

Sixty-third  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1349**

Introduced by

Representatives Damschen, Hunskor, Kempenich, Monson

Senators Andrist, O'Connell

1 A BILL ~~for an Act to create and enact a new section to chapter 38-11.1 of the North Dakota~~  
2 ~~Century Code, relating to surface owner protection and reclamation.~~ for an Act to provide for a  
3 legislative management study of reclamation standards.

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

5 ~~— **SECTION 1.** A new section to chapter 38-11.1 of the North Dakota Century Code is created~~  
6 ~~and enacted as follows:~~

7 ~~— **Reclamation and surface owner protection.**~~

8 ~~— 1. Before construction of a well site, an operator shall reserve the top eight inches~~  
9 ~~[20.32 centimeters] of soil from all areas to be disturbed, including the well site,~~  
10 ~~fillslope, and backslope areas, and all other areas subject to topsoil and subsoil~~  
11 ~~mixing.~~

12 ~~— 2. Before construction of a road to a well site, an operator shall reserve the top eight~~  
13 ~~inches [20.32 centimeters] of soil from all areas to be disturbed, including the road~~  
14 ~~bed, fillslope, and backslope areas, and all other areas subject to topsoil and subsoil~~  
15 ~~mixing.~~

16 ~~— 3. The operator may not begin cut and fill operations before soil reservation.~~

17 ~~— 4. The operator shall stockpile the reserved soil and seed to native perennial grass seed~~  
18 ~~mixture approved by the commission to minimize wind and water erosion. If the road~~  
19 ~~or well site will be permanent, all or a portion of the reserved soil must be respread as~~  
20 ~~needed to stabilize cut or fill areas and ditches.~~

21 ~~— 5. Upon abandonment of a well site or a road to a well site that is not permanent, the~~  
22 ~~reserved soil must be salvaged from the well site, including backslopes and fillslopes~~  
23 ~~or road including road ditches, backslopes and fillslopes, the gravel and scoriae must~~  
24 ~~be removed, the roadbed and well site must be completely obliterated and~~

1       ~~recontoured to conform to the adjacent natural terrain, and the reserved soil must be~~  
2       ~~evenly respread on the disturbed area. The operator shall revegetate all disturbed soil~~  
3       ~~surfaces resulting from construction, maintenance, or reclamation of a road or well site~~  
4       ~~with a mixture of native perennial grasses approved by the commission to prevent~~  
5       ~~accelerated erosion and to restore, as closely as possible, long-term productivity.~~

6       ~~6. The operator shall construct, maintain, and remove the well site or road in a manner~~  
7       ~~that provides drainage adequate to maintain the existing natural flow of water and~~  
8       ~~structures including cross drains, culverts, dikes, and ditches where necessary to~~  
9       ~~maintain the natural flow and to stabilize erosion. If erosion occurs, the operator shall~~  
10       ~~repair the erosion damage and take action to correct the conditions that contributed to~~  
11       ~~the erosion.~~

12       ~~7. In any agreement between a surface owner and operator, the following terms are part~~  
13       ~~of the agreement. The operator shall:~~

14       ~~a. Contact the surface owner to arrange an onsite inspection, if determined~~  
15       ~~necessary by the surface owner, before siting and staking the well site or a~~  
16       ~~separate tank battery, road, pipeline, communication line, or electrical line, or to~~  
17       ~~reclaim the same with the approval of the surface owner.~~

18       ~~b. Notify the surface owner of additional well bores proposed for the well site before~~  
19       ~~any site preparation or drilling and shall negotiate additional surface damage~~  
20       ~~payments.~~

21       ~~c. Obtain the consent of a surface owner in a separate document to enlarge the well~~  
22       ~~site or change the size of a road from the specific dimensions that the operator~~  
23       ~~shall map in the initial agreement with the surface owner.~~

24       ~~d. Submit an easement request to the surface owner if an approved access road is~~  
25       ~~to be used in any way to develop or support the development of minerals outside~~  
26       ~~the spacing unit.~~

27       ~~e. Notify the surface owner of aggregate deposits exposed during construction of~~  
28       ~~the well site or access road.~~

29       ~~f. Furnish a survey plat showing the dimensions and acreage necessary for the well~~  
30       ~~site and access road.~~

31       ~~g. Obtain the consent of the surface owner to stack or store equipment on the site.~~

- ~~h. Control noxious weeds on the well site and access road and associated facilities.~~
- ~~i. Maintain existing natural water drainage and surface owner's access to existing sources of livestock water.~~
- ~~j. Avoid unstable areas, areas of excessive cut and fill, stream channels, drainage ways, and wooded areas in construction of the well site and access road, and associated facilities.~~
- ~~k. Paint all buildings, tank structures, and fixtures associated with the well site and access road in earth tone colors.~~
- ~~l. Immediately report all spills and fires to the surface owner.~~
- ~~m. Weather permitting, within one hundred eighty days of abandonment of the well, dispose of all surface contaminated soil; remove equipment and debris; remove the aboveground power source and pipelines; recontour the access road, well site, and any associated facilities to conform to the original terrain; bury all rocks; and evenly respread the reserved soil and reseed with a mixture of native grasses. After seeding, the entire disturbed area must be fenced to exclude livestock. Reclamation is not complete until erosion is controlled, the surface is revegetated with a mixture of native grasses, and written approval of the surface owner or commission is obtained.~~

## **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - OIL AND GAS RECLAMATION STANDARDS.**

1. During the 2013-2014 interim, the legislative management shall study whether reclamation standards related to oil and gas development can be improved to ensure the successful reclamation of agricultural lands in this state, and to ensure that productivity of these agricultural lands following reclamation is as near as possible to the land's productivity before being used for oil and gas production. The study may include consideration of:
  - a. Whether performance standards found in North Dakota Administrative Code chapter 69-05.2 and used by the North Dakota public service commission for reclamation of surface coal-mined lands should be utilized by the North Dakota industrial commission for reclamation of lands used for oil and gas development.

- 1           b.   Whether additional and more detailed reclamation standards should be included
- 2           in state law and administrative rule, what standards should be included, and in
- 3           what manner such standards should be included.
- 4           c.   Input from representatives from the department of mineral resources, the school
- 5           of natural resource sciences' department of soil science at North Dakota state
- 6           university, the department of trust lands, the public service commission, the state
- 7           department of health, landowner groups, and professional soil classifiers
- 8           regulated by the state board of registration for professional soil classifiers.
- 9        2.   The legislative management shall report its findings and recommendations, together
- 10       with any legislation required to implement the recommendations, to the sixty-fourth
- 11       legislative assembly.