

Non-metallic Mining Ordinance  
November 12<sup>th</sup>, 2007  
Forest County

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**General**

**Section 1.**

**1.00 Title**

Nonmetallic Mining Reclamation Ordinance for the County of Forest.

**Section 2**

**2.00 Purpose.**

The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which mining takes place in Forest County after the effective date of this chapter and in compliance with Chapter NR 135, Wisconsin Administrative Code and Chapter 295, Wisconsin Statutes.

**Section 3**

**3.00 Statutory Authority.**

This ordinance is adopted under authority of Section 295.13(1) and Section 59.51, Wisconsin Statutes.

**Section 4**

**4.00 Restrictions Adopted Under Other Authority.**

The purpose of this chapter is to adopt and implement the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a), Stats. and contained in Chapter NR 135, Wisconsin Administrative Code. It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining reclamation under other Wisconsin law.

**Section 5**

**5.00 Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Administrative Code. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Chapter NR 135, Wisconsin Administrative Code, or where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

**Section 6**

**6.00 Sever ability.**

Should a court of competent jurisdiction declare any portion of this chapter unconstitutional or invalid, the remainder of this chapter shall not be affected.

**Section 7**

**7.00 Applicability**

**7.10 General.**

The requirements of this chapter apply to all operators of nonmetallic mining sites within Forest County operating on or commencing to operate after August 1st, 2001 except as exempted in **Sec. 7.20** and except for nonmetallic mining sites located in a town within Forest County that has adopted an ordinance pursuant to WI §295.14, and Section NR 135.32(2), Wisconsin Administrative Code. This chapter does not apply to nonmetallic mining sites or portions of mining sites where mining permanently ceased before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of the State of Wisconsin, by or on behalf of a Town or for the benefit or use of the state or any state agency, board, commission, department, county or a municipality, except for the waiver of financial assurance in **Sec. 14.40**.

**7.20 Exemptions.**

This chapter does not apply to the following activities:

- (1) Nonmetallic mining at a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under WI § 30.19, §30.195 or §30.20, and complies with Chapter NR 340, Wisconsin Administrative Code.
- (2) Excavations subject to the permit and reclamation requirements of WI §30.30 or § 30.31.
- (3) Excavations or grading by a person solely for domestic or farm use at that person's residence, business or farm.

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- (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, *or* any transportation facility where the excavation or grading is entirely within the property boundaries of that facility.
- (5) Is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site.
- (6) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (7) Excavations for building construction purposes conducted on the building site that includes the one time sale of excavated material.
- (8) Nonmetallic mining at sites where less than one acre of total affected acreage occurs over the life of the mine.
- (9) Any mining operation, the reclamation of which is required in a permit obtained under chapter 293, Wisconsin Statutes.
- (10) Any activities required to prepare, operate or close a solid waste disposal facility under Chapter 291, Wisconsin Statutes that are conducted on the property where the facility is located.
  - (A) Off-site activities to obtain nonmetallic minerals for lining, capping, covering or constructing berms, dikes or roads are subject to this nonmetallic mining ordinance and the standards established in this chapter.
- (11) For the remediation of environmental contamination within Forest County and the disposal of spoils from this activity.
- (12) Activities required too amass deposits of composted animal wastes to use as topsoil.

**Section 8.**

**8.00 Administration.**

The provisions of this chapter shall be administered, under the direction of the Forest County Land and Water Conservation Committee, by the Forest County Conservationist whose office is located at 200 East Madison Street, Crandon, Wisconsin 54520.

**Section 9.**

**9.00 Effective Date.**

The provisions of this chapter shall take effect on June 1, 2001.

**Section 10**

**10.00 Definitions.** In this chapter:

- (1) “**Alternative requirement**” means an alternative to the reclamation standards of this chapter provided through a written authorization granted by Forest County pursuant to **Sec. 13.60**
- (2) “**Applicable reclamation ordinance**” means a nonmetallic mining reclamation ordinance, including this chapter, that applies to a particular nonmetallic mining site and complies with the requirements of this Chapter NR 135, Wisconsin Administrative Code and subchapter 1of Chapter 295, WI Statutes.
- (3) “**Borrow site**” means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site but is not a commercial site.
- (4) “**Contemporaneous reclamation**” means the progressive reclamation of portions of the nonmetallic mining site affected by mining operations that are performed in advance of final site reclamation. This may or may not be final reclamation, as it is performed to minimize the area exposed to erosion at any one time.
- (5) “**Department**” means the Wisconsin Department of Natural Resources.
- (6) “**Environmental Pollution**” has the meaning in §295.11(2),Stats.
- (7) “**Financial assurance**” means a commitment of funds by an operator to the County that satisfies the requirements in **Sec.14** and is sufficient to pay for reclamation activities required by this section.
- (8) “**Landowner**” means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land if a different person possesses title to that land in fee simple or holds a land contract.
- (9) “**Licensed Professional geologist**” means a person who is registered as a professional geologist pursuant to the requirements of WI §470.
- (10) “**Licensed Professional Hydrologist**” means a person who is licensed as a professional hydrologist pursuant to ch. 470, Stats.

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- (11) “**Forest County**” or “**County**” means the Forest County Land & Water Conservation Office.
- (12) “**Highwall**” means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that is steeper than 3:1.
- (13) “**Municipality**” means any city, town or village.
- (14) “**Nonmetallic mineral**” means a product, commodity or a material consisting principally of naturally occurring organic or inorganic, nonmetallic, renewable or nonrenewable material. Nonmetallic minerals include, but are not limited to stone, sand, gravel, asbestoses, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.
- (15) “**Nonmetallic Mining**” or “**Mining**” means all of the following:
  - (A) Operations or activities at a nonmetallic mining site for the extraction of aggregates or nonmetallic minerals for sale or use. Nonmetallic mining includes use of equipment or techniques to remove materials from the in-place mineral deposit, including drilling, blasting, excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
  - (B) Processes carried out at a nonmetallic mining site that is related to the preparation or processing of the aggregates or nonmetallic minerals obtained from the site. These processes include but are not limited to, stockpiling of material blending, blasting, grading, crushing, screening, scalping and dewatering.
- (16) “**Nonmetallic mining reclamation**” or “**reclamation**” means the rehabilitation of a mining site to achieve a land use specified in the reclamation plan approved under this chapter, including removal or reuse of mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, re-establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable, the restoration of plant, fish and wildlife habitat.
- (17) “**Nonmetallic mining refuse**” or “**refuse**” means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Refuse does not include marketable by-products resulting directly from or displaced by the excavation and are scheduled to be removed from the site within a reasonable period of time after extraction.
- (18) “**Nonmetallic mining site**” or “**site**” means all contiguous areas of present or proposed mining subject to the qualifications in par. (b)
  - (A). Nonmetallic mining sites means the following:
    - 1. The location where nonmetallic mining is proposed or conducted.
    - 2. Storage and processing areas that are contiguous to areas excavated for nonmetallic mining.
    - 3. Areas where nonmetallic mining refuse is deposited.
    - 4. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
    - 5. Areas where grading or re-grading is necessary.
    - 6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, re-vegetation test plots, or channels for surface water diversion, are located.
  - (B). “Nonmetallic mine site” does not include any of the following areas:
    - 1. Those portions of sites listed in par. (a) not used for nonmetallic mining or purposes related to nonmetallic mining after August 1<sup>st</sup>, 2001.
    - 2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after 8 months following December 1, 2000 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
- (19) “**Operator**” means any person who is engaged in, or who has applied for a permit to engage in nonmetallic mining, individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.
- (20) “**Person**” means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.
- (21) “**Registered professional engineer**” means a person who is registered as a professional engineer

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pursuant to WI §443.04

- (21) “**Regulatory authority**” means the following:
- (A) Forest County for nonmetallic mine sites located within it’s jurisdiction, or;
  - (B) A municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under **295.14, Stats.**
  - (C) The department, in cases where a county reclamation ordinance is no longer in effect and only where there is no applicable reclamation ordinance enacted by the municipality. In which the site is located.
- (22) “**Replacement of topsoil**” means the replacement or redistribution of topsoil or substitute material to all areas where topsoil was removed by excavation to promote the stabilization of soil conditions needed to achieve vegetative cover, approved post-mining land use and required reclamation plan approval.
- (23) “**Solid waste**” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials. This includes solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, or from community activities. It does not include solids or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point source pollutants subject to permits under WI § 283, Nor does it include source material, special nuclear material or by-product material, as defined in WI §254.31(1).
- (24) “**Topsoil**” means the surface layer of soil which is generally more fertile than the underlying soil layers which is the natural medium for plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (25) “**Topsoil substitute material**” means soil or other unconsolidated material used alone or mixed with other organic materials that can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.
- (26) “**Un-reclaimed acre**” Areas not reclaimed on an interim or complete basis or not excavated after August 1st, 2001. **Un-reclaimed acres do not include:**
- (A) Areas where reclamation has been completed and certified.
  - (B) Areas reclaimed on an interim basis.
  - (C) Areas previously mined but not after August 1<sup>st</sup>, 2001.
  - (D) Areas included in the project but as yet un-mined.
  - (E) Areas excavated before August 1<sup>st</sup>, 2001 and now used for related activities, including stockpiles of materials, provided the stockpiles are associated with on-site industrial processes, used for an industrial process or activity unrelated to nonmetallic mining such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

**Section 11**

**11.00 Standards.**

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained below:

(1) **General Standards**

- (A) **Refuse and other solid wastes.** Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. There shall be no other solid, contaminated or hazardous wastes disposed of in the areas regulated under this chapter except those generated within Forest County and disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted under WI §289 and 291.
- (B) **Area disturbed and contemporaneous reclamation.** Nonmetallic mining reclamation shall be conducted to minimize the area disturbed by excavation and to provide for reclamation of portions of the site while mining continues on other portions of the site.
- (C) **Public health, safety and welfare.** All nonmetallic mining sites shall be reclaimed in a manner so as to comply with Federal, State, and Local regulations governing public health, safety and welfare.
- (D) **Habitat restoration.** When the land use required by the reclamation plan approved under this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as to what existed before the lands were

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affected by nonmetallic mining operations or as agree to in the reclamation plan.

- (E) **Compliance with environmental regulations.** Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.
- (2) **Surface water and wetlands protection.** Reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards contained in Chapters NR 102 and NR 105, Wisconsin Administrative Code. Before disturbing the surface of a site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution shall be installed in accordance with the reclamation plans. Diverted or channelized runoff may not adversely affect neighboring properties.
- (3) **Groundwater protection**
- (A) **Groundwater quantity.** A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table.
- (B) **Groundwater quality.** Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Chapter NR 140, Wisconsin Administrative Code to be exceeded at a point of standards application.
- (4) **Topsoil management.**
- (A) **Removal.** Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan in order to achieve reclamation to the approved post-mining land use. Removal of on-site topsoil and topsoil substitute material removal when specified in the reclamation plan, shall be performed prior to any mining activity associated with any specific phase of the mining operation.
- (B) **Volume.** The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or by obtaining topsoil substitute material as needed to make up the volume as specified in the reclamation plan. Topsoil shall be removed to the depth indicated in the reclamation plan or as determined in the field by a soil scientist, project engineer or other qualified professional.
- (C) **Storage.** Once removed, topsoil shall, either be used in contemporaneous reclamation or stored in environmentally acceptable manner. The location of stockpiled material shall be chosen to protect the material from erosion or further disturbance.
- (5) **Final grading of slopes**
- (A) All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to s. 13 to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate highwalls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either:
1. A site-specific engineering analysis shall be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope,
  2. Or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.
- (B) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following:
1. Alternative requirements are approved under Sect 13.60
  2. Steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan
  3. Stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer.

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- (C) When the slope occurs at the edge of a body of water, this slope shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created to allow for a safe exit at designated location or locations depending on the size of the water body.
- (D) All areas in the site where topsoil or substitute material is to be reapplied shall be graded or prepared prior to redistribution to provide adherence between the topsoil and the underlying material.
- (6) **Topsoil redistribution for reclamation.**  
Topsoil or substitute material shall be redistributed in a manner which minimizes compaction and prevents erosion. Topsoil or substitute material shall be uniformly redistributed except where uniform redistribution is impractical. Redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.
- (7) **Re-vegetation and site stabilization.** Except for permanent roads or other surfaces identified in the reclamation plan, all surfaces affected shall be reclaimed and stabilized by re-vegetation or other means. Re-vegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after activity has permanently ceased in any part of the site.
- (8) **Assessing completion of successful reclamation.**
  - (A) The criteria for assessing when reclamation is complete and when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this chapter. Criteria to evaluate reclamation success shall be quantifiable.
  - (B) Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
    - 1. On site inspections by the Forest County Conservationist *or* an approved agent.
    - 2. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo-documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met
    - 3. A combination of inspections and reports.
  - (C) In cases where the post mining land use specified in the reclamation plan requires a return of the site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success.
  - (D) Re-vegetation success may be determined by:
    - 1. Comparison to an appropriate reference area;
    - 2. Comparison to baseline data acquired at the site prior to its being affected by mining or;
    - 3. Comparison to an approved alternative technical standard.
  - (E) Re-vegetation using plants indigenous to the area are favored.
- (9) **Intermittent mining.** Intermittent mining may be conducted provided that this possibility is addressed in the operator's reclamation permit, no environmental pollution or erosion of sediments is occurring and financial assurance for reclamation under **Sec.14** is maintained covering all un-reclaimed portions of the site.
- (10) **Maintenance.** In the interim period, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this chapter.

**Section 12**

**12.00 Nonmetallic mining reclamation permit application.**

No person may engage in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in subs. 7.10,7.20 or are;

- (1) those portions of nonmetallic sites not used for nonmetallic mining or purposes related to nonmetallic mining after August 1<sup>st</sup>, 2001.
- (2) separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1<sup>st</sup>, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.



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- (3) areas previously mined but used after August 1<sup>st</sup>, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

**12.10 Required submittal.**

All operators of nonmetallic mining sites that operate on or after August 1st, 2001 shall apply for a reclamation permit from The Forest County Land and Water Conservation Office. All applications for reclamation permits under this section shall be accompanied by the following information:

- (1) A brief description of the general location and nature of the nonmetallic mine.
- (2) A legal description of the property on which the site is located or proposed, including the parcel identification number.
- (3) The names, addresses and telephone numbers of all persons or organizations that are owners of the property on which the site is located.
- (4) The name, address and telephone number of all persons or organizations who are lessors *or* operators of the property on which the site is located.
- (5) A certification by the operator of their intent to comply with the statewide reclamation standards established by **NR 135 subchapter II.**

**12.20 Reclamation Permit Application Contents.** The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the Forest County Conservationist at 200 East Madison Street, Crandon, Wisconsin 54520 prior to beginning operations.

- (1) The information required by sub. 12.10
- (2) The plan review and annual fees required by Secs 26 and 27.
- (3) A reclamation plan conforming to sec. 13.
- (4) A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by sec. 14 upon granting of the reclamation permit and before mining begins.
- (5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

**Section 13**

**13.00 Reclamation Plans.**

**13.10 Reclamation plan required.**

All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan to Forest County that meets the following requirements and complies with the reclamation standards of NR 135 Subchapter II.

- (1) Site information.

The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

- (A) Location and property boundaries.
- (B) The area, extent, geologic composition and depth of the deposit.
- (C) The distribution, thickness and type of topsoil.
- (D) The approximate elevation of groundwater as determined by existing hydro geologic information. Where the existing hydro geologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
- (E) Existing topography on contour maps of the site at intervals as indicated on the map legend.
- (F) Location of manmade features on or near the site.
- (G) Information on biological resources, plant communities and wildlife use at and adjacent to the site.
- (H) For existing mines, a plan view drawing showing the location and extent of land previously affected by excavation, including the location of stockpiles, wash ponds and sediment basins.
- (I) The location of topsoil or substitute material using county soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.

- (3) **Post mining land use.**

- (A) The reclamation plan shall specify a proposed post mining land use for the nonmetallic mine site. Unless a change to land use or zoning is proposed, the post mining land use shall be consistent with local land use and zoning at the time of submittal unless a change to the land

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use plan or zoning is proposed. The proposed land use shall be consistent with all-applicable local, state, or federal laws in effect at the time the plan is submitted.

- (B) Final slopes, drainage patterns, site hydrology, seed mixes and the degree of removal of mining related structures, drainage structures and sediment control structures will be by the approved post mining land use.
- (C) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to **WI. § 91.01(1) & § 91.75 (9)**, shall be restored to agricultural use.

**(4) Reclamation Measures**

The reclamation plan shall contain criteria for assuring successful reclamation in accordance with **Sec. 11(8)**.

- (A) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other slope stabilization measures and if necessary, a site-specific engineering analysis performed by a registered professional engineer in subs. 11.5 (a) or (b).
- (B) The methods of topsoil or substitute material removal, storage, stabilization and conservation that will be used during reclamation.
- (C) A plan which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the future land use of the site.
- (D) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
- (E) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
- (F) A description of any areas that will be reclaimed on an interim basis sufficient to qualify for the waiver of fees under **Sec 26.10(4)**. If the Forest County decides to release financial assurance on areas of interim reclamation, the descriptions shall include:
  - 1. Identification of the proposed area
  - 2. Methods of proposed interim reclamation
  - 3. Timing of interim and final restoration.
- (G) A re-vegetation plan shall include timing, rate and methods of seedbed preparation, soil amendments, seed application, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
- (H) Acceptable standards for re-vegetation adequate to show that a sustainable growth of vegetation will be established which will support the approved post mining land use. Standards for re-vegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.
- (I) A plan, and if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how activities will be conducted to minimize erosion and pollution of surface and groundwater.
- (J) A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

**(6) Certification of reclamation plan.**

- (A) The operator shall provide a signed reclamation plan to the County. The landowner or lessee, if different from the operator, shall also sign the approved plan.
- (B) The operator shall provide evidence that either the landowner or lessee have been provided with a copy of the reclamation plan if the mine operator has submitted a reclamation plan for an existing mine in accordance with **Sec. 12.10**. If the operator does not own the land the landowner or lessee, if different from the operator, or owner, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

**(7) Approval.**

The operator shall keep a copy of the reclamation plan required by this section, after approval by the Forest County at the mine site or at the operator's nearest office or place of business.

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**13.40 Existing plans and approvals.**

To avoid duplication of effort, the reclamation plan required by this section, by reference, incorporate existing plans or materials that meet the requirements of this chapter. Previous approvals for nonmetallic mining sites in operation on August 1st, 2001 shall satisfy the requirements of **Sec. 13.10** if they meet the following conditions:

- (1) The document has been approved by the County; and
- (2) Forest County Land and Water Conservation Office finds that the document designates a post mining land use and describes measures that meet the reclamation standards of this chapter.

**13.50 Approval of reclamation plan.**

Forest County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing and in accordance with **Sec. 16 and Sec. 17** of this document.

**13.60 Alternative requirements.**

An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in **Sec. 11.00** if the operator demonstrates, and Forest County finds that all of the following criteria are met.

- (1) The site, surrounding property, excavation plan or reclamation plan has a unique characteristic that indicates alternative requirements may be necessary.
- (2) Unnecessary hardship will result unless the alternative plan is approved.
- (3) Reclamation will achieve the post-mining land use and site stability in an environmentally responsible manner that will not cause pollution or threaten public health, safety or welfare.

**13.70 Notice of Alternative requirement to the Department of Natural Resources.**

Notice shall be given the Department at least ten days before any alternative requirement hearing.

- (1) A copy of any written decision on alternative requirements shall be submitted within 10 days of issuance.

**Section 14**

**14.00 Financial assurance**

**14.10 Financial Assurance requirements.**

All operators of nonmetallic mining sites in Forest County shall submit a proof of financial assurance that meets the following requirements:

**(1) Notification**

Forest County shall provide written notification to the operator of the amount of financial assurance required under paragraph (3).

**(2) Filing**

Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with Forest County. The financial assurance shall guarantee the operator faithfully performs all requirements in this chapter, the reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to Forest County if it currently has primary regulatory responsibility.

**(3) Amount and Duration of Financial Assurance.**

The amount of financial assurance shall reflect the cost to Forest County to hire a contractor to complete final reclamation. The amount shall be reviewed periodically by Forest County to assure it equals outstanding reclamation costs. Forest County may accept a lesser initial amount of financial assurance provided that the permitted initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established that is based on gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation. The period of financial assurance may extend beyond the permit if required to accomplish successful reclamation.

**(4) Adjustment of Financial Assurance.** Financial assurance may be adjusted when required based upon prevailing or projected interest or inflation rates or latest cost estimates for reclamation.

**(5) Form and Management**

Financial Assurance shall be provided by the operator and shall be by bond or an alternate financial assurance that may include, but not be limited to cash, certificates of deposit, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, government securities, or a signature bond. Signature bonds are only available to owner operators that work nonmetallic pits of two (2) acres or less total through the reporting year.

- (A) At the discretion of Forest County a combination of financial assurance methods may be acceptable including a lien on the property that the nonmetallic mining site occurs.

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- (B) The operator of a site may change from one method of financial assurance to another not more than once per year and only after written approval by Forest County.
- (C) Financial assurance shall be provided that it will not be canceled by the holder or issuer.

**(6) Certification of Completion and Release**

- (A) The operator shall notify Forest County by filing a notice of completion when the operator determines that reclamation of any portion or the entire site is complete.
- (B) Forest County or its agent shall inspect the reclaimed portion to determine if reclamation has been carried out in accordance with the approved plan.
- (C) After inspection, a certificate of completion shall be issued to the operator and the release of appropriate financial assurance shall be included.
- (D) Forest County may make a determination under this subsection that:
  - 1. Reclamation is not yet complete
  - 2. Due to weather conditions it is not possible to complete the determination process.
  - 3. Reclamation is complete in some portions
  - 4. Reclamations if fully complete
  - 5. Forfeiture: financial assurance shall be forfeited if any of the following occur;
    - (a) A permit is revoked under **Sec. 23** and the appeal process has been completed.
    - (b) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

**(7) Bankruptcy Notification.**

The operator of a nonmetallic site shall notify the County by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code 11 USC, et seq., naming the operator as debtor within 10 days of commencement of the proceedings.

- (8) Cancellation.** Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90 day notice to Forest County in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to forest County a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.

**14.20 Private Nonmetallic Mines**

The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with Sect. 12, shall submit the proof of financial assurance required by Sect. 14.10 as specified in the reclamation permit issued to it under this chapter.

**14.30 Public Nonmetallic Mining.**

The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the State of Wisconsin, a State agency, board or Commission or Department or a Town.

**Section 15**

**15.00 Public Notice and Right of Hearing**

**15.10 Reclamation Plan hearing**

- (1). Forest County shall provide public notice and the opportunity for a public informational hearing as set forth below:
  - (A) When Forest County receives a complete application under **Sec. 12,** it shall post a public notice of the application no later than **30** days after receipt.
  - (B) The notice shall briefly describe the mining and reclamation planned and shall mention the opportunity for public hearing at the next scheduled Recycling/Solid Waste Committee meeting.
  - (C) The notice shall be published as a class 1 notice pursuant to s. 985.07(1)
  - (D) Copies of the notice shall be forwarded by Forest County to the owners of land within 300 feet from the boundaries of the parcel on which the site is located.
  - (E) A public informational hearing may be requested by those land owners, residents, or business operators within 300 feet of the proposed site.
  - (F) Forest County shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. 1.
  - (G) The public hearing shall be held no sooner than 30 days nor later than 60 days after being requested.

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(2). **Hearing.**

Forest County shall provide an opportunity for a public informational hearing on an application for a nonmetallic mining reclamation permit as follows:

- (A). If Forest County conducts a zoning related hearing on the nonmetallic mine site, they shall, at that time, hear testimony on reclamation and post mining land use.  
This shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section.
- (B). If there is no opportunity for a zoning related hearing on the site as described in paragraph (a), opportunity for public hearing, required by this section, shall be provided as in:
  - 1. Section 15.10 (a),(b), (c) above.
- (C). The subject matter and testimony at this hearing shall be limited to reclamation of the nonmetallic mine site, and explaining and receiving comment from affected persons on the nature, feasibility and effects of the reclamation.

*Note: Informational hearings are limited to reclamation of the nonmetallic mining site. Regulatory authority staff conducting the hearings should make it clear that the hearings may not cover non-reclamation matters because they are beyond the scope of NR 135 reclamation. Non-reclamation matters are those related to zoning or subject to other local authority. These matters may include but are not limited to: traffic, setbacks, blasting, dewatering, hours of operation, noise or dust control or the question of whether to use the land for mining.*

**15.30 Local Transportation-Related Mines.**

No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to **Sec.16.30.**

**Section 16**

**16.00 Issuance of a Nonmetallic Mining Reclamation Permit.**

**16.10 Permit Required.**

Every operator of a nonmetallic mining site in Forest County who engages in or plans to engage in nonmetallic mining after August 1, 2001 shall obtain a reclamation permit issued under this section, except for sites that are exempt from this chapter under **Sec. 7.10 and 7.20.**

No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1, 2001 without a reclamation permit issued under this chapter.

**16.20 Permit Issuance**

Applications for reclamation permits for nonmetallic mining that satisfy Sect 12 shall be issued a reclamation permit or otherwise acted on as provided below.

- (A) Unless denied pursuant to Sect 17, Forest County shall approve in writing a request that satisfies the requirements of Sect 12 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.
- (B) Forest County may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of Sect 13. The regulatory authority may issue a reclamation permit subject to conditions in Sect 16.50 if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit and plan.
- (C) If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to Sect 16.50 if appropriate, or shall deny the permit as provided in Sect 17, no later than 60 days after completing the public hearing.
- (D) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of Sect 13 and provisions by the applicant of financial assurance required under Sect 14 and payable to Forest County prior to beginning mining.

**16.30 Automatic Permit for Local Transportation related mines**

(1) Forest County shall automatically issue an expedited permit under this subsection to any borrow site that;

- (A) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months.
- (B) Is a nonmetallic mine which is intended to provide stone, soil, sand, gravel or topsoil for the construction, reconstruction, maintenance or repair of a highway, railway railroad airport facility or other transportation facility under contract with the State, Town or County.

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- (C) Is regulated and will be reclaimed under contract with the County or Town in accordance with the requirements of the WDOT concerning the restoration of Nonmetallic mining sites;
  - (D) Is not a commercial source.
  - (E) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements if any and;
  - (F) Is not otherwise exempt from the requirements of this chapter under **Sect. 7.20**
- (2) Automatic permits shall be issued under this subsection in accordance with the following provisions:
- (A) The applicant shall notify Forest County of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
  - (B) The borrow site and its reclamation will comply with applicable zoning requirements.
  - (C) Forest County shall accept the contractual provisions required of the WDOT in lieu of a reclamation plan under **Sect.13**.
  - (D) Forest County shall accept the contractual provisions in lieu of the financial assurance requirements in **Sect.14**.
  - (E) The public notice and hearing provisions of **Sect. 15** do not apply to non-metallic mining sites that are issued automatic permits under this subsection.
- Note: Local public notice and hearing requirements, if any, regarding zoning decisions still apply.*
- (F) Mines permitted under this subsection shall pay an annual fee to Forest County as directed in the Forest County Table of Fees but shall not be subject to the plan review fee provided in the **Forest County Table of Fees**.
  - (G) Forest County shall issue the automatic permit within 7 days of the receipt of a complete application.
  - (H) If the borrow site is used to concurrently supply materials for other than the local transportation project the automatic permitting still applies provided the site will be reclaimed under a contractual obligation with the Town or County in accordance with the WDOT requirements.
- (3) Notwithstanding **Sect.24**, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

**16.40 Expedited Review**

Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under sub. (1) or sub. (2) as follows:

- (1). The operator may submit a request for expedited permit review with payment of the expedited review fee specified in the Forest County Table of Fees.
- (2). This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested. An applicant may submit a request for an expedited review if the applicant requires a reclamation permit to perform services under contract with a municipality or county.
- (3). Following receipt of a request, Forest County shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed, the fee paid under Paragraph (1) shall be returned.
- (4). Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice of right of hearing pursuant to Sect 15.

**16.70 Permit Conditions.**

Any decision under this section may include conditions as provided below:

- (1) Forest County may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to assure compliance with the nonmetallic mining reclamation requirements of this chapter. ***The approvals may not include conditions that are not related to reclamation.***
- (2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to **Sect. 14** prior to beginning mining.

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**Section 17**

**17.00 Permit Denial.**

An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

1. An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in **Sect.16.20(C)**, if Forest County finds any of the following:
  - (A) The applicant has, after being given an opportunity to make corrections, failed to provide to Forest County an adequate permit application, reclamation plan, financial assurance or any other submittal required by Chapter NR 135, Wisconsin Administrative Code or this chapter.
  - (B) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this chapter, Chapter NR135, Wisconsin Administrative Code or WI § 295(1).
  - (C) The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within 10 years of the permit application or modification request being considered, shown a pattern of serious violations of this chapter or of federal, state or local environmental laws related to nonmetallic mining reclamation.
2. The following may be considered in making this determination of a pattern of serious violations:
  - (A). Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.
  - (B). Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Chapter NR135, Wisconsin Administrative Code.
  - (C). Forfeitures of financial assurance.

**Note:** A denial under this subsection shall be in writing and shall contain documentation of reasons for denial and may be reviewed under **Sect. 22.**

**Section 18**

**18.00 Permit Duration.**

1. A nonmetallic mining reclamation permit issued under this chapter shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to **Sect. 32.20.**
2. If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to **Sect. 20.**

**Section 19**

**19.00 Permit Transfer.**

A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the following condition:

1. Submittal to Forest County of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.  
The transfer is not valid until financial assurance has been submitted by the new operator and accepted in writing by Forest County. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

**Section 20**

**20.00 Previously Permitted Sites. For Counties only:**

For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Forest County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Forest County pursuant to **Sect. 22.**

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**Section 21**

**21.00 Review.**

Any person who meets the requirements of § 227.42(1), may obtain a contested case hearing under § 68.11 on Forest County's decision to issue, deny or modify a nonmetallic mining reclamation permit.

**Section 22**

**22.00 Permit Modification.**

**22.10 By Forest County.**

A reclamation permit issued under this chapter may be modified by Forest County if it finds that the nonmetallic mining site is no longer in compliance with Chapter NR 135, Wisconsin Administrative code or this chapter. Such modification shall be by an order in accordance with Sect.32. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance.

**22.20 At the Operator's Option.**

If an operator that holds a reclamation permit issued under this chapter desires to modify the permit or reclamation plan, they may request modification by submitting a written application for such modification to Forest County. The application shall be acted on using the standards and procedures of this chapter.

**22.30 Required by the Operator.**

The operator of any nonmetallic mine that holds a reclamation permit shall request a modification of the permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects required by the reclamation plan approved under this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

**22.40 Review.**

All actions by Forest County on permit modifications requested or initiated under this section are subject to review.

**Section 23**

**23.00 Permit Suspension and Revocation**

**23.10 Grounds.**

Forest County may suspend or revoke a nonmetallic mining reclamation permit issued if it finds the operator has done any of the following:

1. Failed to submit a satisfactory reclamation plan within the time frames specified in this chapter.
2. Failed to submit or maintain financial assurance as required by this chapter.
3. Failed on a repetitive and significant basis to follow the approved reclamation plan.

**23.20 Procedures.**

If Forest County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Sect. 23.10, it may issue a special order suspending or revoking such permit as set forth in Sec. 32.20.

**23.30 Consequences.**

1. If Forest County makes any of the findings in Sect. 23.10, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to Sect.32.20.
2. If Forest County makes any of the findings in Sect. 23.10, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this chapter to Forest County. Forest County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.



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**Section 24**

**24.00 Annual Operator Reporting.**

**24.10 Contents and Deadline.**

Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

1. **Contents.** The annual report required by this section shall include all of the following:

- (A). The name and mailing address of the operator.
- (B). The location of the nonmetallic mining site, including legal description and parcel identification number.
- (C). The identification number of the nonmetallic mining permit assigned by Forest County.
- (D). The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
- (E). The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
- (F) Map or diagram accurately showing the acreage described in paragraphs (B), (D) & (E).
- (G) Certification, signed by the operator, stating the following: "I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and chapter NR 135, Wisconsin Administrative code."

2. **Deadline.** The annual report shall cover activities for a calendar year and be submitted by January 31<sup>st</sup>.

3. **When Reporting May End.**

Annual reports shall be submitted by an operator for each calendar year until reclamation at the site is certified as complete under **Sect.29.30** or at the time of release of financial assurance pursuant to **Sect.14.10 (6)**.

**24.30 Retention of Annual Reports.**

Annual reports submitted under **Sect. 24.10** shall be retained by Forest County at Forest Land and Water Conservation Office for at least 10 years after the calendar year to which they apply. These records or accurate copies of them shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out under Chapter NR135, Wisconsin Administrative Code.

**Section 25**

**25.00 Plan review Fees.**

**25.10 Amount and Applicability.**

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **Sect.12.30** shall submit a non-refundable plan review fee set by Forest County. No plan review fee may be assessed under this section for any local transportation-related mining receiving an automatic permit under **Sect.16.30**. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to **Sect.23**.

**25.20 Expedited Plan Review Fee.**

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under **Sec. 12.30** may obtain expedited reclamation plan review by paying a fee set by the Forest County. Such fee shall be in addition to that required in Sec.25.10. The applicant shall then be informed of an estimated date for a decision on permit issuance or denial. If the applicant then elects not to proceed with the expedited review, the fee paid for expedited review shall be refunded.

**25.30 Relation to Annual Fee.**

Any reclamation plan review fee or collected under this section shall be added to and collected as part of the first annual fee collected under **Sec.27**.

**Section 26**

**26.00 Annual Fees.**

**26.10 Areas Subject to Fees, Procedures and Deadline.**

Operators of all nonmetallic mining sites subject to reclamation permits shall pay annual

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fees to Forest County. Fees paid under this section shall include both a share for the Wisconsin Department of Natural Resources under **Sect.27.20** and a share for Forest County under **Sect.27.30**.

1. Fees paid under this section shall be calculated based on the un-reclaimed acres of a nonmetallic mining site, as defined below:
  - (A) “Un reclaimed acre” means those un reclaimed areas in which nonmetallic mining has occurred after August 1st, 2001 and areas where nonmetallic mining reclamation has been completed but is not certified as reclaimed under **Sect.14.10(6)**. The term does not include any areas described in **Sect. 10.00(25)**.
2. Fees assessed pursuant to this section shall be based on un-reclaimed acres at the end of the permitted year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under **Sect. 14.10(6)**. Fees shall be paid no later than December 31 for the previous calendar year.
3. For new or reopened mines that submit a reclamation permit application under **sec.12.30**, the first year’s annual fee shall be based upon the un reclaimed acres which are anticipated at the end of that calendar year divided by 12 and multiplied by the number of months remaining in the year.

If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by Forest County pending certification of completed reclamation pursuant to **Sec.14.10(6)**. Upon such certification Forest County shall refund that portion of the annual fee that applies to the reclaimed areas. If Forest County fails to make a determination under **Sec.14.10(6)** within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

**Section 27**

**27.20 Wisconsin Department of Natural Resources Share of Fee.**

Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table 1 as listed in the Forest County Table of Fees.

**Section 28**

**28.00 Regulatory Reporting and Documentation.**

**28.10 Reporting.**

Forest County shall send an annual report to the Wisconsin Department of Natural Resources by March 31st of each calendar year. The reports shall include the following information for the previous year’s nonmetallic mining reclamation program:

1. The total number of nonmetallic mining reclamation permits in effect.
2. The number of new permits issued within the jurisdiction of Forest County.
3. The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
4. The number of acres being mined or un-reclaimed acres.
5. The number of acres that have been reclaimed and have had financial assurance released pursuant to **Sect.29.30**
6. The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to **Sec. 29.20 and 29.30**.
7. The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcements actions, penalties that have been assessed and bond or financial assurance forfeitures.

**28.20 Documentation.**

Forest County shall, to the best of it’s ability, maintain the information set forth below and make it available to the WDNR for that agency’s audit of Forest County’s reclamation program pursuant to Chapter NR 135, Wisconsin Administrative Code:

1. Documentation of compliance with Chapter NR 135, Wisconsin Administrative Code and this chapter.
2. The procedures employed by Forest County regarding reclamation plan review,

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- and the issuance and modification of permits.
3. The methods for review of annual reports received from operators.
  4. The method and effectiveness of fee collection.
  5. Procedures to accurately forward the WDNR portion of collected fees in a timely fashion.
  6. Methods for conducting on site compliance inspections and attendant reports, records and enforcement actions.
  7. Responses to valid citizen complaints.
  8. The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.
  9. The maintenance and availability of records.
  10. The number and type of approvals for alternative requirements issued pursuant to **Sect.18**.
  11. The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to **Sect.29.30**.
  12. Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Forest County to implement it's nonmetallic mining reclamation program under this chapter.
  13. The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
  14. Any other performance criterion necessary to ascertain compliance with Chapter NR 135, Wisconsin Administrative code.

**Section 29**

**29.00 Completed Reclamation Reporting, Certification and Effect**

**29.10 Reporting.**

The operator of a nonmetallic site may certify completion for a portion or all of the nonmetallic mining site by filing the required certification at Forest County Land and Water Conservation Office, 200 East Madison Street, Crandon, Wisconsin 54520.

**29.20 Reporting of Interim Reclamation.**

The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved under this chapter and NR 135. Reporting of interim reclamation shall be done according to the procedures in **29.10**.

**29.30 Certification of Completed Reclamation.**

Forest County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within **10** days of receipt and make a determination in writing in accordance with **Sect.29.30**. If it is determined that interim or final reclamation is complete, including re-vegetation as specified in a reclamation plan that conforms with **Sect.13**, Forest county shall issue the mine operator a written certificate of completion.

**29.40 Effect of Completed Reclamation.**

If reclamation is certified by Forest County as complete under **Sect.29.30** for part or all of a nonmetallic mining site, then

1. No fee shall be assessed under **Sect.26** for the area so certified.
2. The financial assurance required by **s.14** shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.
3. For sites that are reported as interim reclaimed under **Sect. 29.20** and so certified under **Sect. 29.30** financial assurance for reclaiming the certified area shall be waived.

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**29.50 Effect of Inaction Following report of Completed Reclamation.**

If no written response as required by **Sect. 29.30** for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request any annual fee paid to Forest County for it under **Sect. 26** shall be refunded.

**Section 30**

**30.00 Permit termination.**

When all final reclamation required by a reclamation plan conforming to **Sect.13** and required by this chapter is certified as complete pursuant to **Sects. 14.10(6) and 29.30**, Forest County shall issue a written statement to the operator of the nonmetallic mining site thereby terminating the reclamation permit.

**Section 31**

**31.00 Right of entry and Inspection.**

For the purpose of ascertaining compliance with the provisions of Chapter NR 135 and Subchapter 1 of Chapter 295, Wisconsin Statutes, any representative of Forest County may inspect any nonmetallic mining site subject to this chapter as provided below:

1. No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer or agent of Forest County or the WDNR who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this chapter, Chapter NR 135, Wisconsin Administrative code or subchapter 1 of chapter 295 WI. Stats.
2. Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

**Section 32**

**32.00 Orders and Citations**

**32.10 Enforcement Orders.**

Forest County may issue orders as set forth in Section 295.19(a) Stats. To enforce Subchapter 1 of Chapter 295, WI Statutes Chapter 135 WI. Adm. Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **Sect.13** and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by **Sect.13** and a permit issued under this chapter shall be considered a violation of Subchapter 1 of Chapter 295, WI Stats. and Chapter 135, WI Adm. Code.

**32.20 Special Orders.**

Forest County may issue a special order as set forth in Section 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to **Sect.24**, or directing an operator to immediately cease an activity regulated under this subchapter 1 of Chapter 295, WI Stats, Chapter 135, WI Adm. Code or this chapter until the necessary plan approval is obtained.

**32.30 Review of Orders.**

A person holding a reclamation permit who is subject to an order under this section shall have the right to review the order in a contested case hearing under §. 68.11 Stats, In spite of the provisions of §. 68.001, 69.03(8) and (9), 68.06 and 68.11, WI Stat.

**32.40 Citations.**

The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

**32.50 Enforcement.**

Forest County may submit any order issued under **Sect. 32** to abate violations of this chapter to a District Attorney, Corporation Counsel, or the Attorney General may enforce those orders.

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**Section 33**

**33.00 Penalties.**

Any violation of subchapter 1 of Chapter 295, WI Stat, Chapter 135, St. Adm. Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by **Sect.13** and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3) Wisconsin Statutes, as follows:

1. Any person who violates chapter NR 135, Wisconsin Administrative Code or an order issued under **Sect.32** may be required to forfeit not less than 25.00 not more than 1,000.00 for each violation. Each day of continued violation is a separate offense. While an order issued under **Sect.32** is suspended, stayed or enjoined, this penalty does not accrue.
2. Except for the violations referred to in **Sect.10**, any person who violates subchapter 1 of **Ch 295**, Stats, chapter NR 135, WI Adm. Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to **Sect. 32** shall forfeit not less than 10.00 nor more than 5,000.00 for each violation. Each day of violation is a separate offense. While an order issued under **Sect. 32** is suspended, stayed or enjoined, this penalty does not accrue.

**Section 34**

**34.00 Table of Fees**

**Set by the DNR and the Forest County Land and Water Conservation Committee**

Nonmetallic Mining Fees - DNR share of annual fees collected by County

1 to 5 acres	\$35.00
6 to 10	\$70.00
11 to 15	\$105.00
16 to 25	\$140.00
26 to 50	\$160.00
51 or more	\$175.00

Forest County's Share of annual fee

1 to 5 acres	\$320.00
6 to 10	\$365.00
11 to 15	\$498.00
16 to 25	\$730.00
26 to 50	\$820.00
51 or more	\$870.00

Plan Review Fee	\$250.00
Expedited Plan Review Fee	\$500.00
Reduced Fee for Inactive Mines	\$25.00
Modification Plan Review Fee	\$250.00
Financial Assurance per acre	\$3,000.00