

**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 one or more operating pilot
3 projects to examine and determine standards for rules governing operations and permitting of
4 commercial oilfield special waste recycling facilities for oilfield special waste from oil and gas
5 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 recycling facilities - Action against well**
10 **operators restricted.**

11 1. By June 1, 2015, the department shall select at least one commercial oilfield special
12 waste 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. Any pilot project facility and any commercial oilfield special waste recycling facility
19 permitted after June 30, 2017, must obtain a solid waste permit from the department
20 and a treating plant permit from the industrial commission for treatment of oilfield
21 special waste.

22 3. Any 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 department. A selected

1 pilot project facility operator shall cooperate with the department to monitor and
2 analyze impacts to the environment.

3 4. By July 1, 2017, based upon the results of any pilot projects, the department shall
4 make recommendations either to adopt rules under chapter 28-32 governing
5 operations and permitting of commercial oilfield special waste recycling facilities or to
6 develop written guidelines on recycling and beneficial use of oilfield special waste
7 under the department's beneficial use approval process. The rules or guidelines must
8 be adopted to assure compliance with federal and state laws and rules for protection
9 of the state's water and air and public health in the handling and subsequent use of
10 oilfield special waste.

11 5. Upon presentation of official credentials, an employee authorized by the state
12 department of health may:

13 a. Examine the premises and facilities and copy books, papers, records,
14 memoranda, or data of a commercial oilfield special waste recycling facility.

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

19 6. The operator of the commercial oilfield special waste recycling facility is liable for the
20 cost of any inspection and corrective action required by the department.

21 7. As a condition of permitting, the department may require the operator of a commercial
22 oilfield special waste recycling facility post a bond or other financial assurance payable
23 to the state in a sufficient amount for remediation of any release or disposal of oilfield
24 special waste in violation of the rules of the department, on the premises or property of
25 the facility or at a place where treated or untreated materials from the facility are taken
26 for use or disposal.

27 8. As used in this section:

28 a. "Commercial oilfield special waste recycling facility" means a commercial
29 recycling facility permitted, or a commercial recycling facility pilot project
30 authorized, under this section for extraction of reusable solids and fluids from any
31 or all types of oilfield special waste.

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

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