Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1390
(Representative Keiser)

AN ACT to create and enact section 23-29-04.2 of the North Dakota Century Code, relating to establishment by the state department of health of one or more operating pilot projects to examine and determine standards for rules governing operations and permitting of commercial oilfield special waste recycling facilities for oilfield special waste from oil and gas drilling and production operations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. By June 1, 2015, the department shall select at least one commercial oilfield special waste recycling facility having a pending beneficial use application, for authorization of operation of the facility as a pilot project and to assist the department to develop standards for recycling of oilfield special waste. The pending beneficial use application of the pilot project facility must be supported by scientific findings from a third-party source focused on the anticipated environmental performance of the end products of the recycled oilfield special waste and the practical utility of those end products.

2. Any pilot project facility and any commercial oilfield special waste recycling facility permitted after June 30, 2017, must obtain a solid waste permit from the department and a treating plant permit from the industrial commission for treatment of oilfield special waste.

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

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

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

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

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

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

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

8. As used in this section:

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1390 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 87 Nays 6 Absent 1

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at 11:56 A.M. on April 16, 2015.

Approved at 2:42 P.M. on April 16, 2015.

Governor

Filed in this office this 16th day of April, 2015,

at 4:26 o'clock P M.

Secretary of State