

## Article C: Permitting

### Sec. 16-1-12 Nonmetallic Mining Reclamation Permit Application Required.

No person may engage in nonmetallic mining or 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. 16-1-7(a), sec. 16-1-7(b) or sec. 16-1-10(16)(b).

(a) **Required Submittal.** All operators of nonmetallic mining sites shall apply for a reclamation permit from Bayfield County Planning and Zoning. 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 nonmetallic mine is located or proposed, including the parcel identification number.
3. The names, addresses and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
4. The name, address and telephone number of the person or organization who is the operator.
5. A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by Article B.

(b) **Reclamation Permit Application Contents.** The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to Bayfield County Planning and Zoning Department, 117 East 5<sup>th</sup> Street; P.O. Box 58, Washburn, WI 54891 prior to beginning operations.

1. The information required by sub. 16-1-12(a).
2. The plan review and annual fees required by sec. 16-1-26 and 27.
3. A reclamation plan conforming to sec. 16-1-13.

4. A certification that the operator will provide, as a condition of the reclamation permit, provide financial assurance as required by sec. 16-1-14 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.

**Sec. 16-1-13 Reclamation Plan.**

- (a) **Reclamation Plan Required.** All operators who conduct or plan to conduct nonmetallic mining shall submit to Bayfield County a reclamation plan that meets all of the following requirements and complies with the reclamation standards of Article B.
- (b) **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:
1. Maps of the nonmetallic mining site including the general location, property boundaries, the aerial extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the location of surface waters and the existing drainage patterns, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic 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.
  2. Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified 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. Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.
  4. Existing topography as shown on contour maps of the site at ten (10) foot contour intervals.
  5. Location of manmade features on or near the site.
  6. For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

*Note: Some of or all of the information required above may be shown on the same submittal, i.e. the site map required by sub. (1) may also show topography required by sub (4).*

(c) **Post-Mining Land Use.**

1. The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

*Note: A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use will be key in determining the reclamation plan. 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 dictated by the approved post-mining land use.*

2. Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to s. 91.75, Stats., shall be restored to agricultural use.

*Note: Section 91.75(9), Stats., contains this requirement. Section 91.01(1), Stats., defines the term "agricultural use".*

(d) **Reclamation Measures.** The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

1. A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site-specific engineering analysis performed by a registered professional engineer as provided by sub. 16-1-11(e)(1) or (2).
2. The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

3. A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.
4. A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
5. The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
6. A revegetation plan which shall include timing and methods of seed bed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
7. Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
8. A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface and groundwater.
9. A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to sub. 16-1-29(b) and 16-1-29(d) if the regulatory authority decides to release financial assurance for such areas pursuant to sub. 16-1-29(d)(3) as authorized by s. NR 135.41(4), Wisconsin Administrative Code and release of financial assurance pursuant to sub. 16-1-29(c), and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Article B and timing of interim and final reclamation.

*Note: Some of the information required by this subsection may be combined to avoid duplication, e.g. a single map may show anticipated post-mining topography required by par. (c) as well as structures and roads as required by par. (d).*

10. 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.

*Note: Safety measures include: visual warnings, physical barriers, slope modifications such as reclamation blasting, scaling of the rock face, creation of benches. Other measures may be employed if found to be equivalent by a registered professional engineer.*

- (e) **Criteria for Successful Reclamation.** The reclamation plan shall contain criteria for assuring successful reclamation in accordance sub. 16-1-11(h).
- (f) **Certification of Reclamation Plan.** The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land, the landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.
- (g) **Existing Plans and Approvals.** To avoid duplication of effort, the reclamation plan required by this section may, by reference, incorporate existing plans or materials that meet the requirements of this chapter
- (h) **Approval of Reclamation Plan.** Bayfield County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with sub. 16-1-16(b) for mines that apply for a reclamation permit in conformance with sec. 16-1-12. Conditional approvals of reclamation plans shall be made according to sub. 16-1-16(e) and denials of reclamation plans shall be made pursuant to sec. 16-1-17. The operator shall keep a copy of the reclamation plan approved under this subsection at the mine site or, if not practicable, at the operator's nearest place of business.

**Sec 16-1-14 Financial Assurance.**

- (a) **Financial Assurance Requirements.** All operators of nonmetallic mining sites in Bayfield County shall prepare and submit a proof of financial assurance that meets the following requirements:
1. **NOTIFICATION.** The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under sub. (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 in the Bayfield County Planning and Zoning Department. The financial assurance shall provide that the operator shall faithfully perform all requirements in this chapter, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to the Bayfield County Planning and Zoning Department. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the Bayfield County Planning and Zoning Department only if it currently has primary regulatory responsibility.
  3. **AMOUNT AND DURATION OF FINANCIAL ASSURANCE.** The amount of financial assurance shall equal as closely as possible the cost to Bayfield County of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by Bayfield County to assure it equals outstanding reclamation costs. Any financial assurance filed with Bayfield County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Bayfield County may accept a lesser initial amount of financial assurance provided that the permittee 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 production 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 by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.

4. **FORM AND MANAGEMENT.** Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to Bayfield County and released upon successful completion of the reclamation measures specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of Bayfield County, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.
5. **MULTIPLE PROJECTS.** Any operator who obtains a permit from Bayfield County for 2 or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by Bayfield County.
6. **MULTIPLE JURISDICTIONS.** In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.
7. **CERTIFICATION OF COMPLETION AND RELEASE.**
  - a. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he or she determines that reclamation of any portion of the mining site or the entire site is complete. Bayfield County shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. Bayfield County may partially release the financial assurance if it

determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete Bayfield County shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.

- b. Bayfield County shall make a determination of whether or not the certification in par. (a) can be made within 60 days that the request is received.
- c. Bayfield County may make a determination under this subsection that:
  - (1) Reclamation is not yet complete;
  - (2) It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
  - (3) Reclamation is complete in a part of the mine; or
  - (4) Reclamation is fully complete.

8. **FORFEITURE.** Financial assurance shall be forfeited if any of the following occur:

- a. A permit is revoked under sec. 16-1-24 and the appeals process has been completed.
- b. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

9. **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 Bayfield 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 the Bayfield County Planning and Zoning Department 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.

10. **CHANGING METHODS OF FINANCIAL ASSURANCE.** The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless

required by an adjustment imposed pursuant to sub. (12). The operator shall give Bayfield County Planning and Zoning least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of Bayfield County Planning and Zoning.

11. **BANKRUPTCY NOTIFICATION.** The operator of a nonmetallic mining site shall notify the regulatory authority 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 proceeding.
  12. **ADJUSTMENT OF FINANCIAL ASSURANCE.** Financial assurance may be adjusted when required by Bayfield County. Bayfield County may notify the operator in writing that adjustment is necessary and the reasons for it. Bayfield County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.
  13. **NET WORTH TEST.**
    - a. Only an operator that meets the definition of “company” in s. 289.41 (1) (b), Stats., may use the net worth method of providing financial assurance.
    - b. The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of s. 289.41 (4), Stats. The criteria in secs. 289.41 (6) (b), (d), (e), (f), (g), (h) and (i), Stats., shall apply.
    - c. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with s. 289.41 (6), Stats.
    - d. Determinations under the net worth test shall be done in accordance with s. 289.41 (5), Stats.
    - e. In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this chapter.
- (b) **Private Nonmetallic Mines.** The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sec. 16-1-12 shall submit the proof of financial assurance required by sub. 16-1-14(a) as specified in the reclamation permit issued to it under this chapter.

- (c) **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, commission or department, or a municipality.

**Sec 16-1-15 Public Notice and Right of Hearing.**

- (a) **Reclamation Plan Hearing.** Bayfield County Planning and Zoning shall provide public notice and the opportunity for a public informational hearing as set forth below:

1. **PUBLIC NOTICE.**

- a. When Bayfield County Planning and Zoning receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies sec. 16-1-12.
- b. The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to s. 985.07(1), Stats., in the official newspaper of Bayfield County. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.
- c. Copies of the notice shall be forwarded by Bayfield County Planning and Zoning Department to the county or applicable municipal zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.

2. **HEARING.** Bayfield County shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:

- a. If it conducts a zoning-related hearing on the nonmetallic mine site, Bayfield County shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. Bayfield County shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.
- b. (1) If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in par. (a), opportunity for

public hearing required by this section shall be provided as follows. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. Bayfield 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). This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation required under s. NR 135.20(2)(b)1., Wisconsin Administrative Code.

- (2) The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

*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.*

- (b) **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 sub. 16-1-16(c).

**SEC 16-1-16 Issuance of a Nonmetallic Mining Reclamation Permit.**

- (a) **Permit Required.** No person may engage in nonmetallic mining or nonmetallic mining reclamation in Bayfield County without first obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter under sub. 16-1-7(a), 16-1-7(b) or 16-1-10(16)(b).
- (b) **Permit Issuance.** Applications for reclamation permits for nonmetallic mining that satisfy sec. 16-1-12 shall be issued a reclamation permit or otherwise acted on as provided below.
1. Unless denied pursuant to sec. 16-1-17, Bayfield County Planning and Zoning shall approve in writing a request that satisfies the requirements of sec. 16-1-12 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.
  2. Bayfield County may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of sec. 16-1-13. The regulatory authority may issue a reclamation permit subject to conditions in sub. 16-1-16(e) 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 application that meets the requirements in sec. 16-1-12 and reclamation plan that meets the requirements in sec. 16-1-13, unless a public hearing is held pursuant to sec. 16-1-15. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to sub. 16-1-16(e) if appropriate, or shall deny the permit as provided in sec. 16-1-17, no later than 60 days after completing the public hearing.
  3. Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of sec. 16-1-13 and provision by the applicant of financial assurance required under sec. 16-1-14 and payable to Bayfield County prior to beginning mining.
- (c) **Automatic Permit for Local Transportation-Related Mines**
1. Bayfield County Planning and Zoning 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 or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
  - c. Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the Wisconsin Department of Transportation 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 sub. 16-1-7(b)(10).
2. In this subsection, “municipality” has the meaning defined in s. 299.01(8), Stats.
  3. Automatic permits shall be issued under this subsection in accordance with the following provisions:
    - a. The applicant shall notify Bayfield County Planning and Zoning of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
    - b. The applicant shall provide evidence to Bayfield County to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
    - c. Bayfield County shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under sec. 16-1-13.
    - d. Bayfield County shall accept the contractual provisions in lieu of the financial assurance requirements in sec. 16-1-14.
    - e. The public notice and hearing provisions of sec. 16-1-15 do not apply to nonmetallic 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 Bayfield County Planning and Zoning as provided in sec. 16-1-27, but shall not be subject to the plan review fee provided in sec. 16-1-26. The total annual fee, including the share of the Department of Natural Resources, shall not exceed the amount in Table 2 of sec. 16-1-27.

*Note: Fees may not be assessed for local transportation-related mines permitted under this subsection under sec. 16-1-27 that is greater than allowed by s. NR 135.23(1)(g), Wis. Adm. Code. See sub. 16-1-27(c)(2) for details of this fee limitation.*

- g. Bayfield 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 in this subsection still applies provided the site will be reclaimed under a contractual obligation with the municipality in accordance with the Wisconsin Department of Transportation requirements.
- i. Notwithstanding sec. 16-1-25, 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.

*Note: A reclamation permit is not required under this chapter for nonmetallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by s. 295.16(1)(c), Stats.*

(d) **Permit Conditions.** Any decision under this section may include conditions as provided below:

1. Bayfield 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.

*Note: It is not appropriate for the regulatory authority to impose conditions on a reclamation permit, or the approval of a reclamation plan that address matters not directly related to nonmetallic mining reclamation. 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.*

2. One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to sec. 16-1-14 prior to beginning mining.

**SEC 16-1-17 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 sec. 16-1-16, if Bayfield County finds any of the following:
  - a. The applicant has, after being given an opportunity to make corrections, failed to provide to Bayfield 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 this chapter, Chapter NR 135, Wisconsin Administrative Code or sub ch. I. of ch. 295, Stats.
  - c. 1. 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 NR 135, Wisconsin Administrative Code.
  - c. Forfeitures of financial assurance.
  - d. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.
3. A decision to deny an application to issue a reclamation permit may be reviewed under sec. 16-1-22.

**Sec. 16-1-18 Alternative Requirements.**

- (a) **Scope of Alternative Requirements Approvable.** An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in sec. 16-1-11. Bayfield County may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates and Bayfield County finds that all of the following criteria are met:
1. The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.
  2. Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.
  3. Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.
- (b) **Procedures.**
1. The operator of a nonmetallic mining site requesting an alternate requirement in sub. 16-1-18(a) shall demonstrate all the criteria in sub. 16-1-18(a). This shall be submitted in writing to Bayfield County.
  2. The Bayfield County Zoning Committee shall hold a public hearing concerning the request for alternate requirements within sixty (60) days of the receipt of the application. The hearing shall be posted as a Class 2 notice pursuant to Sec. 985.07(2), Wis. Stats., in the official newspaper of Bayfield County. The notice shall mention the opportunity for public hearing (as stated in subsection 16-1-15(a)) and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan. Copies of the notice shall be forwarded by Bayfield County to the local municipality or planning organization, county conservationist, and owners of land within three hundred (300) feet of the boundaries of the parcel or parcels of land on which the site is located. The applicant may appear on his/her behalf to offer testimony. The Bayfield County Zoning and Land Conservation offices shall provide testimony. Opportunity for comments for and against the request will be provided. The vote of the majority of the quorum shall be necessary to decide any request. Decisions will be made within ninety (90) days of the

public hearing. An on-site inspection of the site may be necessary for the committee to make a decision.

3. A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.
  4. A public informational hearing pursuant to sub. 16-1-15(a) may be requested and held.
- (c) **Transmittal of Decision on Request for Alternative Requirement.** The decision on a request for alternate reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternate requirement was or was not approved.
- (d) **Notice to Wisconsin Department of Natural Resources.** Bayfield County Planning and Zoning shall provide notice to the Wisconsin Department of Natural Resources as set forth in this subsection. Written notice shall be given to the Wisconsin Department of Natural Resources at least 10 days prior to any public hearing held under sub. 16-1-18(b) on a request for an alternate requirement under this section. Following not optional. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

**Sec. 16-1-19 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 sec. 16-1-24.
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 sec. 16-1-20.

**Sec. 16-1-20 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 conditions:

1. A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to Bayfield 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.
2. The transfer is not valid until financial assurance has been submitted by the new operator and accepted by Bayfield County Planning and Zoning and Bayfield County makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

**Sec. 16-1-21      Previously Permitted Sites.**

For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of Bayfield County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Bayfield County pursuant to sub. 16-1-23(a).

*Note: This could happen if, for example, a municipality's program was terminated by the municipality or revoked by the Department - in such cases nonmetallic mine sites would revert to a county program.*

**Sec. 16-1 22      Review.**

Any permitting decision or action made by Bayfield County under this chapter may be reviewed as set forth in this section. Notwithstanding ss. 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b), Stats., any person who meets the requirements of s. 227.42 (1), Stats., may obtain a contested case hearing under s. 68.11, Stats., on Bayfield County 's decision to issue, deny or modify a nonmetallic mining reclamation permit.