

**SECOND ENGROSSMENT
with Senate Amendments
REENGROSSED HOUSE BILL NO. 1390**

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact section 23-29-04.2 of the North Dakota Century Code,
2 relating to establishment by the state department of health of an operating pilot project to
3 examine and determine standards for rules governing operations and permitting of commercial
4 oilfield special waste recycling facilities for oilfield special waste from oil and gas drilling and
5 production operations; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** Section 23-29-04.2 of the North Dakota Century Code is created and enacted
8 as follows:

9 **23-29-04.2. Commercial oilfield special waste recycling facilities - Action against well**
10 **operators restricted.**

- 11 1. By June 1, 2015, the department shall select one commercial oilfield special waste
12 recycling facility having a pending beneficial use application, for authorization of
13 operation of the facility as a pilot project and to assist the department to develop
14 standards for recycling of oilfield special waste. The pending beneficial use application
15 of the pilot project facility must be supported by scientific findings from a third-party
16 source focused on the anticipated environmental performance of the end products of
17 the recycled oilfield special waste and the practical utility of those end products.
- 18 2. The pilot project facility and any commercial oilfield special waste recycling facility
19 permitted after June 30, 2017, must obtain a special waste landfill permit from the
20 state department of health and a treating plant permit from the industrial commission
21 for treatment of oilfield special waste.
- 22 3. The selected pilot project facility may operate as an oilfield special waste recycling
23 facility through June 30, 2017, and may implement beneficial use demonstration
24 projects using processed materials under the guidance of the state department of

- 1 health. The selected pilot project facility operator shall cooperate with the state
2 department of health to monitor and analyze impacts to the environment.
- 3 4. By July 1, 2017, the department shall adopt rules under chapter 28-32 governing
4 operations and permitting of commercial oilfield special waste recycling facilities. The
5 rules must be adopted to assure compliance with federal and state laws and rules for
6 protection of the state's water and air and public health in the handling and
7 subsequent use of oilfield special waste.
- 8 5. Upon presentation of official credentials, an employee authorized by the state
9 department of health may:
- 10 a. Examine the premises and facilities and copy books, papers, records,
11 memoranda, or data of a commercial oilfield special waste recycling facility.
- 12 b. Enter upon public or private property for the purpose of taking action authorized
13 by this chapter and rules adopted under this chapter, including obtaining
14 information from any person, conducting surveys and investigations, and taking
15 corrective action.
- 16 6. The operator of the commercial oilfield special waste recycling facility is liable for the
17 cost of any inspection and corrective action required by the department.
- 18 7. As a condition of permitting, the department may require that the operator of a
19 commercial oilfield special waste recycling facility post a bond or other financial
20 assurance payable to the state in a sufficient amount for remediation of any release or
21 disposal of oilfield special waste in violation of the rules of the department, on the
22 premises or property of the facility or at a place where treated or untreated materials
23 from the facility are taken for use or disposal.
- 24 8. As used in this section:
- 25 a. "Commercial oilfield special waste recycling facility" means a commercial
26 recycling facility permitted, or a commercial recycling facility pilot project
27 authorized, under this section for extraction of reusable solids and fluids from any
28 or all types of oilfield special waste.
- 29 b. "Drilling operation" means oil and gas drilling and production operations and any
30 associated activities that generate oilfield special waste.

- 1 c. "Oilfield special waste" means special waste associated with oil and gas drilling
2 operations, exploration, development, or production and specifically includes drill
3 cuttings, saltwater, and other solids and fluids from drilling operations.
- 4 9. Upon delivery of oilfield special waste to a commercial oilfield special waste recycling
5 facility, which is permitted or authorized to conduct recycling operations under this
6 section and is not affiliated with the well operator; acceptance of the oilfield special
7 waste by the recycling facility; and after the oilfield special waste has been treated and
8 converted to a beneficial use as a usable product or legitimate substitute for a usable
9 product, the well operator is not liable in any civil or criminal action for any subsequent
10 claim or charge regarding the material converted to a beneficial use.

11 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.