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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,

50

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 in building products, and as substitutes for

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59 raw materials, necessary ingredients, or additives in products,  
60 according to accepted industry practices, including the  
61 following:

62 1. Asphalt, concrete or cement products, flowable fill, and  
63 roller-compacted concrete.

64 2. Structural fill or pavement aggregate that meets the  
65 following requirements:

66 a. The fossil fuel combustion product is not placed within  
67 3 feet of groundwater or 15 feet of wetlands or natural water  
68 bodies, or within 100 feet of a potable well that is being used  
69 or might be used for human or livestock water consumption;

70 b. The placement of the fossil fuel combustion product does  
71 not extend beyond the outside edge of the structure or pavement.  
72 Placement of the structure or pavement must be completed as soon  
73 as practicable after placement of the fossil fuel combustion  
74 product;

75 c. The fossil fuel combustion product is not placed so that  
76 such product, or any constituent thereof, may enter other lands  
77 or be emitted into the air or discharged into any waters,  
78 including groundwaters, or otherwise enter the environment in a  
79 manner that causes a significant threat to public health or  
80 contamination in excess of applicable department standards and  
81 criteria; and

82 d. The owner or duly authorized agent of the owner of the  
83 property where the product is placed has given the department  
84 written notice, which may be submitted electronically, of the  
85 dates, placement locations, and types of fossil fuel combustion  
86 products used for structural fill or pavement aggregate.

87 3. Use of flue-gas emission control materials which meet

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88 the definition of gypsum and are used in accordance with  
89 applicable Florida Department of Agriculture and Consumer  
90 Services rules.

91 4. Waste stabilization, or initial or intermediate cover  
92 material used for lined Class I or III landfills, provided that  
93 the material meets applicable department rules for landfill  
94 cover or a landfill's permit conditions for cover.

95 5. Any other use that meets the criteria of s.  
96 403.7045(1)(f) or that is approved by the department prior to  
97 use as having an equivalent or reduced potential for  
98 environmental impacts, when used in equivalent quantities,  
99 compared to the substituted raw products or materials.

100 (b) "Fossil fuel combustion products" means fly ash, bottom  
101 ash, boiler slag, flue-gas emission control materials, and other  
102 non-hazardous materials, such as gasifier slag, fluidized-bed  
103 combustion system products, and similar combustion materials  
104 produced from the operation of a fossil fuel-fired electric or  
105 steam generation facility, from a clean coal or other innovative  
106 technology process at a fossil fuel-fired electric or steam  
107 generation facility, or from any 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 a paved road, sidewalk,  
115 walkway, or parking lot as a substitute for conventional  
116 aggregate, raw material, or soil.

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117 (e) "Structural fill" means the use of a fossil fuel  
118 combustion product as a substitute for a conventional aggregate,  
119 raw material, or soil under an industrial or commercial building  
120 or structure. Structural fill does not include uses of fossil  
121 fuel combustion products that involve general filling or grading  
122 operations or valley fills.

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

128 (3) Fossil fuel combustion products beneficially used in  
129 accordance with this section are not subject to regulation as a  
130 solid or hazardous waste, but the department may take  
131 appropriate action if the beneficial use is demonstrated to be  
132 causing violations of applicable air or water quality standards  
133 or criteria in department rules, or if such beneficial use poses  
134 a significant risk to public health. This section does not  
135 limit any other requirements applicable to the beneficial use of  
136 fossil fuel combustion products established under this chapter  
137 or chapter 376 or under local or federal laws, including  
138 requirements governing air pollution control permits, national  
139 pollutant discharge elimination system permits, and water  
140 quality certifications pursuant to s. 401 of the Clean Water  
141 Act.

142 (4) Nothing in this section shall be construed to limit the  
143 department's authority to approve the beneficial use of  
144 materials other than fossil fuel combustion products as defined  
145 in this section pursuant to other provisions of this part. This

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146 section may not be construed to limit or otherwise modify any  
147 fossil fuel combustion product beneficial use previously  
148 approved by the department, use in the onsite construction of  
149 surface impoundments, roads, or similar works at fossil fuel-  
150 fired electric or steam generation facilities, or the recovery  
151 of these products for beneficial use from fossil fuel combustion  
152 product landfills, impoundments, or storage areas.

153 Section 2. Section 403.7222, Florida Statutes, is amended  
154 to read:

155 403.7222 Prohibition of hazardous waste landfills.—

156 (1) As used in this section, the term "hazardous waste  
157 landfill" means a disposal facility or part of a facility at  
158 which hazardous waste that has not undergone treatment is placed  
159 in or on land, including an injection well, which is not a land  
160 treatment facility. However, hazardous waste may not be disposed  
161 of through an injection well or other subsurface method of  
162 disposal, which is defined as a Class IV well in 40 C.F.R. s.  
163 144.6(d), except those Class I wells permitted for hazardous  
164 waste disposal as of January 1, 1992. The department shall  
165 annually review the operations of any such Class I well  
166 permitted as of January 1, 1992, and prepare a report analyzing  
167 any impact on groundwater systems. ~~Nothing in~~ This section may  
168 not shall be construed to refer to the products of membrane  
169 technology, including reverse osmosis, for the production of  
170 potable water where disposal is through a Class I well as  
171 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or  
172 corrective action activities conducted in accordance with 40  
173 C.F.R. s. 144.13.

174 (2) The Legislature declares that, due to the permeability

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

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

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

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