

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 one or more operating  
3 pilot projects to examine and determine standards for rules governing operations and permitting  
4 of commercial oilfield special waste ~~recyclers of~~ recycling facilities for oilfield special waste from  
5 oil 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 at least 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. Any pilot project facility and any commercial oilfield special waste recycling facility  
2 permitted after June 30, 2017, must obtain a solid waste permit from the department  
3 and a treating plant permit from the industrial commission for treatment of oilfield  
4 special waste.
- 5 3. Any 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 department. A selected  
8 pilot project facility operator shall cooperate with the department to monitor and  
9 analyze impacts to the environment.
- 10 4. ~~The health council~~By July 1, 2017, based upon the results of any pilot projects, the  
11 department shall make recommendations either to adopt rules under chapter 28-32  
12 governing operations and permitting of commercial oilfield special waste  
13 ~~recyclers~~recycling facilities or to develop written guidelines on recycling and beneficial  
14 use of oilfield special waste under the department's beneficial use approval process.  
15 The rules or guidelines must be adopted to assure compliance with federal and state  
16 laws and rules for protection of the state's water and air and public health in the  
17 handling and subsequent use of oilfield special waste.
- 18 1.5. Upon presentation of official credentials, an employee authorized by the state  
19 department of health may:
- 20 a. Examine the premises and facilities and copy books, papers, records,  
21 memoranda, or data of a commercial oilfield special waste ~~recycler~~recycling  
22 facility.
- 23 b. Enter upon public or private property for the purpose of taking action authorized  
24 by this chapter and rules adopted under this chapter, including obtaining  
25 information from any person, conducting surveys and investigations, and taking  
26 corrective action.
- 27 e.6. The operator of the commercial oilfield special waste ~~recycler~~recycling facility is liable  
28 for the cost of any inspection and corrective action required by the ~~state~~department of  
29 health.
- 30 2.7. As a condition of ~~licensure~~permitting, the ~~state~~department of health ~~shall~~may require  
31 that the operator of a commercial oilfield special waste ~~recycler~~mustrecycling facility

1 post a bond or other financial assurance payable to the state in a sufficient amount for  
2 remediation of any release or disposal of oilfield special waste in violation of the rules  
3 of the department, on the premises or property of the facility or at a place where  
4 treated or untreated materials from the facility are taken for use or disposal.

5 3.8. As used in this section:

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

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

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

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

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