

Non-Metallic Mining Reclamation Frequently Asked Questions

Why do we need a Statewide Nonmetallic Mining Reclamation Program?

Unfortunately, there is a legacy of abandoned mines in Wisconsin. The absence of regulations has played a role in this legacy. Too often, such sites are safety hazards that create situations resulting in personal injury or even loss of life. Abandoned mines can result in a loss of productive land use, diminished habitat and decreased tax revenues. Abandoned mines can also have a negative impact on the property value of adjacent landowners.

Threats to the environment and particularly to surface water can occur due to erosion and

sedimentation from both abandoned and active mine sites. These impacts can easily be prevented by responsible practices encouraged by this rule. In a state proud of its environment it makes no sense to accept the eyesores that come with abandoned mine sites. This program will ensure that mine sites are returned to a productive and beneficial land use once mining is completed.



Who would regulate the nonmetallic mining industry to ensure reclamation?

Each county is required by law to enact an ordinance and administer a reclamation program to regulate the reclamation of nonmetallic mining sites. Cities, villages and towns are given the option to regulate nonmetallic mining reclamation in their jurisdiction. County or local programs will be established by the enactment of a reclamation ordinance and maintained by the implementation and administration of that ordinance.

What is the role of the Wisconsin Department of Natural Resources in this regulatory process?

Subchapter I of Chapter 295, Wis. Stats, requires the Department to write rules for Nonmetallic Mining Reclamation. These exist in Chapter NR 135, which became effective December 1, 2000. Additional support materials have been developed including model ordinances for use/adoption by counties and interested municipal governments. In the longer term, DNR will provide technical assistance and perform audits to ensure that county and local ordinances are being fully and uniformly enforced in compliance with state law.

Would this rule affect the siting and permitting of proposed new mines?

No. This rule creates a reclamation program only. It is not a zoning rule and will have no effect on local zoning decisions. The decision on locating a nonmetallic mine will continue to be based on the physical presence of a deposit, the market demands and the restrictions placed on these activities through the zoning process. This rule deals only with final site reclamation and environmental protection and has no effect on siting decisions.

Who will pay for the benefits that flow from a regulatory program aimed at ensuring the reclamation of nonmetallic mining sites?

The law requires that county and local ordinances establish annual fees so the reclamation program is fully funded by those fees. County or municipal government may recover all reasonable costs that they incur in administering the program.

Will NR 135 help me with my concerns about noise, blasting, and traffic?

No. Chapter NR 135 deals only with the reclamation of mines. Concerns related to siting and operations need to be addressed through zoning and other ordinances.

If a county has not enacted a zoning ordinance but does enact a nonmetallic mining reclamation ordinance, does the county reclamation ordinance apply in those townships within the county that have a local zoning in place?

Yes. The authority for a nonmetallic mining reclamation ordinance is independent of zoning authority and the county nonmetallic mining reclamation ordinance would apply unless the town elected, at its discretion, to enact its own non-metallic mining reclamation ordinance thus assuming primacy.

I am concerned that operators will not know when all the county hearings on reclamation ordinances (especially the proposed fee structures contained in the ordinance) will occur and thus will not get an adequate opportunity to participate. How can I get this information?

Interested parties should contact county and local government to get their name on applicable mailing lists for hearing announcements put out by county or local governments.

How can operators be assured that fees assessed by county and local government will not be too high?

The statute provides county or local government with the ability to collect fees for use in the administration of their program. These fees must equal, as closely as possible, the actual costs of program administration. The fees that appear in the rule in NR 135.39(4)(b)2 are specific to Department costs and are only applicable when the Department is the regulatory authority required to administer the program. Yet, the fees found in the rule also serve as a "reality check" on fees and the rule indicates that there must be specific justification if county/local costs exceed tables 2, 3, and 4. It is important to note that a regulatory authority may not assess a fee in excess of what would be required to recoup its administrative costs. One of the areas reviewed by the Department in mandatory audits of county or local programs is the relationship between fees collected and actual administrative costs.

How can operators be assured that the county or local government regulatory authority will have a fair and reasonable interpretation of the uniform reclamation standards?

Initially, all active operations that wish to continue to operate will receive an automatic reclamation permit. Over the next 2-3 years more detailed reclamation plans will need to be submitted for approval. These plans will show that the standards have been met and once approved will serve to protect the operator against future overly stringent interpretation of the standards.

What is the relationship between the total acreage in an approved reclamation plan and the acreage subject to an annual fee?

A reclamation plan delineates all acreage that will be subject to extraction and mining activities. It provides the land use or uses within the mine plan area and the methods of reclamation necessary to achieve the end land use. Fees are assessed on only those areas in the reclamation plan that have been or are being affected by mining activities and are not reclaimed.

When is a modification to an existing reclamation plan necessary and what does this imply?

Modifications to the reclamation plan are required when there is a new acquisition of a mineable resource that requires that the boundaries in the reclamation plan area be changed. In such a case the mining site has gone beyond the original acreage covered by the approved reclamation plan and the approved reclamation permit. Also, a substantial change in mining method, the rate of extraction or the timing or method of reclamation may warrant a modification of the reclamation plan and reclamation permit. Although the reclamation permit is a life-of-mine permit a substantial modification would cause it to be reopened and may necessitate a public hearing.