

June 2009

TITLE 38

Mining and Gas and Oil Production

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to mining and gas and oil production may be classified in these subject areas: oil and gas, subsurface mineral extraction, mineral interests, geologic storage of carbon dioxide, and coal mining and reclamation.

OIL AND GAS

Senate Bill No. 2413 provides that wells equipped with an electrical generator that consumes at least 75 percent of the gas from the well are exempt from the prohibition that gas may not be flared for longer than one year after the date of first production.

House Bill No. 1071 provides that unleased mineral interests pooled after July 31, 2009, are entitled to a cost-free royalty interest equal to the acreage weighted average royalty interest of the leased tracts within the spacing unit or, at the operator's election, a cost-free royalty interest of 16 percent.

SUBSURFACE MINERAL EXTRACTION

Senate Bill No. 2141 provides for damages to land surface caused by subsurface mineral extraction and related exploration for volcanic ash; precious metals; carbonates; and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur; excluding coal, oil and gas, sand and gravel, and rocks crushed for sand and gravel.

MINERAL INTERESTS

House Bill No. 1370 revises the procedure to succeed to ownership of and protect title to dormant minerals. The bill provides that failure to record a statement of claim will not cause a mineral interest to be extinguished if the owner of record files with the county recorder a statement of claim or files with the county recorder documentation that at least one of the activities deemed to be use of the mineral interest took place during the 20-year period immediately preceding the first publication of notice. The bill also provides that the owner or owners of the surface estate may maintain an action in district court in the county in which the minerals are located and obtain a judgment and perfect title in the owner or owners of the surface estate after satisfying the notice requirements of the termination of mineral interests chapter.

GEOLOGIC STORAGE OF CARBON DIOXIDE

Senate Bill No. 2095 establishes permit, fee, and title requirements for the geologic storage of carbon dioxide.

COAL MINING AND RECLAMATION

Senate Bill No. 2140 provides that for lands affected by coal mining activities prior to January 1, 1970, which are affected by re-mining, the operator's responsibility for successful revegetation extends for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, and other work in order to ensure compliance with applicable revegetation standards.