

CHAPTER 38-12.1 EXPLORATION DATA

38-12.1-01. Legislative findings. The legislative assembly of the state of North Dakota finds that:

1. The discovery and evaluation of coal deposits is advantageous in an industrial society.
2. Coal occurs hidden under the ground and must be searched for by diverse techniques, and that the search, exploration, or prospecting for coal is a necessary and expensive prerequisite to coal extraction and for land use planning in coal-bearing areas.
3. It is to the benefit of society to allow coal exploration and to require the information generated from exploration to be available to the office of the state geologist.

38-12.1-02. Declaration of policy. It is hereby declared to be in the public interest to have persons engaged in coal exploration or evaluation report their findings to the office of the state geologist so that data on the location, quantity, and quality of coal, and the characteristics of associated material, will be available to assist the state in determining what the attitude of the state should be regarding future development of coal resources.

38-12.1-03. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Coal" means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes lignite in both oxidized and nonoxidized forms, whether or not the material is enriched in radioactive materials.
2. "Coal exploration" means:
 - a. The use of any technique which when applied to the surface of the land will aid in the discovery or evaluation of coal or aid in determining the quantity and quality of coal present. It includes drilling or digging, excavating, core sample drilling and collection, diamond drilling, trenching, or any other type of penetration of the surface of the earth; or
 - b. Environmental data gathering activities conducted for the purpose of establishing the conditions of an area prior to applying for a permit under chapter 38-14.1. The provisions of sections 38-12.1-04 and 38-12.1-05 are not applicable to such environmental data gathering activities unless the natural land surface will be substantially disturbed or such activities are located on lands designated unsuitable for mining under section 38-14.1-05.
3. "Commission" means the industrial commission of the state of North Dakota.
4. "Permit area" means a county.
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. "Road" means a surface or right of way for purposes of travel by land vehicles used in coal exploration. A road consists of the entire area of the right of way, including

the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface.

38-12.1-04. Jurisdiction of commission. The commission has jurisdiction and authority over all persons and property, both public and private, necessary to effectively enforce the provisions of this chapter. 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 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 for coal on state and private lands and roads used in coal exploration 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 data collected during the course of the exploration within a reasonable time as may be prescribed by the state geologist. The data so submitted is confidential and available only to the office of the state geologist for official purposes for a period of two years, and such period of confidentiality must, upon application, be extended for one-year periods by the state geologist, for a total period not to exceed ten years unless it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, or the person's successors and assigns, who delivered such basic data to the state geologist. The basic data must include, if specifically requested by the state geologist and if the information has been developed by or for a person conducting the exploration:
 - (1) Sample cuts.
 - (2) Drillers' logs, 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 required by the state geologist.
2. To require the plugging, covering, or reburial in an appropriate manner so as to protect environmental quality, general health and safety, and economic values of all holes, pits, or trenches excavated during the course of coal exploration.
3. To promulgate and enforce rules, regulations, and orders to effectuate the provisions, purpose, and intent of this chapter.
4. To inspect all drilling or exploration sites. For the purposes of this subsection, the director of mineral resources or the director's representative shall have access to all drilling or exploration installations regulated by this chapter for the purpose of inspection and sampling and shall have the authority to require the operators' aid if the director finds it necessary and requests it.

5. Notwithstanding any of the other provisions of this section, the commission acting through the director of mineral resources shall require that any lands substantially disturbed in coal exploration, including excavations, roads, and drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with the applicable performance standards of section 38-14.1-24. Reclamation must be accomplished to protect environmental quality, general health and safety, and economic values.

38-12.1-05. Notice and drilling permit required - Exceptions - Limits on coal removal.

1. It is unlawful to commence operations for drilling for the exploration for coal 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 of one hundred dollars for each such permit area. The permit application must include a description of the exploration area and the period of proposed exploration. The permit must be granted within thirty days after a proper application has been submitted.
2. This permit may not be required:
 - a. In an area where a permit to conduct surface coal mining operations is in effect pursuant to chapter 38-14.1;
 - b. For holes drilled to guide excavating equipment in an operating mine;
 - c. In areas where a drill hole is required by any other state agency; or
 - d. For environmental data gathering activities that do not substantially disturb the land, unless the environmental data gathering activities are located on land designated unsuitable for mining under section 38-14.1-05.
3. No person may remove more than two hundred fifty tons [226.80 metric tons] of coal pursuant to an exploration permit without first obtaining a permit from the public service commission.

38-12.1-06. Procedure. The provisions of section 38-12-04 are applicable to the provisions of this chapter.

38-12.1-07. Action to restrain violation or threatened violation. Whenever it appears that any person is violating or threatening to violate any provision of this chapter or any rule, regulation, or any order of the commission, the commission shall bring suit against such person in the district court of any county where the violation occurs or is threatened, to restrain such person from continuing such violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to grant to the commission, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant.

38-12.1-08. Civil and criminal penalties - Unclassified.

1. Any person, including a director, officer, or agent of a corporate permittee, who violates this chapter or any permit condition or regulation implementing this chapter is subject to a civil penalty not to exceed five thousand dollars per day of such violation.
2. Any person, including a director, officer, or agent of a corporate permittee, who knowingly or willfully violates this chapter or any permit condition or regulation implementing this chapter or who knowingly reports information required by this chapter falsely is subject, upon conviction, to a criminal penalty of not more than ten thousand dollars or by imprisonment for not more than one year.

3. Any corporation or any person who controls the activity of a corporation who violates this chapter or any permit condition or rule implementing this chapter is subject to a civil penalty not to exceed five thousand dollars per day of such violation.