

## Article D: Administration

### Sec. 16-1-23 Permit Modification.

- (a) **By Bayfield County.** A nonmetallic mining reclamation permit issued under this chapter may be modified by Bayfield County if it finds that, due to changing conditions, 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 modifying the permit in accordance with sec. 16-1-32. 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 with Chapter NR 135, Wisconsin Administrative Code or this chapter.
- (b) **At the Operator's Option.** If operator of any nonmetallic mine that holds a reclamation permit issued under this chapter desires to modify such permit or reclamation plan approved under this chapter, it may request such modification by submitting a written application for such modification to Bayfield County at 117 East 5<sup>th</sup> Street, P.O. Box 58 Washburn, WI 54891. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.
- (c) **Required by the Operator.** The operator of any nonmetallic mine that holds a reclamation permit issued under this chapter shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this chapter. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

*Note: Modification of the permit must be requested by the operator in such circumstances under s. NR 135.27, Wis. Adm. Code.*

- (d) **Review.** All actions by Bayfield County on permit modifications requested or initiated under this section are subject to review under sec. 16-1-22. A separate fee may be charged for any modification to an existing reclamation plan submitted pursuant to sec. 16-1-23.

## **Sec. 16-1-24 Permit Suspension and Revocation**

- (a) **Grounds. Bayfield County Planning and Zoning** may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter 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.
- (b) **Procedures.** If Bayfield County finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 16-1-24(a), it may issue a special order suspending or revoking such permit as set forth in sub. 16-1-32(b).
- (c) **Consequences.**
1. If Bayfield County makes any of the findings in sub. 16-1-24(a), 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 sec. 16-1-32.
  2. If Bayfield County makes any of the findings in sub. 16-1-24(a), 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 Bayfield County Planning and Zoning. Bayfield County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

**Sec. 16-1-25 Annual Operator Reporting.**

(a) **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, tax key number or parcel identification number if available.
  - c. The identification number of the applicable nonmetallic mining permit, if assigned by Bayfield County Planning and Zoning.
  - 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. A plan, map or diagram accurately showing the acreage described in pars. (d) and (e).
  - g. The following certification, signed by the operator:

"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 on unreclaimed acreage for the previous calendar year and be submitted by January 31.
  3. **WHEN REPORTING MAY END.** Annual reports shall be submitted by an operator for all active and intermittent mining sites to Bayfield County Planning and Zoning for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to sub. 16-1-29(c) or at the time of release of financial assurance pursuant to sub. 16-1-14(a)(7).
- (b) **Inspection in Lieu of Report.** Bayfield County Planning and Zoning may, at its discretion, obtain the information required in sub. 16-1-25(a) for a calendar year

by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If Bayfield County Planning and Zoning obtains and documents the required information, the annual report need not be submitted by the operator. If Bayfield County Planning and Zoning determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, Bayfield County Planning and Zoning shall require the operator to submit the certification required in sub. 16-1-25(a)(1)(g).

- (c) **Retention of Annual Reports.** Annual reports submitted under sub. 16-1-25(a) or inspection records that replace them under sub. 16-1-25(b) shall be retained by Bayfield County Planning and Zoning at 117 East 5<sup>th</sup> Street, P.O. Box 58, Washburn, WI 58491 for at least 10 years after the calendar year to which they apply. These records, or complete and 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 pursuant to Chapter NR 135, Wisconsin Administrative Code.

**Sec. 16-1-26 Plan Review Fees.**

- (a) **Amount and Applicability.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under sec. 16-1-12 shall submit a non-refundable plan review fee to Bayfield County Land & Water Conservation Department. No plan review fee may be assessed under this section for any local transportation-related mining receiving an automatic permit under sec. 16-1-16(c). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to sec. 16-1-23.

*Note: The prohibition on plan review fees for local transportation-related mines is required under s. NR 135.23(1)(g), Wis. Adm. Code.*

- (b) **Relation to Annual Fee.** Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under sec. 16-1-27.

*Note: Plan review fees collected under this section are required under s. 295.12(3)(e)1.a., Stats., to equal as closely as possible the cost of examination and approval of such plans. Section 295.15, Stats. requires the regulatory authority to use its fees only for the administration of its reclamation ordinance. Section NR 135.39(4)(b)1., Wis. Adm. Code requires that fees collected by the regulatory authority be used only for reasonable expenses associated with administration of its reclamation program.*

**Sec. 16-1-27 Annual Fees.****(a) Areas Subject to Fees, Procedures, Deadline and Amount.**

1. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to Bayfield County Planning and Zoning Department, 117 East 5<sup>th</sup> Street, P.O. Box 58, Washburn, WI 54891
2. Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site, as defined below:
  - a. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1<sup>st</sup>, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under sub. 16-1-14(a)(7). However the term does not include any areas described in par. (b).

*Note: The following definition is the same as that for "unreclaimed area" set forth in sec. 16-1-10(25) of this model ordinance. It has been repeated to provide clarification but is not legally necessary.*

- b. "Unreclaimed acre" or "unreclaimed acres" does not include:
  - (1) Those areas where reclamation has been completed and certified as reclaimed under sub. 16-1-14(a)(7).
  - (2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1<sup>st</sup>, 2001.
  - (3) Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
  - (4) Areas previously mined but used after August 1, 2001 for a non-mining activity, including stockpiling of materials, provided the stockpiles are associated with on-site industrial processes, used for an industrial 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.

- (5) Those areas within a nonmetallic mining site which Bayfield County have been determined to have been successfully reclaimed on an interim basis in accordance with sub. 16-1-29(b) and 16-1-29(c).
- b. Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.
3. Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the 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 sec. 16-1-29. Fees shall be paid no later than December 1<sup>st</sup> for the current year. The fee shall be accompanied with the annual non-metallic mining application, annual report, and financial assurance for the forthcoming year.
4. 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 Bayfield County pending certification of completed reclamation pursuant to sub. 16-1-29(c) and sub. 16-1-14(a)(7). Upon such certification Bayfield County Planning and Zoning shall refund that portion of the annual fee that applies to the reclaimed areas. If Bayfield County fails to make a determination under sub. 16-1-29(c) and 16-1-14(a)(7) within 60 days of the request, the County shall refund that portion of the annual fee that applies to the reclaimed areas.
5. The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in sub. 16-1-27(b), the share of Bayfield County described in sub. 16-1-27(c), and, if applicable, the reclamation plan review fee described in sec. 16-1-26.
- (b) **Wisconsin Department of Natural Resources Share of Fee**
1. Fees paid under this section shall, except where provided in sub (2), include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Table 1

### TABLE 1

Wisconsin Department of Natural Resources' Share of Annual Fees Collected by  
Bayfield County Planning and Zoning Department

<b>Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre</b>	<b>Annual Fee</b>
1 to 5 acres, [does not include mines < 1 acre]	\$ 35
6 to 10 acres	\$ 70
11 to 15 acres	\$ 105
16 to 25 acres	\$ 140
26 to 50 acres	\$ 160
51 acres or larger	\$ 175

2. For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the Wisconsin Department of Natural Resources shall be \$15.
3. Bayfield County Planning and Zoning shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31<sup>st</sup>.

*Note: This is required by s. NR 135.39(2)(c).*

**(c) Bayfield County Planning and Zoning's Share of Fee.**

1. Fees paid under this section shall also include an annual fee due to Bayfield County Planning and Zoning which shall be:

<b>Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre</b>	<b>Annual Fee</b>
0 to 3 acres, [does not include mines < 1 acre]	\$ 150
4 to 7 acres	\$ 325
8 to 10 acres	\$ 475
11 to 15 acres	\$ 550
16 to 25 acres	\$ 700

25 acres or larger \$ 800

2. For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for Bayfield County shall be \$50.
3. The annual fee collected by Bayfield County Planning and Zoning under this subsection for local transportation-related mines issued permits under sub. 16-1-16(c) may not exceed the amounts set forth in Table 2. The amount listed below shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the Wisconsin Department of Natural Resources and Bayfield County Planning and Zoning Department.

*Note: This is required by s. NR 135.23(1)(g), Wis. Adm. Code.*

**TABLE 2:**

Limit on Total Annual Fees For Automatically Permitted Local Transportation Project-Related Mines.

<b>Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre</b>	<b>Annual Fee</b>
1 to 5 acres, does not include mines < 1 acre	\$ 175
6 to 10 acres	\$ 350
11 to 15 acres	\$ 525
16 to 25 acres	\$ 700
26 to 50 acres	\$ 810
51 acres or larger	\$ 870

- (d) **Documentation of Bayfield County's Share of Fee.** Bayfield County shall document in writing its estimated program costs and the need for fee established in sub. 16-1-27(c) on or before June 1<sup>st</sup>, 2007. This documentation shall be available for public inspection at the Bayfield County Planning and Zoning Department.

*Note: The Department of Natural Resources' annual fees where it regulates nonmetallic mining sites set pursuant to s. NR 135.39(4)(c), Wis. Adm. Code, are set forth in Table 3 below. The documentation in this subsection is needed only if a regulatory authority's fees exceed those listed below. In any event, s. 295.15, Stats., prohibits a regulatory authority from using its fees for purposes other than the administration of its nonmetallic mining reclamation ordinance.*

**TABLE 3:**

Annual Fees Due Where the Department of Natural Resources is the Regulatory Authority.

<b>Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre</b>	<b>Annual Fee</b>
1 to 5 acres, does not include mines < 1 acre	\$ 175
6 to 10 acres	\$ 350
11 to 15 acres	\$ 525
16 to 25 acres	\$ 700
26 to 50 acres	\$ 810
51 acres or larger	\$ 870

**Sec. 16-1-28 Regulatory Reporting and Documentation.**

- (a) **Reporting.** Bayfield County Planning and Zoning shall send an annual report to the Wisconsin Department of Natural Resources by March 31<sup>st</sup> for the previous 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 Bayfield 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 unreclaimed acres.
  5. The number of acres that have been reclaimed and have had financial assurance released pursuant to sub. 16-1-14(a)(7).
  6. The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to sub. 16-1-29(a) and 29(b).
  7. The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.
- (b) **Documentation.** Bayfield County Planning and Zoning shall, to the best of its ability, maintain the information set forth below, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Bayfield 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 Bayfield County regarding reclamation plan review, 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 Wisconsin Department of Natural Resources' 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 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 sec. 16-1-18.
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 sub. 16-1-14(a)(7).
12. Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Bayfield County Planning and Zoning to implement its 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.

**Sec. 16-1-29 Completed Reclamation - Reporting, Certification and Effect**

- (a) **Reporting.** The operator of a nonmetallic mining site may certify completion of reclamation for a portion or all of the nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Certification shall be filed with Bayfield County.
- (b) **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 pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 16-1-29(a).
- (c) **Certification of Completed Reclamation.** Bayfield County shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with sub. 16-1-14(a)(7)(c). If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with sec. 16-1-13, Bayfield County shall issue the mine operator a written certificate of completion.
- (d) **Effect of Completed Reclamation.** If reclamation is certified by Bayfield County as complete under sub. 16-1-29(c) for part or all of a nonmetallic mining site, then:
1. No fee shall be assessed under sec. 16-1-27 for the area so certified.
  2. The financial assurance required by sec. 16-1-14 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.
  3. For sites which are reported as interim reclaimed under sub. 16-1-29(b) and so certified under sub. 16-1-29(c), financial assurance for reclaiming the certified area shall be released or appropriately reduced for that portion of the mining site.
- (e) **Effect of Inaction Following Report of Completed Reclamation.** If no written response as required by sub. 16-1-29(c) 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 Bayfield County for it under sec. 16-1-27 shall be refunded.

**Sec. 16-1-30 Permit Termination.**

When all final reclamation required by a reclamation plan conforming to sec. 16-1-13 and required by this chapter is certified as complete pursuant to sub. 16-1-14(a)(7) and sub. 16-1-29(c), Bayfield County Planning and Zoning shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.