combination thereof.

55 (c) "Fossil fuel-fired electric or steam generation
56 facility" means any electric or steam generation facility that
57 is fueled with coal, alone or in combination with petroleum
58 coke, oil, coal gas, natural gas, other fossil fuels, or
59 alternative fuels.

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

64 (e) "Structural fill" means the use of a fossil fuel
65 combustion product as a substitute for a conventional aggregate,
66 raw material, or soil under or immediately adjacent to an
67 industrial or commercial building or structure. Structural fill
68 does not include uses of fossil fuel combustion products that
69 involve general filling or grading operations or valley fills.

70 (2) The storage of fossil fuel combustion products destined



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71 for beneficial use must comply with applicable department rules
72 and be conducted in a manner that does not pose a significant
73 risk to public health or violate applicable air or water quality
74 standards.

75 (3) Fossil fuel combustion products beneficially used in
76 accordance with this section are not subject to regulation as a
77 solid or hazardous waste, but the department may take
78 appropriate action if the beneficial use is demonstrated to be
79 causing violations of applicable air or water quality standards
80 or criteria in department rules, or if such beneficial use poses
81 a significant risk to public health. This section does not limit
82 any other requirements applicable to the beneficial use of
83 fossil fuel combustion products established under this chapter
84 or chapter 376 or under local or federal laws, including
85 requirements governing air pollution control permits, national
86 pollutant discharge elimination system permits, and water
87 quality certifications pursuant to s. 401 of the Clean Water
88 Act.

89 (4) Nothing in this section shall be construed to limit the
90 department's authority to approve the beneficial use of
91 materials other than fossil fuel combustion products as defined
92 in this section pursuant to other provisions of this part. This
93 section may not be construed to limit or otherwise modify any
94 fossil fuel combustion product beneficial use previously
95 approved by the department, use in the onsite construction of
96 surface impoundments, roads, or similar works at fossil fuel-
97 fired electric or steam generation facilities, or the recovery
98 of these products for beneficial use from fossil fuel combustion
99 product landfills, impoundments, or storage areas.



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100 Section 2. Section 403.7222, Florida Statutes, is amended
101 to read:

102 403.7222 Prohibition of hazardous waste landfills.—

103 (1) As used in this section, the term "hazardous waste
104 landfill" means a disposal facility or part of a facility at
105 which hazardous waste that has not undergone treatment is placed
106 in or on land, including an injection well, which is not a land
107 treatment facility. However, hazardous waste may not be disposed
108 of through an injection well or other subsurface method of
109 disposal, which is defined as a Class IV well in 40 C.F.R. s.
110 144.6(d), except those Class I wells permitted for hazardous
111 waste disposal as of January 1, 1992. The department shall
112 annually review the operations of any such Class I well
113 permitted as of January 1, 1992, and prepare a report analyzing
114 any impact on groundwater systems. ~~Nothing in~~ This section may
115 not shall be construed to refer to the products of membrane
116 technology, including reverse osmosis, for the production of
117 potable water where disposal is through a Class I well as
118 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
119 corrective action activities conducted in accordance with 40
120 C.F.R. s. 144.13.

121 (2) The Legislature declares that, due to the permeability
122 of the soil and high water table in Florida, future hazardous
123 waste landfills are prohibited. Therefore, the department may
124 not issue a permit pursuant to s. 403.722 for a newly
125 constructed hazardous waste landfill. However, if by executive
126 order the Governor declares a hazardous waste management
127 emergency, the department may issue a permit for a temporary
128 hazardous waste landfill. Any such landfill shall be used only



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129 until such time as an appropriate alternative method of disposal
130 can be derived and implemented. Such a permit may not be issued
131 for a period exceeding 6 months without a further declaration of
132 the Governor. A Class IV injection well, as defined in 40 C.F.R.
133 s. 144.6(d), may not be permitted for construction or operation
134 under this section.

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

139 (4) This section does not apply to a disposal facility or
140 part of a facility that accepts fly ash, bottom ash, boiler
141 slag, or flue-gas emission control materials from the operation
142 of a fossil fuel-fired electric or steam generation facility,
143 from a clean coal or other innovative technology process at a
144 fossil fuel-fired electric or steam generation facility, or from
145 any combination thereof.

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

147
148 ===== T I T L E A M E N D M E N T =====

149 And the title is amended as follows:

150 Delete everything before the enacting clause
151 and insert:

152 A bill to be entitled
153 An act relating to fossil fuel combustion products;
154 creating s. 403.7047, F.S.; providing definitions;
155 providing standards for storage of certain fossil fuel
156 combustion products; providing an exemption for
157 beneficial use of fossil fuel combustion products from



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158 certain rules; providing that the act does not
159 prohibit the Department of Environmental Protection
160 from taking appropriate action to regulate a
161 beneficial use in certain circumstances; providing
162 that the act does not limit other requirements
163 applicable to the beneficial use of fossil fuel
164 combustion products; providing that the act does not
165 limit the recovery of beneficial use products or the
166 authority of the department to approve the beneficial
167 use of materials other than fossil fuel combustion
168 products; clarifying that the act does not limit or
169 modify any fossil fuel combustion product beneficial
170 use previously approved by the department; amending s.
171 403.7222, F.S.; excluding certain types of facilities
172 from provisions on hazardous waste landfills;
173 providing an effective date.

174
175 WHEREAS, fossil fuel combustion products are currently used
176 in a variety of beneficial applications, and

177 WHEREAS, beneficial use of fossil fuel combustion products
178 allows certain industries and end users to avoid the mining and
179 processing of virgin materials through the substitution of
180 fossil fuel combustion products for virgin materials, thereby
181 preserving natural resources and minimizing environmental
182 emissions, and

183 WHEREAS, beneficial use of fossil fuel combustion products
184 reduces the volume of materials placed in disposal facilities
185 and ultimately lowers overall energy consumption required for
186 processing and disposing of fossil fuel combustion products, and



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187 WHEREAS, beneficial use of fossil fuel combustion products
188 promotes economic activity, and

189 WHEREAS, beneficial use of fossil fuel combustion products
190 is consistent with the purpose of Florida's Resource Recovery
191 and Management Act and furthers the purpose of the act by
192 encouraging waste reduction and recycling as a means of managing
193 solid waste and conserving resources, and

194 WHEREAS, after balancing all the competing needs of the
195 state, the Legislature has determined that it is in the state's
196 best interest to conserve natural resources, reduce overall
197 energy consumption, reduce or eliminate the need to dispose of
198 fossil fuel combustion products in disposal facilities, and
199 facilitate the development of readily available markets for
200 fossil fuel combustion products, NOW, THEREFORE,