

Sixty-fourth
Legislative Assembly
of North Dakota

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 ~~licensing of~~ establishment by the state department of health of an operating pilot
3 project to examine and determine standards for rules governing operations and permitting of
4 commercial oilfield special waste ~~recyclers of~~ recycling facilities for oilfield special waste from oil
5 and gas drilling and 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 ~~recyclers~~ recycling facilities - Action**
10 **against well operators restricted.**

11 1. ~~The state~~ By June 1, 2015, the department of health shall ~~license~~ select one
12 commercial oilfield special waste ~~recyclers and may charge a license fee established~~
13 ~~by rule commensurate with the cost to the department of licensing and inspections. As~~
14 ~~a condition of obtaining and maintaining a license, a commercial oilfield special waste~~
15 ~~recycler and each recycling facility licensed under this chapter must extract and~~
16 ~~convert to a beneficial use at least sixty-five percent by weight of the solid oilfield~~
17 ~~special waste received by the recycler or recycling facility~~ recycling facility having a
18 pending beneficial use application, for authorization of operation of the facility as a
19 pilot project and to assist the department to develop standards for recycling of oilfield
20 special waste. The pending beneficial use application of the pilot project facility must
21 be supported by scientific findings from a third-party source focused on the anticipated
22 environmental performance of the end products of the recycled oilfield special waste
23 and the practical utility of those end products.

1 2. The pilot project facility and any commercial oilfield special waste recycling facility
2 permitted after June 30, 2017, must obtain a special waste landfill permit from the
3 state department of health and a treating plant permit from the industrial commission
4 for treatment of oilfield special waste.

5 3. The selected pilot project facility may operate as an oilfield special waste recycling
6 facility through June 30, 2017, and may implement beneficial use demonstration
7 projects using processed materials under the guidance of the state department of
8 health. The selected pilot project facility operator shall cooperate with the state
9 department of health to monitor and analyze impacts to the environment.

10 4. ~~The health council~~By July 1, 2017, the department shall adopt rules under chapter
11 28-32 governing operations and permitting of commercial oilfield special waste
12 ~~recyclers~~recycling facilities. The rules must be adopted to assure compliance with
13 federal and state laws and rules for protection of the state's water and air and public
14 health in the handling and subsequent use of oilfield special waste.

15 1.5. Upon presentation of official credentials, an employee authorized by the state
16 department of health may:

17 a. Examine the premises and facilities and copy books, papers, records,
18 memoranda, or data of a commercial oilfield special waste ~~recycler~~recycling
19 facility.

20 b. Enter upon public or private property for the purpose of taking action authorized
21 by this chapter and rules adopted under this chapter, including obtaining
22 information from any person, conducting surveys and investigations, and taking
23 corrective action.

24 e.6. The operator of the commercial oilfield special waste ~~recycler~~recycling facility is liable
25 for the cost of any inspection and corrective action required by the ~~state department of~~
26 health.

27 2.7. As a condition of ~~licensure~~permitting, the ~~state~~ department of ~~health shall~~may require
28 that the operator of a commercial oilfield special waste ~~recycler must~~recycling facility
29 post a bond or other financial assurance payable to the state in a sufficient amount for
30 remediation of any release or disposal of oilfield special waste in violation of the rules

1 of the department, on the premises or property of the facility or at a place where
2 treated or untreated materials from the facility are taken for use or disposal.

3 3.8. As used in this section:

4 a. "Commercial oilfield special waste ~~recycler~~recycling facility" means a commercial
5 recycling facility ~~licensed~~permitted, or a commercial recycling facility pilot project
6 authorized, under this ~~chapter~~section for extraction of reusable solids and fluids
7 from any or all types of oilfield special waste.

8 b. "Drilling operation" means oil and gas drilling and production operations and any
9 associated activities that generate oilfield special waste.

10 c. "Oilfield special waste" means special waste associated with oil and gas drilling
11 operations, exploration, development, or production and specifically includes drill
12 cuttings, saltwater, and other solids and fluids from drilling operations.

13 4.9. Upon delivery of oilfield special waste to a commercial oilfield special waste
14 ~~recycler~~recycling facility, which is ~~licensed~~permitted or authorized to conduct recycling
15 operations under this section and is not affiliated with the well operator; acceptance of
16 the oilfield special waste by the ~~recycler~~recycling facility; and after the oilfield special
17 waste has been treated and converted to a beneficial use as a usable product or
18 legitimate substitute for a usable product, the well operator is not liable in any civil or
19 criminal action for any subsequent claim or charge regarding the material converted to
20 a beneficial use.

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