

Frack Sand Mining Regulations and Agencies

It has been put forward that Mining is the most regulated industry in the US. Is it? We have contacted all the regulating agencies to see what regulations and permits are required to mine frack sand. And, what the extent of any actual oversight is. In that endeavor we have found many areas of mining that are not regulated by any agency or entity.

The agencies and the permits, licenses, registrations, and bond requirements are:

1. IDALS (Iowa Department of Agriculture and Land Stewardship): Mines and Minerals Bureau.

a. All mining in Iowa is administratively regulated by the Mines and Minerals Bureau. A license for the company is required and a registration and bond is required for the mine site. (Iowa Code 208)

b. IDALS only visits mines to inspect for closing requirements, or, if there is a public complaint or request.

c. Reclamation requirements: stockpiles removed; no mining relate equipment remaining; no off-site erosion.

The Mines and Minerals Bureau of IDALS, the Iowa Department of Agriculture and Land Stewardship, regulates mining in Iowa. But, their function seems to be clerical in nature. They license, register, and require a bond. They visit mines to inspect for closing requirements, or if there is a complaint. They do not specify how to mine.

2. MSHA: Mine Safety & Health Administration. Fort Dodge office covers Iowa and bottom third of Minnesota.

a. surface mine: required to visit twice yearly

b. underground mine: four visits per year

c. intermittent mine: once per year visit

d. Federal Regulation 30CFR: responsible for mine workers on mine property only. All testing and oversight is done on the day of the visit only.

MSHA, the Mine Safety & Health Administration's Fort Dodge office covers Iowa and bottom third of Minnesota. They are the OSHA of the mining industry. They are responsible for mine workers safety and health on mine property only. Any testing and oversight is done on the day of the visit. They visit a surface mine two days a year, and an underground mine four days a year. So, there is no MSHA oversight 363 or 361 days a year. MSHA does not regulate actual mining operations.

3. Iowa DNR: regulates only off site issues. Has absolutely nothing to do with regulation, or existence, of the actual mining operations themselves.

a. Water Bureau: permits (if applicable to the site)

1. General Permit #5 – quarries that do have discharges now have these general permits rather than individually written NPDES permits if applicable

2. General Storm Water Discharge Permit if applicable

3. Quarry Dewatering Permit if applicable

4. Flood Plain Permit: any work within a flood plain

b. Air Quality Bureau:

1. issues permits for point source emissions only, smokestacks, some drying operations, etc. Does not issue permits for non-point source pollution which is what fugitive dust is.

2. issues no permits for actual mining operations. Only get involved if a citizen complains: fugitive dust (blowing off site) issues.

3. Statement from a DNR Region 1 Environmental Specialist Senior: “The department does not have the resources to patrol the state for fugitive dust and relies on citizens to take responsibility for themselves to notify us.”

c. Solid Waste Bureau:

1. BUD (Beneficial Use Determination) Permit: regulates the usage of some of the waste clay/sand products used for off site purposes.

The Iowa DNR regulates only off site environmental issues. It has nothing to do with the regulation, or existence, of the actual mining operations themselves. It relies on citizen complaints for much of its oversight because of a lack of funding. Everyday people are supposed to know all of the issues surrounding environmental pollution and they are to inform the DNR there is a problem.

4. State Fire Marshal: license’s anyone who is allowed to possess explosives, as well as the storage magazines. No onsite regulation.

a. only go on site if there are noise complaints or flying rock complaints; have the authority but lack the resources.

The State Fire Marshal licenses anyone who is allowed to possess explosives, as well as the storage magazines. There is no onsite oversight. They only go on site if there are noise complaints or fly rock complaints. They have the authority but lack the resources.

5. DOT (Department of Transportation):

a. Vehicle Enforcement (Blue Cars): Does not regulate in the normal sense. Can stop vehicles to check for weight and vehicle safety. Do not regulate where or when trucks go, or how many trucks travel a certain road.

6. County:

a. Zoning Ordinance: see “Zoning Code Sections” document in this packet.

The county should consider and regulate those things that are considered externalities by mining companies; ergo, neighbor’s health; quality of life including noise, lights, and views; water table issues including groundwater, spring, and well contamination; hill and bluff removal; forest removal; the filling of adjacent valleys; roads, bridges and traffic; ability to enjoy your own property; ability to enjoy the environment through tourism and outdoor activities, etc. A problem with that is that both the Board and the Commission are citizen boards. As such, neither has the knowledge or requisite expertise to answer what these wholesale changes will do to neighbors, the neighborhood, and the county as a whole. We should have a moratorium so that we can figure out how we are going to handle this issue.

So, back to the original question: is frack sand mining in Iowa regulated?

1. We have seen a number of agencies that are involved in the arena of frack sand mining, but there is no agency that actually regulates frack sand mining. The industry statement on this is: “As long as companies that are in this industry utilize proper planning and engineering and design parameters, these are environmentally safe practices.” Essentially they are saying we don’t need to worry. But, there are those issues that the industry considers externalities and which we have mentioned that we might want to worry about.
2. Neither the State of Iowa nor the EPA, or the other agencies we have contacted describes how and where frack sand mining can be done. Mining companies do that. In that sense, mining companies self regulate. And a county Conditional Use Permit becomes not regulatory language, but instead enabling language. A company says what it needs in the Conditional Use Permit in order to mine or quarry. This is basically self-regulation. The company says we’ll need so many trucks per day/week/month to do this job. The Board then says, okay, we’ll put that in the Conditional Use Permit. The zoning language is not really regulatory in nature, it is enabling language. It is written to allow what the industry needs.
3. There is no one overall agency involved in making sure that all agencies are involved in a mine’s oversight and regulation. In fact, the MSHA Regional Director, Troy VanWey, said they are not even sure where all the mines and quarries may be. Some mines and quarries operate without permits or licenses.
4. There is no oversight of fugitive dust (off site). Complaint basis only.

5. No one regulates groundwater issues. No one can guarantee that a mine stays above the water table and doesn't cause pollution to the groundwater, adjacent wells, or springs.
6. MSHA has worker safety oversight only, and only on the mine property.
7. MSHA visits one, two, or four days per year per site depending on whether it is intermittent use, surface, or an underground mine. That means that for 364 days, 363 day, and 361 days out of the year, there is no actual oversight at a mine.
8. DNR has oversight only off the mine property for environmental issues. And, because of a lack of resources, depends on neighbor complaints to know if a problem exists. That means a neighbor must know what a pollution event is, that they can report it, and then report it. In this scenario, the pollution event is already taking place. It is regulation after the fact, not regulation in order to prevent a pollution event.
9. No one regulates truck traffic.
10. No one regulates dust and particles blowing off trucks.
11. No one regulates neighbor health hazards or issues.
12. No one regulates noise.
13. No one regulates lights.
14. No one regulates hours of operation.
15. No one regulates the kinds and amount of flocculants (chemicals) used.
16. No one regulates the destruction of hills, valleys, and forests.

As you can see, because of the myriad agencies with patchwork jurisdictions, mining is not really regulated in the sense that one would consider. There is no overall regulation of a mine when it opens, or even where, or if, it will open. A mining company controls the way it mines and how surface and subsurface disturbance happens.

We have little or no control on those things that are considered externalities by mining companies; ergo, neighbor's health; quality of life including noise, lights, and views; fugitive dust; water table issues including groundwater, spring, and well contamination; hill and bluff removal; forest removal; the filling of adjacent valleys; roads, bridges and traffic; ability to enjoy your own property; ability to enjoy the environment through tourism and outdoor activities.

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