

MINERAL EXPLORATION

- [45-6C-1](#) Citation of chapter.
- [45-6C-2](#) Legislative findings and policy.
- [45-6C-3](#) Definition of terms.
- [45-6C-4](#) Permit or surety not required by governmental office or political subdivision of state.
- [45-6C-5](#) Compliance with public land laws and this chapter.
- [45-6C-6](#) Notice of intent to conduct exploration operation--Items comprising notice.
- [45-6C-7](#) Notice form--Contents.
- [45-6C-8](#) Plan of reclamation--Contents.
- [45-6C-9](#) Map of exploration area.
- [45-6C-10](#) Notice to Department of Game, Fish and Parks--Restrictions concerning riparian habitat.
- [45-6C-11](#) Notice to state archaeologist--Restrictions concerning site disturbances.
- [45-6C-12](#) Water rights or water pollution control restrictions.
- [45-6C-13](#) Time for commencement of exploration operation.
- [45-6C-14](#) Confidential information and notice of intent protected--Violation as misdemeanor.
- [45-6C-15](#) Copies of intent and restrictions--Filing with county commissioners--Publication.
- [45-6C-16](#) Consultation with surface owner--Preferences for reclamation and travel restrictions.
- [45-6C-17](#) Fee for notice of intent.
- [45-6C-18](#) Domestic water wells--Information required of operator.
- [45-6C-19](#) Inspection of area before exploration--Surety for costs of plugging test holes and reclamation.
- [45-6C-20](#) Criteria for determining amount of surety.
- [45-6C-21](#) Surety bond--Surety other than bond--Considerations by board.
- [45-6C-22](#) Cash or securities in lieu of surety.
- [45-6C-23](#) Surety payable to state--Conditions required.
- [45-6C-24](#) Surety liability continues until released.
- [45-6C-25](#) Surety penalty--Amount.
- [45-6C-26](#) Exploration operations--Applicable laws.
- [45-6C-27](#) Explosives.
- [45-6C-28](#) Capping, sealing, and plugging of test holes--Temporary delay.
- [45-6C-29](#) Capping, sealing, and plugging test holes--Rules.
- [45-6C-30](#) Repealed.
- [45-6C-31](#) Test holes used for water wells.
- [45-6C-32](#) Roads and trails.
- [45-6C-33](#) Restoration of drill sites and affected land.
- [45-6C-34](#) Penetration of aquifer--Notice to board.
- [45-6C-35](#) Penetration of aquifer--Report required.
- [45-6C-36](#) Violation--Notice to operator.
- [45-6C-37](#) Violation--Cease and desist order.
- [45-6C-38](#) Violation--Hearing.
- [45-6C-39](#) Violation--Suspension of operations.
- [45-6C-40](#) Violation--Action for temporary restraining order or injunction.
- [45-6C-41](#) Violation--Forfeiture of surety--Proceedings by attorney general.
- [45-6C-42](#) Violation--Forfeiture of surety--Reclamation of land by board.
- [45-6C-43](#) Fees deposited in environment and natural resources fee fund--Proceeds of forfeiture of surety deposited in special revenue fund.
- [45-6C-44](#) Operator currently in violation--Filing notice of intent prohibited.
-
- [45-6C-45](#) Violation--Civil penalty--Liability for damages to environment.
- [45-6C-46](#) Refusal of access or interference with inspection as violation.
- [45-6C-47](#) Jurisdiction and authority of board--Employment of personnel--Legal services provided by attorney general.
- [45-6C-48](#) Assistance provided by other departments and agencies.
- [45-6C-49](#) General powers of board.
- [45-6C-50](#) Repealed.

45-6C-51	Exemption of educational and recreational activities.
45-6C-52	Annual report of activities conducted under notice of intent--Information to be included.
45-6C-53	Transfer of notice of intent.
45-6C-54	Publication of application for a transfer of notice of intent--Contents.
45-6C-55	Confidentiality period of certain mineral exploration reports.

[45-6C-1. Citation of chapter.](#)

This chapter may be cited as the "South Dakota Mineral Exploration Act."

Source: SL 1982, ch 306, § 1.

[45-6C-2. Legislative findings and policy.](#)

The relatively unknown and as yet largely undeveloped mineral resources of this state consist in major proportion of minerals below the surface. The exploration for and discovery of these minerals by means of drilling and other methods of detecting mineral deposits are necessary for the economic development of the state and the nation. Every effort should be used to promote and encourage the exploration for mineral resources, but to prevent the waste and spoilage of the land which would deny its future use and productivity. It is the responsibility of the state to ensure that:

- (1) Upon completion of an exploration operation the affected land is usable and productive to the extent possible for agricultural or recreational pursuits or future resource development; and
- (2) Both during and after an exploration operation, water and other natural resources are not endangered.

Source: SL 1982, ch 306, § 2.

[45-6C-3. Definition of terms.](#)

Terms used in this chapter mean:

- (1) "Affected land," the surface area, surface water, and groundwater disturbed by reason of the building of access roads or trails, leveling drill sites, storage areas, containment ponds, or other support facilities for the purpose of exploration, including the land affected by surface subsidence;
- (2) "Aquifer," a water bearing bed or stratum of permeable rock, sand, or gravel capable of yielding usable quantities of water to wells or springs;
- (3) "Board," the Board of Minerals and Environment;
- (4) "Bulk samples," the removal of not more than five thousand tons of mineralized material by means of a shaft, adit, or test open pit to determine the economic feasibility of conducting a mining operation;
- (5) "Department," the Department of Agriculture and Natural Resources;
- (6) "Exploration operation," the act of searching for or investigating a mineral deposit, including sinking shafts, tunneling, drilling test holes, digging pits or cuts, or other works for the purpose of extracting samples, including bulk samples, prior to commencement of development or extraction operations, and test facilities to prove the commercial grade of a mineralized deposit. The term does not include those activities which cause very little or no surface disturbance, such as exploration by auger or drill of test holes of less than fifty feet in depth and less than seven inches in diameter for sand, limestone, gypsum, shale, or iron ore for use in the process of making cement or nonexplosive seismic energy sources, airborne surveys and photographs, augered bentonite or augered construction aggregate test holes of less than fifty feet in depth when accomplished in conformance with §§ [45-6C-28](#) and [45-6C-32](#), use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, annual assessment work required to maintain the validity of a mineral claim or any other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not exploring for mineral deposits;
- (7) "Mineral," any substance with economic value, whether organic or inorganic, that can be extracted from the earth, including oil and gas, but excluding uranium and water;
- (8) "Operator," any person, firm, partnership, limited liability company, association or corporation, or any department, division, or agency of federal, state, county, or municipal government engaged in or controlling a mineral exploration operation;

- (9) "Reclamation," the employment during and after an exploration operation of procedures reasonably designed to minimize the disruption from the exploration operation and to provide for the rehabilitation of plant cover, soil stability, water resources, or other measures appropriate to the subsequent beneficial use of such explored land;
- (10) "Test hole," a well, core hole, core test, observation well, or other well drilled from the surface to determine the presence of mineral, mineral resource, ore, coal, or rock unit, or to obtain geological or geophysical information or other subsurface data, including holes drilled for purposes of seismic survey, but excluding drilling in conjunction with mining or quarry operations and structural foundations and oil and gas wells regulated pursuant to chapter [45-9](#).

Source: SL 1982, ch 306, § 3; SL 1985, ch 341; SL 1990, ch 354, § 1; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1994, ch 351, § 108; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

[45-6C-4](#). Permit or surety not required by governmental office or political subdivision of state.

No governmental office of any political subdivision of the state has the authority to require or issue a permit or to require any surety for exploration operations.

Source: SL 1982, ch 306, § 4.

[45-6C-5](#). Compliance with public land laws and this chapter.

All exploration operations on state owned land shall comply with the applicable prospecting and exploration permit requirements of chapter [5-7](#) and this chapter.

Source: SL 1982, ch 306, § 5.

[45-6C-6](#). Notice of intent to conduct exploration operation--Items comprising notice.

Any person desiring to conduct an exploration operation shall file with the Department of Agriculture and Natural Resources a notice of intent to conduct an exploration operation on a form approved by the Board of Minerals and Environment. Each notice of intent shall be limited to sixteen contiguous townships.

The notice of intent shall include the following:

- (1) A notice form pursuant to § [45-6C-7](#);
- (2) A plan of reclamation pursuant to § [45-6C-8](#);
- (3) A map pursuant to § [45-6C-9](#); and
- (4) A fee pursuant to § [45-6C-17](#).

Source: SL 1982, ch 306, § 6; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

[45-6C-7](#). Notice form--Contents.

The notice form shall contain:

- (1) The name of the operator who intends to conduct the mineral exploration operation;
- (2) The operator's address and principle place of business;
- (3) The name and address of the resident agent for the service of process on the operator;
- (4) A statement that the mineral exploration operation will be conducted pursuant to and subject to the provisions of this chapter;
- (5) A brief description of the type of mineral exploration operation to be conducted;
- (6) The legal description of the land to be explored by section, township, and range;
- (7) The approximate date upon which the operation will commence;
- (8) A statement that the applicant has the authority to conduct an exploration operation on the lands described in the application;
- (9) The written consent, duly acknowledged, of the applicant and such other persons, if any, necessary to grant such access to the Board of Minerals and Environment or its agents to the area under application from the date of the application and thereafter for such time as is necessary to assure compliance with the provisions of this chapter.

45-6C-8. Plan of reclamation--Contents.

The reclamation plan shall be based on provision for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the operator. Reclamation is mandatory on all affected lands. The reclamation plan shall include:

- (1) A description of the type of reclamation the operator proposes to achieve in the reclamation of the affected land;
- (2) A proposed timetable for seeding and replanting indicating when and how the reclamation plan will be implemented. Such timetable shall be developed after consulting the local conservation district as to the nature of the soils and native vegetation in the area of the proposed exploration operation. The recommendations of the local conservation district shall be followed if any are provided;
- (3) A narrative description of how the reclamation plan will rehabilitate the affected land;
- (4) A narrative description of the temporary and permanent plugging and capping procedure to be used;
- (5) The estimated cost of implementing and completing the proposed reclamation and the estimated cost of plugging and sealing each test hole pursuant to the provisions of §§ [45-6C-28](#) and [45-6C-29](#).

Source: SL 1982, ch 306, § 8.

45-6C-9. Map of exploration area.

The applicant shall submit with the notice of intent a map, topographic map if available, of the proposed exploration area and of the adjacent one-half mile area surrounding the proposed exploration area. The map shall identify the location of all known natural springs, lakes, ponds, reservoirs, water pipelines, earthen dams, private and public water wells, buildings, proposed or existing roads or trails, and the tentative test hole locations within one-fourth of one-fourth of a section. Where closely placed test holes are anticipated, an outline of that area shall be indicated in lieu of identifying each test hole location. The scale of such map shall be not more than one to twenty-five thousand. Such map shall clearly present the required information. Submission of the most recent United States geological survey maps, if available, is adequate and the operator shall clearly identify the information required by this section on the map.

Source: SL 1982, ch 306, § 9.

45-6C-10. Notice to Department of Game, Fish and Parks--Restrictions concerning riparian habitat.

Upon receipt of a notice of intent to conduct an exploration operation, the Department of Agriculture and Natural Resources shall notify the Department of Game, Fish and Parks of the area proposed for the exploration operation. The operator shall abide by any reasonable restrictions subject to review and approval by the Board of Minerals and Environment at the request of the operator concerning riparian habitat or threatened or endangered species as notified, in writing, by that department within thirty days of the filing of the notice. Restriction concerning riparian habitat for exploration activities are limited to such habitat located within one hundred feet of each stream bank. Such restrictions concerning riparian habitat may include temporarily diverting the stream flow, bank restoration, and revegetation of the riparian habitat area. Revegetation of the riparian habitat area shall be agreed upon by the Department of Game, Fish and Parks before notifying the operator. A copy of any such restrictions shall be filed with the department by the Department of Game, Fish and Parks.

Source: SL 1982, ch 306, § 10; SL 2021, ch 1 (Ex. Ord. [21-3](#)), §§ 14, 53, eff. Apr. 19, 2021.

45-6C-11. Notice to state archaeologist--Restrictions concerning site disturbances.

Upon receipt of a notice of intent to conduct an exploration operation, the Department of Agriculture and Natural Resources shall notify the state archaeologist of the Department of Education of the area proposed for the exploration operation. The operator shall abide by any restrictions concerning site disturbances as notified, in writing, by the state archaeologist within thirty days of the filing of the notice. A copy of any such restrictions shall be filed with the department by the state archaeologist.

Source: SL 1982, ch 306, § 11; SL 2003, ch 272, § 63; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-12. Water rights or water pollution control restrictions.

The operator shall abide by any restrictions regarding water rights or water pollution control as notified, in writing, by the Department of Agriculture and Natural Resources within thirty days of the filing of the notice.

Source: SL 1982, ch 306, § 12; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-13. Time for commencement of exploration operation.

The operator may commence the exploration operation thirty days after filing the notice of intent or upon receipt of the written restrictions provided for in §§ [45-6C-10](#) to [45-6C-12](#), inclusive.

Source: SL 1982, ch 306, § 13.

45-6C-14. Confidential information and notice of intent protected--Violation as misdemeanor.

Information provided to the state agencies in the notice of intent to conduct an exploration shall be public information, except that the tentative test hole locations required by § [45-6C-9](#) and the location of completed test holes are confidential for two years after the completion of the exploration operation. A person who knowingly violates the provisions of this section is guilty of a Class 2 misdemeanor.

Source: SL 1982, ch 306, § 14.

45-6C-15. Copies of intent and restrictions--Filing with county commissioners--Publication.

The Department of Agriculture and Natural Resources, upon receipt of a notice of intent to conduct an exploration operation, shall immediately file a copy of such notice with the board of county commissioners of the affected county, along with any restrictions imposed by the Department of Game, Fish and Parks, the state archaeologist, or the department. The department shall also cause a notice of the filing of a notice of intent to conduct an exploration operation to be published in a newspaper of general circulation in the locality of the planned exploration operation within ten days after the notice of intent is filed with the department. Such notice shall contain the identity and address of the operator and resident agent, a brief description of the type of mineral exploration operation to be conducted, the legal description of the land to be explored, the approximate date upon which the operation will commence, and the location where additional information about the proposed exploration operation may be obtained.

Source: SL 1982, ch 306, § 15; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-16. Consultation with surface owner--Preferences for reclamation and travel restrictions.

Before the operator may enter upon the surface of land proposed to be explored, the operator shall consult with the surface owner and person in possession of the surface, if other than the owner, and provide such persons with the opportunity to designate, in writing, preferences for the reclamation of the affected land. A copy of such preferences shall be filed by the operator with the Department of Agriculture and Natural Resources and considered by the applicant. The owner may also specify, in writing, reasonable restrictions regarding travel areas on the property and further specify that travel under extreme moisture conditions will be avoided. A copy of such reasonable restrictions shall be filed by the operator with the department and are binding on the operator. Such consultations may be conducted prior to commencing the exploration operation or during various phases of the exploration operation.

Source: SL 1982, ch 306, § 16; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-17. Fee for notice of intent.

A fee of two hundred fifty dollars shall accompany the notice of intent.

Source: SL 1982, ch 306, § 17.

45-6C-18. Domestic water wells--Information required of operator.

The Board of Minerals and Environment may require the operator to provide, prior to commencing or during the course of an exploration operation, water quality information concerning designated domestic water wells within one-half mile of the proposed exploration area. If the operator is refused access to any well, the operator shall notify, in writing, the Department of Agriculture and Natural Resources of such refusal and may not be required thereafter to provide any information concerning such well.

Source: SL 1982, ch 306, § 18; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-19. Inspection of area before exploration--Surety for costs of plugging test holes and reclamation.

The Department of Agriculture and Natural Resources may inspect the area proposed to be explored. Based upon this inspection, the criteria established in § [45-6C-20](#), and the submitted reclamation plan, the department shall set the level of the surety necessary to guarantee the costs of plugging all of the proposed test holes and reclamation of affected public and private lands. The surety shall be filed or deposited with the department before the operator commences the exploration operation in such form as required by the department. In lieu of filing or depositing a surety for each exploration operation, the operator may post a twenty thousand dollar surety for statewide exploring. If a statewide surety is posted, the person posting the surety shall otherwise comply with the provisions of this chapter for every area to be explored.

Source: SL 1982, ch 306, § 19; SL 1987, ch 323, § 2; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-20. Criteria for determining amount of surety.

Criteria which shall be considered to determine the amount of surety necessary to guarantee the costs of reclamation of affected public and private lands and facilities include:

- (1) Potential damages to unique and natural historical sites, springs, natural or man-made water storage and transport facilities, domestic and public water wells and water supply, waste water transport, storage and treatment facilities, or crops;
- (2) Topography;
- (3) Climatic, soil, and vegetative conditions;
- (4) Estimated costs per test hole site to reclaim disturbed surface areas; and
- (5) Estimated cost per test hole site to plug each test hole.

Source: SL 1982, ch 306, § 20; SL 2011, ch 165, § 211.

45-6C-21. Surety bond--Surety other than bond--Considerations by board.

In determining whether the surety of an operator shall be guaranteed by a corporate surety bond and in determining the form of surety to be provided by the operator if other than a bond, the Board of Minerals and Environment shall consider, with respect to the operator, such factors as the operator's financial status, assets within the state, past performance on contractual agreements, and facilities available to carry out the planned work. The operator shall supply evidence of financial responsibility for all surety other than a bond.

Source: SL 1982, ch 306, § 21; SL 2011, ch 165, § 212.

45-6C-22. Cash or securities in lieu of surety.

In lieu of the required surety, the operator may deposit cash or government securities with the Board of Minerals and Environment in an amount equal to that of the required surety on the conditions prescribed in § [45-6C-23](#).

Source: SL 1982, ch 306, § 22.

45-6C-23. Surety payable to state--Conditions required.

The surety provided for by § [45-6C-19](#) shall be payable to the State of South Dakota and conditioned upon the operator's faithful performance of all requirements of this chapter. If a corporate surety bond is required, such bond shall be signed by the operator as principal and by a surety insurer certified under chapter [58-21](#). Such surety shall remain in effect until the test hole plugging and reclamation are approved by the Board of Minerals and Environment and the surety is released by the board. At least thirty days prior to the release of the surety, the Department of Agriculture and Natural Resources shall notify the board of county commissioners of the affected county and the surface owner or lessee of the affected land, if other than the mineral owner, of the proposed surety release.

Source: SL 1982, ch 306, § 23; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-24. Surety liability continues until released.

Liability of an operator under surety provisions shall continue until such time as released in part or in its entirety by the Board of Minerals and Environment. The surety may not be held more than twelve months after completion of reclamation.

Source: SL 1982, ch 306, § 24.

45-6C-25. Surety penalty--Amount.

The penalty of the required surety shall be in an amount sufficient to cover the cost of plugging ten percent of the proposed test holes and reclamation as determined pursuant to § [45-6C-23](#).

Source: SL 1982, ch 306, § 25.

45-6C-26. Exploration operations--Applicable laws.

Every operator who files notice of intent to conduct an exploration operation may engage in the exploration operation upon the affected lands described in the notice of intent to conduct an exploration operation, upon the performance of and subject to §§ [45-6C-27](#) to [45-6C-34](#), inclusive, with respect to such lands.

Source: SL 1982, ch 306, § 26.

45-6C-27. Explosives.

No exploration operations involving the use of explosives may be conducted within one-quarter mile of a flowing water well or a domestic water well unless permission is granted, in writing, by the owner of such well. An operator violating this section is strictly liable for any damage to such water well. The owner of the water well is responsible for establishing the volumetric production and water quality of the well prior to the violation.

Source: SL 1982, ch 306, § 27.

45-6C-28. Capping, sealing, and plugging of test holes--Temporary delay.

The operator shall cap, seal, and plug each test hole sunk for exploratory purposes on all public and private lands within the state immediately following the drilling and probing. An operator may apply, in writing, to the Board of Minerals and Environment for permission to temporarily keep the test hole open. The board may, in its discretion, allow the operator a temporary delay, if the test hole is securely covered in a manner which will prevent injury to persons or animals and marked in a manner approved by the board.

Source: SL 1982, ch 306, § 28; SL 1983, ch 311.

45-6C-29. Capping, sealing, and plugging test holes--Rules.

The Board of Minerals and Environment shall promulgate rules, pursuant to chapter [1-26](#), to regulate the capping, sealing, and plugging of all test holes drilled pursuant to this chapter. Such rules shall provide for the capping, sealing, and plugging of all such test holes, the prevention of any artesian flow of groundwater toward the surface, and the prevention of fluid communication between aquifers.

Source: SL 1982, ch 306, § 29.

45-6C-30. Repealed by SL 2013, ch 166, § 104.

45-6C-31. Test holes used for water wells.

If any test holes drilled are to be ultimately used or are to be converted to water wells, the user shall comply with the provisions of chapter [46-6](#).

Source: SL 1982, ch 306, § 31.

45-6C-32. Roads and trails.

The operator shall construct all roads and trails developed for the exploration project to minimize sedimentation and erosion by the placement of water bars and similar structures, road placement on the contour, revegetation of roadwork and embankment slopes, or by using other necessary methods.

Source: SL 1982, ch 306, § 32.

45-6C-33. Restoration of drill sites and affected land.

The operator shall restore each drill site and other affected land as nearly as possible to its original condition including backfilling all mudpits, scattering any drill cuttings left on the surface, reseedling the drill site and approach trails, removing shot wire, or other action as may be necessary.

Source: SL 1982, ch 306, § 33; SL 2011, ch 165, § 213.

45-6C-34. Penetration of aquifer--Notice to board.

The operator shall notify, in writing, the Board of Minerals and Environment of the penetration of an aquifer and the location of the test hole penetrating such aquifer as soon as practically possible, but not more than ninety days after penetration. The board may waive this requirement if, after consultation with the state geologist, the board determines that further hydrological information is no longer necessary from a particular area of the exploration operation or from the entire area of the exploration operation.

Source: SL 1982, ch 306, § 34.

45-6C-35. Penetration of aquifer--Report required.

The operator shall submit, upon completion of the exploration operation, a clear and complete report identifying all test holes which have penetrated an aquifer, the depth of the aquifer, and the method used to plug each such test hole. The

information contained in the report is not confidential. However, the Board of Minerals and Environment and the Department of Agriculture and Natural Resources shall keep the source of the information confidential. Further, the operator shall submit a report identifying the location of all test holes with sufficient information to allow the department to locate such test holes.

Source: SL 1982, ch 306, § 35; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

[45-6C-36](#). Violation--Notice to operator.

If the secretary of agriculture and natural resources has reason to believe that a violation of this chapter has occurred, written notice shall be given to the operator of the alleged violation. The notice shall be served personally or by registered mail upon the alleged violator or the alleged violator's agent for service of process. The notice shall state the provision alleged to be violated and the facts alleged to constitute the violation and shall recommend possible corrective action.

Source: SL 1982, ch 306, § 36; SL 1991, ch 17 (Ex. Ord. 91-4), § 21; SL 2011, ch 165, § 214; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

[45-6C-37](#). Violation--Cease and desist order.

If the secretary of agriculture and natural resources determines that a violation of any provision of this chapter exists, the board, not less than forty-eight hours after service of the notice required by § [45-6C-36](#), may issue a cease and desist order. Such order shall set forth the provisions alleged to be violated, the facts alleged to constitute the violation, and the time by which the acts or practices complained of must be terminated and shall recommend possible corrective action. Such order shall be served personally or by registered mail upon the alleged violator or his agent for service of process.

Source: SL 1982, ch 306, § 37; SL 1991, ch 17 (Ex. Ord. 91-4), § 21; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

[45-6C-38](#). Violation--Hearing.

The Board of Minerals and Environment may require the alleged violator to appear before the board no sooner than twenty days after the issuance of such cease and desist order; except that an earlier date for hearing may be requested by the alleged violator. If a hearing is held pursuant to the provisions of this section, it shall be open to the public and conducted in accordance with the provisions of chapter [1-26](#). The board shall permit all parties to respond to the notice served, to present evidence and arguments on all issues, and to conduct cross-examination required for a full disclosure of the facts.

Source: SL 1982, ch 306, § 38.

[45-6C-39](#). Violation--Suspension of operations.

Upon a determination, after hearing, that a violation of this chapter has occurred, the Board of Minerals and Environment may order the operator to suspend all exploration operations within the state. If the board issues such order, the operator may continue the exploration operation only for the purpose of bringing the exploration operation into satisfactory compliance with the provisions of this chapter. Once such operations are completed to the satisfaction of the board, the board shall revoke its order suspending the exploration operations of the operator.

Source: SL 1982, ch 306, § 39.

[45-6C-40](#). Violation--Action for temporary restraining order or injunction.

The Board of Minerals and Environment may request the attorney general to bring suit for a temporary restraining order, a preliminary injunction or a permanent injunction to prevent any further or continued violation of this chapter. Suits under this section shall be brought in the circuit court for the county where the alleged violation occurs.

Source: SL 1982, ch 306, § 40.

45-6C-41. Violation--Forfeiture of surety--Proceedings by attorney general.

The attorney general, upon request of the Board of Minerals and Environment, shall institute proceedings to have the surety of the operator forfeited for violation by the operator of an order entered pursuant to § [45-6C-37](#). Before making such request of the attorney general, the board shall notify the operator in writing of the alleged violation of or noncompliance with such order and shall afford the operator the right to appear before the board at a hearing to be held not less than thirty days after the receipt of such notice by the operator. At the hearing the operator may present for the consideration of the board statements, documents, and other information with respect to the alleged violation. After the conclusion of the hearings, the board shall either withdraw the notice of violation or shall request the attorney general to institute proceedings to have the surety of the operator forfeited as to the land involved. A corporate surety shall have the option to reclaim the lands in question, plug the appropriate test holes, or forfeit the bond penalty.

Source: SL 1982, ch 306, § 41.

45-6C-42. Violation--Forfeiture of surety--Reclamation of land by board.

The Board of Minerals and Environment shall plug and reclaim, in accordance with the provisions of this chapter, any affected land with respect to which a surety has been forfeited.

Source: SL 1982, ch 306, § 42.

45-6C-43. Fees deposited in environment and natural resources fee fund--Proceeds of forfeiture of surety deposited in special revenue fund.

All fees received by the Department of Agriculture and Natural Resources shall be deposited by the department in the environment and natural resources fee fund established pursuant to § [1-41-23](#). The proceeds of any surety forfeiture proceedings conducted pursuant to § [45-6C-41](#) shall be deposited with the state treasurer in a special revenue fund for reclamation purposes. The revenue fund is continuously appropriated to the Board of Minerals and Environment for the reclamation of affected lands which were obligated to be reclaimed. The proceeds of any surety remaining after completion of reclamation according to the approved plan shall be returned to the operator or the surety company, whichever is appropriate.

Source: SL 1982, ch 306, § 43; SL 1994, ch 23, § 7; SL 2021, ch 1 (Ex. Ord. [21-3](#)), §§ 14, 53, eff. Apr. 19, 2021.

45-6C-44. Operator currently in violation--Filing notice of intent prohibited.

Any operator who is currently found to be in violation of the provisions of this chapter with respect to any operation in this state may not file a notice of intent to conduct an exploration operation. The Department of Agriculture and Natural Resources shall return any such attempted filing. Such notice is null and void.

Source: SL 1982, ch 306, § 44; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-45. Violation--Civil penalty--Liability for damages to environment.

Any person who violates any provision of this chapter is subject to a civil penalty of not less than one hundred dollars per day nor more than one thousand dollars per day for each day which such violation occurs, or is liable for damages to the environment of this state, or both. This penalty is in addition to any other penalties authorized.

Source: SL 1982, ch 306, § 45; SL 1988, ch 291, § 22.

45-6C-46. Refusal of access or interference with inspection as violation.

It is a violation of this chapter to refuse entry or access to any authorized representative of the Board of Minerals and Environment who, after presenting appropriate credentials, requests entry for the purpose of inspection under this chapter; nor shall any person obstruct, hamper, or interfere with any such investigation. If requested, the operator of the exploration site shall receive a report setting forth the observations made by the person making the inspection which relate to compliance with this chapter.

Source: SL 1982, ch 306, § 46.

45-6C-47. Jurisdiction and authority of board--Employment of personnel--Legal services provided by attorney general.

The Board of Minerals and Environment shall carry out and administer the provisions of this chapter. The board has jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter. The Department of Agriculture and Natural Resources may employ agents, employees, and consultants, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. The board may call upon the attorney general of the state for such legal services as it may require.

Source: SL 1982, ch 306, § 47; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

45-6C-48. Assistance provided by other departments and agencies.

The Department of Agriculture and Natural Resources, the Department of Game, Fish and Parks, the Department of Education, the commissioner of school and public lands, and local conservation districts shall furnish the Board of Minerals and Environment and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of total reclamation and enforcement duties.

Source: SL 1982, ch 306, § 48; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 2003, ch 272 (Ex. Ord. 03-1), § 63; SL 2021, ch 1 (Ex. Ord. 21-3), §§ 51, 53, eff. Apr. 19, 2021.

45-6C-49. General powers of board.

The Board of Minerals and Environment may:

- (1) Administer oaths or affirmations, subpoena witnesses, and compel their attendance at a hearing;
- (2) Accept gifts, contributions, federal grants-in-aid, or financial aid from any other source for accomplishing plugging and reclamation;
- (3) Carry out plugging of test holes and reclamation of affected lands.

Source: SL 1982, ch 306, § 49.

45-6C-50. Repealed by SL 2013, ch 166, § 105.

45-6C-51. Exemption of educational and recreational activities.

Any person engaged in recreational, hobby, amateur, or field activities independently or sponsored by educational institutions or by organizations involved in earth science activities including geology, mineralogy, paleontology, treasure hunting, gold panning, archaeology, and noncommercial agate and gem hunting and using hand-held tools and equipment is exempt from the provisions of this chapter.

Source: SL 1983, ch 309, § 3; SL 2011, ch 165, § 215.

45-6C-52. Annual report of activities conducted under notice of intent--Information to be included.

For each exploration notice of intent held by an operator, an annual report of activities conducted under the notice shall be submitted to the department by January first of each year. Any operator holding more than one notice may submit a single annual report describing activities conducted under all such notices. The annual report shall include the following information:

- (1) The total number of drill holes, trenches, bulk sampling sites, or shot holes allowed by the notice;
- (2) The total number of drill holes, trenches, bulk sampling sites, or shot holes completed during the previous year under the notice;
- (3) The total amount of surface disturbance created as the result of conducting exploration activities under the notice;
- (4) The total number of drill or shot holes plugged and reclaimed during the previous year including the method used to plug each hole;
- (5) The total amount of surface disturbance reclaimed during the previous year;
- (6) The total amount of surface disturbance remaining to be reclaimed;
- (7) The total number of drill or shot holes remaining to be plugged and reclaimed; and
- (8) A description of the coming year's activities to be conducted under the notice.

The annual report shall be accompanied by a map of sufficient detail to clearly depict the information required in the annual report.

Source: SL 1992, ch 254, § 6.

45-6C-53. Transfer of notice of intent.

Any exploration notice of intent may be transferred. If one operator succeeds another at any uncompleted exploration operation, the successor operator shall make application for a transfer to the Board of Minerals and Environment. The board may not deny a transfer unless the operation is not in compliance or cannot be brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the transfer, or unless the successor operator is in violation of state statutes, rules, notice restrictions, mining permit conditions, or requirements with respect to any exploration or mining operation in the state. The board shall release the first operator from reclamation liability as to that particular exploration operation and shall release the first operator's surety posted to cover the costs of reclamation if the successor operator assumes, as part of the successor operator's obligation under this chapter, all liability for the reclamation of the affected land not completed by the first operator and reclamation of any additional lands affected under the notice. The obligation to complete this reclamation shall be covered by an appropriate surety. The successor may only conduct exploration work authorized in the notice and shall comply with the terms and conditions established when the original notice was issued. Notice of a transfer shall be given to the board and shall be accompanied by a two hundred fifty dollar transfer fee.

Source: SL 1993, ch 333, § 1; SL 2011, ch 165, § 216.

45-6C-54. Publication of application for a transfer of notice of intent--Contents.

The applicant shall cause notice of the filing of his application for a transfer to be published in a newspaper of general circulation in the locality of the proposed exploration operation within ten days after the application of transfer is received by the department. Such notice shall contain the identity and address of the first operator and resident agent and successor operator and resident agent, a brief description of the type of mineral exploration to be conducted, the legal description of the land to be explored, the approximate date upon which the operation will commence and location where additional information about the proposed exploration operation may be obtained. Proof of such publication, such as an affidavit of publication, shall be provided to the department and become a part of the transfer application.

Source: SL 1993, ch 333, § 2.

45-6C-55. Confidentiality period of certain mineral exploration reports.

Any written geologic report, aquifer penetration report, map, test hole log, or other information relative to the geologic data, size, extent, or economic value of a mineral deposit filed with the state by a person who conducted a mineral exploration operation which was initiated or permitted before July 1, 1982, is confidential for a period of six months following July 1, 2008. Any person who filed such reports or information may request the secretary of agriculture and natural resources, in writing, to extend the six month confidentiality period by up to five years. The information becomes public following the confidentiality period.

Source: SL 2008, ch 229, § 1; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.