

Construction Aggregate Prospecting and Lease Guidelines

Purpose: Because there is no state or local regulatory agency for construction aggregate mining, the entire responsibility falls on the landowner, in this case the ND Department of Trust Lands. If there is a problem with a mine, there is no regulatory recourse which means that the Department staff has to closely monitor each mine. The number of construction aggregate prospecting and lease applications received has increased significantly in 2012. Construction aggregate mining is an unregulated industry and a single mine can be 80 acres or more in size and result in over 1 million yards of aggregate and 85,000 cubic yards of topsoil reservation. The amount of time and resources by the ND Department of Trust Lands staff to manage exploration, mining and reclamation is significant and is rapidly approaching the point that it will exceed the ability of existing staff.

In addition to the intensive work created by each construction aggregate lease, prospecting permits also require monitoring. Most companies use a backhoe to dig an exploration trench to adequately determine the quality and extent of the gravel resource. Each exploration permit has to be inspected to ensure that it is adequately reclaimed.

Therefore, the following guidelines will be used to evaluate and process construction aggregate prospecting and lease applications under the [rules established by the Board of University and School Lands](#) in a logical manner and in the fiduciary best interest of the trusts.

Political subdivisions are exempt from these guidelines.

Prospecting applications for private entities:

Allow exploration on a maximum of 4 contiguous tracts of land per county per company and their subsidiaries per year (for example a company could explore on a maximum of 4 different sections of land per county per year).

Allow exploration on a maximum of 16 contiguous tracts of land statewide per company and their subsidiaries per year (for example a company could explore on a maximum of 16 different sections of land, statewide, per year).

Leases held by private entities:

A private company and their subsidiaries may not hold more than two leases that have not produced and sold at least 10,000 cubic yards of construction aggregate in the previous calendar year. Leases are issued to produce income for the trusts through aggregate production.

A maximum of 16 active construction aggregate leases in total will be allowed for private companies and their subsidiaries statewide. This is the number of active leases that can be managed by existing staff.

Current Construction Aggregate Rules allow for a minimum advance royalty of \$1,000 for leases with a term greater than one year. This rate was established when royalty rates were 45 to 50 cents per cubic yard. Current royalty rates in northwestern North Dakota are 4 to 10 times greater at the present time. The minimum advance royalties will be as follows.

Advance Royalties for lease terms greater than 1 year:

A \$2,000 annual advance royalty for political subdivisions.

A \$5,000 annual advance royalty for private companies and their subsidiaries.

Managing the mining and reclamation plans in this unregulated industry is labor intensive and there is a limit to the number of mine sites that can be effectively managed while maximizing income and protecting the future productivity and value of the land.

If you have any questions, please contact Joseph Stegmiller (701-328-1912) or Cory Barth at (701-328-1945).