

**CHAPTER 38-12**  
**REGULATION, DEVELOPMENT, AND PRODUCTION OF**  
**SUBSURFACE MINERALS**

**38-12-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the industrial commission of the state of North Dakota.
2. "Extraction facility" means any well or mine or other extractive process operated for the purpose of recovering subsurface minerals.
3. "Operator" means any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property.
4. "Owner" means the person who has the right to explore for, develop, and produce subsurface minerals and to appropriate the subsurface minerals the owner produces either for the owner or for the owner and others.
5. "Person" means and includes any natural person, corporation, limited liability company, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.
6. "Producer" means the owner of an extraction facility which is or has been capable of producing subsurface minerals.
7. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds, but does not include sand and gravel and rocks crushed for sand and gravel.

**38-12-02. Jurisdiction of commission.**

The commission has jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. Subject to the provisions of section 38-08-21, the director of mineral resources shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the subsurface mineral resources of this state and the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the director of mineral resources has the authority:

1. To require:
  - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration, development, and production of subsurface minerals on state and private lands within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
  - b. The delivery, free of charge, to the state geologist of the basic exploration data collected by the operator, within thirty days of field collection of such data. This data must include:
    - (1) Sample cuts, core chips, or whole cores.
    - (2) Sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
    - (3) Elevation and location information on the data collection points.
    - (4) Other pertinent information as may be requested by the state geologist.

The data so submitted is confidential for a period of one year when so requested by the operator and such period may be further extended upon approval by the commission.

- c. The filing of monthly production reports in the manner prescribed by the commission and any other reports deemed necessary by the commission.
  - d. The conducting of all exploration, development, and production operations in such a manner as to prevent pollution of freshwater supplies, to provide for the protection of the environment and public safety, and to ensure the optimum recovery of the mineral resource.
  - e. The reclamation of all land disturbed by operations regulated by this chapter to a condition consistent with prior land use and productive capacity.
2. To regulate the drilling and abandonment of exploration test holes and producing wells and all other exploration, development, production, and reclamation operations.
  3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.
  4. To inspect all exploration, development, and production sites. For the purposes of this subsection, the director of mineral resources or the director's representative shall have access to all exploration, development, or production installations for purposes of inspection and shall have the authority to require the operator's aid if it is necessary and is requested.

#### **38-12-03. Permit required.**

It is unlawful to commence operations for the exploration, development, or production of subsurface minerals without first obtaining a permit from the director of mineral resources, under such rules and regulations as may be prescribed by the commission and paying to the commission a fee for each such permit in an amount to be prescribed by the commission.

#### **38-12-04. Procedure.**

The administrative procedure involved in the adopting of any rules or regulations or the issuance of any orders by the commission under the provisions of this chapter must be in accordance with the provisions of chapter 38-08 governing the procedure in the administration of the Oil and Gas Conservation Act; provided, however, that in the event an emergency is found to exist by the commission which in its judgment requires the making, revoking, changing, amending, modifying, altering, enlarging, renewal, or extension of a rule, regulation, or order without first having a hearing, such emergency rule, regulation, or order has the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation, or order permitted by this section may remain in force no longer than fifteen days from its effective date, and in any event, it expires when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation, or order becomes effective.

#### **38-12-05. Penalty - Injunction - Provisions applicable.**

The provisions of sections 38-08-16 and 38-08-17 are applicable to the provisions of this chapter and to the rules, regulations, and orders of the commission promulgated hereunder.