CHAPTER 24

NONMETALLIC MINING RECLAMATION ORDINANCE

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24.01 Statutory Authority, Purpose, Administration. (1) This chapter is adopted under authority of Wis. Stat. § 295.13(1), Wis. Adm. Code ch. NR 135.32, and Wis. Stat. § 59.51.

(2) Purpose. The purpose of this chapter is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in Sauk County after the effective date of this chapter, in compliance with Wis. Adm. Code ch. NR 135, and Subchapter I of Wis. Stat. ch. 295. 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 previously adopted pursuant to other Wisconsin law.

(3) Administration. The provisions of this chapter shall be administered by Sauk County.

(4) Effective Date. The provisions of this chapter shall take effect immediately upon approval by the Sauk County Board of Supervisors.

24.02 Definitions. As used in this Chapter:

(1) "Alternative requirement" means an alternative to the reclamation standards of this chapter provided through a written authorization granted by Sauk County Land Resources and Environment Director, pursuant to Section 24.09(8).

(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 Wis. Adm. Code ch. NR 135, and Subchapter I of Wis. Stat. ch. 295, unless the Wisconsin Department of Natural Resources is the regulatory authority as defined in Wis. Adm. Code ch. NR 135(20)(c).

(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, except the term does not include commercial sources.

(4) "Contemporaneous reclamation" means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

(5) "Department" means the Wisconsin Department of Natural Resources.

(6) “Environmental pollution” has the meaning in Wis. Stat. § 295.11(2).

(7) “Financial assurance" means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in Section 24.07 and is sufficient to pay for reclamation activities required by this chapter.

(8) “Highwall” means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

(9) "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 for that land.

(10) “Licensed professional geologist” means a person who is licensed as a professional geologist pursuant to Wis. Stat. ch. 470.

(11) "Municipality" means any city, town or village.

(12) "Nonmetallic mineral" means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

(13) "Nonmetallic mining" or "mining" means all of following:

(a) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as 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 are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

(14) "Nonmetallic mining reclamation" or "reclamation" means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this chapter, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and if practicable the restoration of plant, fish and wildlife habitat.

(15) "Nonmetallic mining refuse" means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable byproducts resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

(16) "Nonmetallic mining site" or "site" means all contiguous areas of present or proposed mining described in Section 24.02(16)(a**)**, subject to the qualifications in Section 24.02(16)(b).

(a) Nonmetallic mining site means the following:

1. The location where nonmetallic mining is proposed or conducted.

2. Storage and processing areas that are in or 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 regrading is necessary.

6. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, revegetation 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, 2001.

2. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001 and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.

3. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

(17) "Operator" means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(18) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

(19) "Registered professional engineer" means a person who is registered as a professional engineer pursuant to Wis. Stat. § 443.04.

(20) "Regulatory authority" means one of the following:

(a) The county in which the nonmetallic mining site is located, that has an applicable reclamation ordinance under Wis. Stat. § 295.13, except where a municipality has adopted an applicable reclamation ordinance pursuant to par. (b).

(b) The municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under Wis. Stat. § 295.14.

(c) The department, in cases where a county mining reclamation program is no longer in effect under Wis. Stat. § 295.14, but only if there is no applicable reclamation ordinance enacted by the municipality in which the nonmetallic mining site is located.

(21) "Replacement of topsoil" means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this chapter.

(22) "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, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but 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 sources subject to permits under Wis. Stat. ch. 283, or source material, special nuclear material or byproduct material, as defined in Wis. Stat. § 254.31 (1).

(23) "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 and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(24) "Topsoil substitute material" means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

(25) (a)"Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under Section 24.16. However the term does not include any areas described in Section 24.02(13)(b)

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under Section 24.16.

2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.

3. Those portions of nonmetallic mining sites which are included in an nonmetallic mining reclamation plan approved pursuant to this chapter but are not yet affected by nonmetallic mining.

4. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.

5. For purposes of fees under Section 24.14, those areas within a nonmetallic mining site which Sauk County has determined to have been successfully reclaimed on an interim basis in accordance with Section 24.16.

24.03 General Provisions. (1) Interpretation**.** In their interpretation and

application, the provisions of this chapter shall be held to be the applicable requirements for nonmetallic mining reclamation and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes outside the reclamation requirements for nonmetallic mining sites required by Subchapter I of Wis. Stat. ch. 295, and Wis. Adm. Code ch. NR 135. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this chapter is required by Wisconsin Statutes, or by a standard in Wis. Adm. Code ch. NR 135, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Wis. Adm. Code ch. NR 135.

(2) Severability. Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

(3) Overall Applicability**.** The requirements of this chapter apply to all operators of nonmetallic mining sites within Sauk County except as exempted in Section 24.03(4) and for nonmetallic mining sites located in a city, village or town within Sauk County that has adopted an ordinance pursuant to Wis. Stat. § 295.14, and Wis. Adm. Code ch. NR 135.32(2). This chapter does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased before August 1, 2001. This chapter applies to nonmetallic mining conducted by or on behalf of Sauk County or for the benefit or use of the state or any state agency, board, commission or department, except that the above qualify for the waiver of financial assurance in Section 24.07(15).

(4) Exemptions. This chapter does not apply to the following activities:

(a) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the Wisconsin Department of Natural Resources under Wis. Stat. § 30.19, 30.195 or 30.20, and complies with Wis. Adm. Code ch. NR 340.

(b) Excavations subject to the permit and reclamation requirements of Wis. Stat. § 30.30 and 30.31.

(c) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

(d) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.

(e) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.

(f) Excavations for building construction purposes conducted on the building site.

(g) Nonmetallic mining at nonmetallic mining sites where less than one acre of total affected acreage occurs over the life of the mine.

(h) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stat. ch. 293.

(i) Any activities required to prepare, operate or close a solid waste disposal facility under Wis. Stat. ch. 289, or a hazardous waste disposal facility under Wis. Stat. ch. 291, that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this chapter apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(j) 1. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the Wisconsin Department of Transportation concerning the restoration of the nonmetallic mining site and when the Wisconsin Department of Transportation bid and supervised the project.

2. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the Wisconsin Department of Transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be specific to the length of the Wisconsin

Department of Transportation contract for construction of a specific transportation project.

3. If a nonmetallic mining site covered under pars. (1) and (2) of this section is used to concurrently supply materials for projects unrelated to the Wisconsin Department of Transportation project, the exemption in this paragraph still applies, provided that the site is fully reclaimed under Wisconsin Department of Transportation contract and supervision.

4. All contracts and reclamation standards/requirements with the Department of Transportation shall be submitted to Land Resources and Environment as part of a complete permit application.

(k) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(l) Removal of material from the bed of Lake Michigan or Lake Superior by a public utility pursuant to a permit under Wis. Stat. § 30.21.

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

(1) Refuse and Other Solid Wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed of in accordance with applicable rules of the Wisconsin Department of Natural Resources adopted pursuant to Wis. Stat. chs. 289 and 291.

(2) Area Disturbed and Contemporaneous Reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

(3) 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.

(4) Habitat Restoration. When the land use required by the reclamation plan approved pursuant to this chapter requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.

(5) 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.

(6) Surface Water and Wetlands Protection. Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Wisconsin Department of Natural Resources' water quality standards for surface waters and wetlands contained in Wis. Adm. Code chs. NR 102 to NR 105. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this chapter. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

(7) 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 that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.

(b) Groundwater Quality. Nonmetallic mining reclamation shall be conducted in a manner which does not cause groundwater quality standards in Wis. Adm. Code ch. NR 140, to be exceeded at a point of standards application defined in that chapter.

(8) Topsoil Management

(a) Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this chapter 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 topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.

(c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(9) Final grading and slopes.

(a) All areas affected by mining shall be addressed in the approved reclamation plan, pursuant to Section 24.04(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 a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.

(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: alternative requirements are approved under Section 24.09(8); stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.

(c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall extend vertically 6 feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.

(10) Topsoil Redistribution for Reclamation. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(11) Revegetation and Site Stabilization. Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this chapter, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(12) Assessing Completion of Successful Reclamation.

(a) The criteria for assessing when reclamation is complete and, therefore, 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 revegetation success standards in the approved reclamation plan shall be determined by:

1. On-site inspections by Sauk County or its agent;

2. Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or

3. A combination of inspections and reports.

(c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining 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 pursuant to this section.

(d) Revegetation success may be determined by:

1. Comparison to an appropriate reference area;

2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or

3. Comparison to an approved alternate technical standard.

(e) Revegetation using a variety of plants indigenous to the area is favored.

(13) Maintenance. During the period of the site reclamation, 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.

24.05 Permitting. (1) 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 Sections 24.03(3), 24.03(4) and 24.02(16)(b).

(2) Required Submittal. All operators of nonmetallic mining sites shall apply for a reclamation permit from Sauk County. All applications for reclamation permits under this section shall be accompanied by the following information:

(a) A brief description of the general location and nature of the nonmetallic mine.

(b) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.

(c) 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.

(d) The name, address and telephone number of the person or organization who is the operator.

(e) A certification by the operator of his or her intent to comply with the statewide nonmetallic mining reclamation standards established by Section 24.04.

(3) Reclamation Permit Application Contents. The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to Sauk County prior to beginning operations.

(a) The information required by Section. 24.05(2).

(b) The plan review and annual fees required by Section 24.13 and 24.14.

(c) A reclamation plan conforming to Section 24.05(5).

(d) A certification that the operator will, as a condition of the reclamation permit, provide financial assurance as required by Section 24.07 upon granting of the reclamation permit and before mining begins.

(e) 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.

(4) Reclamation Plan Required. All operators who conduct or plan to conduct nonmetallic mining shall submit to Sauk County a reclamation plan that meets all of the following requirements and complies with the reclamation standards of Section 24.04.

(5) 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) 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 shall supplement the information with the opinion of a licensed professional geologist or hydrologist.

(b) 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.

(c) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine sites.

(d) Existing topography as shown on contour maps of the site at two (2) foot or less contour intervals.

(e) Location of manmade features on or near the site.

(f) 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.

(6) Post-Mining Land Use.

(a) 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 comprehensive 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.

(b) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to Wis. Stat. § 91.75, shall be restored to agricultural use.

(7) 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:

(a) 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 Section 24.04(9).

(b) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.

(c) A plan or map which shows anticipated topography of the reclaimed site and any water impoundment or artificial lakes needed to support the anticipated 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 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.

(g) 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.

(h) 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.

(i) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to Section 24.16(2) and (3), if the regulatory authority decides to release financial assurance for such areas pursuant to Section 24.16(4)(c) as authorized by Wis. Adm. Code ch. NR 135.41(4)**,** and release of financial assurance pursuant to Section 24.16(3). Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in Section 24.04 and timing of interim and final reclamation.

(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.

24.06 Reclamation Plan. The reclamation plan shall contain criteria for assuring successful reclamation in accordance with Section 24.04.

(1) 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, or owner shall also provide signed certification that they concur with the reclamation plan, will allow its implementation, and grants Sauk County the right to complete reclamation in the event reclamation is not completed as required. A notarized affidavit certifying reclamation shall be signed by both the operator and owner and filed with the Sauk County Register of Deeds.

(2) 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.

(3) Approval of Reclamation Plan. Sauk County shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing in accordance with Section 24.09 for mines that apply for a reclamation permit in conformance with Section 24.05. Conditional approvals of reclamation plans shall be made according to Section 24.09(6) and denials of reclamation plans shall be made pursuant to Section 24.09(7). 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.

24.07 Financial Assurance. All operators of nonmetallic mining sites in Sauk 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 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 Sauk County. 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 Sauk County. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to Sauk County 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 Sauk 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 Sauk County to assure it equals outstanding reclamation costs. Any financial assurance filed with Sauk County shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. Sauk 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 effect 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 Sauk 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 Sauk 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 Sauk 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 Sauk 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. Sauk 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. Sauk 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 Sauk 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) Sauk County shall make a determination of whether or not the certification in sub. (a) can be made within 60 days that the request is received.

(c) Sauk 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 Section 24.11 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 within 12 months from the date of cessasion.

(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 Sauk 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 Sauk 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.

(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 Sauk County at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of Sauk County.

(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 Sauk County. Sauk County may notify the operator in writing that adjustment is necessary and the reasons for it. Sauk 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 Wis. Stat. § 289.41 (1) (b), 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 Wis. Stat. § 289.41(4). The criteria in Wis. Stat. § 289.41(6) (b), (d), (e), (f), (g), (h) and (i), 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 Wis. Stat. § 289.41(6).

(d) Determinations under the net worth test shall be done in accordance with Wis. Stat. § 289.41(5).

(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.

(14) Private Nonmetallic Mines. The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with Section 24.05 shall submit the proof of financial assurance required by Section 24.07 as specified in the reclamation permit issued to it under this chapter.

(15) 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.

24.08 Public Notice and Right of Hearing. Sauk County shall provide public notice and the opportunity for a public informational hearing as set forth below:

(1) Public Notice.

(a) When Sauk County receives an application to issue a reclamation permit for a new mining activity, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies Section 24.05

(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 Wis. Stat. § 985.07(1), in the official newspaper of Sauk 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 Sauk County Land Resources and Environment 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 1500 feet of the boundaries of the parcel or parcels of land on which the site is located.

(2) Public Informational Hearing. Sauk County Land Resources and Environment 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, Sauk County Land Resources and Environment shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public informational hearing for a nonmetallic mining reclamation permit required by this section. Sauk County Land Resources and Environment shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this chapter.

(b) If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in par. (a) supra, 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 1500 feet of the boundary of

the tax parcel or tax parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing. Sauk County Land Resources and Environment shall hold a public informational hearing if requested by any of these persons within 30 days of the actual date of public notice under sub. (1) supra. 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.

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

(3) 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 Section 24.09(2).

24.09 Issuance of a Nonmetallic Mining Reclamation Permit. No person may engage in nonmetallic mining or nonmetallic mining reclamation in Sauk County without first obtaining a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this chapter under Section 24.03(4).

(1) Applications for reclamation permits for nonmetallic mining that satisfy Section 24.05 shall be issued a reclamation permit or otherwise acted on as provided below.

(a) Unless denied pursuant to Section 24.09(7), Sauk County Land Resources and Environment shall approve in writing a request that satisfies the requirements of Section 24.05 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.

(b) Sauk County Land Resources and Environment may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of Section 24.04. The regulatory authority may issue a reclamation permit subject to conditions in Section 24.09(6) 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 Section 24.05 and reclamation plan that meets the requirements in Section 24.04, unless a public hearing is held pursuant to Section 24.08. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to Section 24.09(6) if appropriate, or shall deny the permit as provided in Section 24.09(7), no later than 60 days after completing the public hearing.

(c) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of Section 24.05 and provision by the applicant of financial assurance required under Section 24.07 and payable to Sauk County Land Resources and Environment prior to beginning mining.

(2) Automatic Permit for Local Transportation-Related Mines. Sauk County Land Resources and Environment 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, and;

(f) Is not otherwise exempt from the requirements of this chapter under Section 24.03(4).

(3) In this subsection, "municipality" has the meaning defined in Wis. Stat. § 299.01(8).

(4) Automatic permits shall be issued under this subsection in accordance with the following provisions:

(a) The applicant shall notify Sauk County Land Resources and Environment of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.

(b) The applicant shall provide evidence to Sauk County Land Resources and Environment to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.

(c) Sauk County Land Resources and Environment shall accept a copy of the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under Section 24.04.

(d) Sauk County Land Resources and Environment shall accept a copy of the contractual provisions in lieu of the financial assurance requirements in Section 24.07.

(e) The public notice and hearing provisions of Section 24.08 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

(f) Mines permitted under this subsection shall pay an annual fee to Sauk County Land Resources and Environment as provided in the Sauk County Fee Schedule, but shall not be subject to the plan review fee provided in Section 24.13. The total annual fee, including the share of the Department of Natural Resources, shall not exceed the amount stipulated in current applicable Department of Natural Resources and Sauk County Fee Schedules.

(g) Sauk County Land Resources and Environment shall issue the automatic permit within seven business 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 Section 24.12, 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.

(5) Expedited Review. Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under sub. (a) or sub. (b) as follows:

(a) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in Section 24.13(2). This request shall state the need for such expedited review and the date by which such expedited review is requested.

(b) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. 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.

(c) Following receipt of a request under this subsection, Sauk County Land Resources and Environment shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under sub. (a) shall be returned.

(d) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to Section 24.08. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date

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

(a) Sauk County Land Resources and Environment 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.

(b) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to Section 24.07 prior to beginning mining.

(7) Permit Denial. An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

(a) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in Section 24.09, if Sauk County Land Resources and Environment finds any of the following:

1. The applicant has, after being given an opportunity to make corrections, failed to

provide to Sauk County Land Resources and Environment an adequate permit application, reclamation plan, financial assurance or any other submittal required by Wis. Adm. Code ch. NR 135 or this chapter.

2. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained this chapter, Wis. Adm. Code ch. NR 135 or Subchapter I of Wis. Stat. ch. 295.

3. a. 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.

b. The following may be considered in making this determination of a pattern of serious violations:

(i) Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.

(ii) Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this chapter, other reclamation ordinances or Wis. Adm. Code ch. NR 135.

(iii) Forfeitures of financial assurance.

c. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

4. A decision to deny an application to issue a reclamation permit may be reviewed under Subsection 8(i).

(8) Alternative Requirements**.**

(a) An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in Section 24.04. Sauk County Land Resources and Environment may approve an alternative requirement to the reclamation standards established in this chapter if the operator demonstrates and Sauk County Land Resources and Environment 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. The operator of a nonmetallic mining site requesting an alternate requirement in Subsection 8(a) shall demonstrate all the criteria in Subsection 8(a). This shall be submitted in writing to Sauk County Land Resources and Environment.

(c) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.

(d) 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.

(e) Notice to Wisconsin Department of Natural Resources. Sauk County Land Resources and Environment 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 Subsection 8(b) on a request for an alternate requirement under this section. A copy of any written decision on alternative requirements shall be submitted to the Wisconsin Department of Natural Resources within 10 days of issuance.

(f) 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 Section 24.11.

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 Subsection 8(g).

(g) 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 Sauk County Land Resources and Environment 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 Sauk County Land Resources and Environment and Sauk County Land Resources and Environment 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.

(h) Previously Permitted Sites. For any nonmetallic mining site which had a reclamation permit previously issued by another regulatory authority pursuant to Wis. Adm. Code ch. NR 135 that becomes subject to reclamation permitting authority of Sauk County the terms and conditions of the previously-issued municipal reclamation permit shall remain in force until modified by Sauk County pursuant to Section 24.10.

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

24.10 Permit Modification (1) By Sauk County. A nonmetallic mining reclamation permit issued under this chapter may be modified by Sauk County Land Resources and Environment if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Wis. Adm. Code ch. NR 135 or this chapter. Such modification shall be by an order modifying the permit in accordance with Section 24.18. 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 Wis. Adm. Code ch. NR 135 or this chapter.

(2) 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 Sauk County Land Resources and Environment. The application for permit or plan modification shall be acted on using the standards and procedures of this chapter.

(3) 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.

(4) Review. All actions by Sauk County Land Resources and Environment on permit modifications requested or initiated under this section are subject to review under Section 24.09(8)(i).

24.11 Permit Suspension and Revocation. **(1)** Sauk County Land Resources and Environment 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:

(a) Failed to submit a satisfactory reclamation plan within the time frames specified in this chapter.

(b) Failed to submit or maintain financial assurance as required by this chapter.

(c) Failed on a repetitive and significant basis to follow the approved reclamation plan.

(2) Procedures. If Sauk County Land Resources and Environment finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in Section 24.11(1), it

may issue a special order suspending or revoking such permit as set forth in Section 24.18(1).

(3) Consequences.

(a) If Sauk County Land Resources and Environment makes any of the findings in Section 24.11(1), 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 Section 24.18.

(b) If Sauk County Land Resources and Environment makes any of the findings in Section 24.11(1), 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 Sauk County. Sauk County may use forfeited financial assurance to reclaim the site to the extent needed to comply with this chapter and the applicable reclamation ordinance.

24.12 Annual Operator Reporting. (1) Contents**.** Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

(a) Contents. The annual report required by this section shall include all of the following:

1. The name and mailing address of the operator.

2. The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.

3. The identification number of the applicable nonmetallic mining permit, if assigned by Sauk County Land Resources and Environment.

4. The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.

5. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.

6. A plan, map or diagram accurately showing the acreage described in pars. (4) and (5).

7. 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 Wis. Adm. Code ch. NR 135."

(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 Sauk County Land Resources and Environment for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to Section 24.16(3) or at the time of release of financial assurance pursuant to Section 24.07(7).

(4) Inspection in Lieu of Report. Sauk County Land Resources and Environment may, at its discretion, obtain the information required in Section 24.12(1) for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If Sauk County Land Resources and Environment obtains and documents the required information, the annual report need not be submitted by the operator. If Sauk County Land Resources and Environment 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, Sauk County Land Resources and Environment shall require the operator to submit the certification required in Section 24.12(1)(a)(7).

(5) Retention of Annual Reports**.** Annual reports submitted under Section 24.12(1) or inspection records that replace them under Section 24.12(4) shall be retained by Sauk County 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 Wis. Adm. Code ch. NR 135.

24.13 Plan Review Fees. (1) Amount and Applicability. A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Section 24.05 shall submit a nonrefundable plan review. No plan review fee may be assessed under this section for any local transportation-related mining receiving an automatic permit under Section 24.09(2). A separate plan review fee shall be paid under this section for any modification to an existing

reclamation plan submitted pursuant to Section 24.10.

(2) Expedited Plan Review Fee**.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under Section 24.05 may obtain expedited reclamation plan review by paying a fee. Such fee shall be in addition to that required in Section 24.13(1).

(3) 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 Section 24.14.

24.14 Annual Fees. Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to Sauk County Land Resources and Environment.

(1) 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, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under Section 24.07(7). However the term does not include any areas described in par. (b).

(b) "Unreclaimed acre" or "unreclaimed acres" does not include:

1. Those areas where reclamation has been completed and certified as reclaimed under Section 24.07(7).

2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 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 Sauk County Land Resources and Environment has been determined to have been successfully reclaimed on an interim basis in accordance with Section 24.16(2) & (3).

(c) 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.

(2) 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 Section 24.16. Fees shall be paid no later than January 31st for the previous year.

(3) 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 Sauk County pending certification of completed reclamation pursuant to Section 24.16(3) and 24.07(7). Upon such certification Sauk County shall refund that portion of the annual fee that applies to the reclaimed areas. If Sauk County fails to make a determination under Section 24.16(3) and 24.07(7) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

(4) The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in Section 24.14(5), the share of Sauk County described in Section 24.14(6), and, if applicable, the reclamation plan review fee described in the Sauk County Land Resources and Environment fee schedule.

(5) Wisconsin Department of Natural Resources Share of Fee. Fees paid under this section shall, except where provided in sub. a., include a share for the Wisconsin Department of Natural Resources equal to the amount specified in the Sauk County Land Resources and Environment Fee Schedule.

(a) 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 $15.00.

(b) Sauk County Land Resources and Environment shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

(6) Sauk County's Share of Fee. Fees paid under this section shall also include an annual fee due to Sauk County Land Resources and Environment which shall follow the Sauk County Land Resources and Environment Fee Schedule. The annual fee collected by Sauk County Land Resources and Environment under this subsection for local transportation-related mines issued permits under Section 24.09(2) may not exceed the amounts set forth by the Department of Natural Resources.

(7) Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee for the following calendar Year.

(8) Documentation of Sauk County's Share of Fee. Sauk County shall document in writing its estimated program costs and the need for fee established in Section 24.14(6) on or before June 1st, 2001. This documentation shall be available for public inspection.

24.15 Regulatory Reporting and Documentation. (1) Sauk County shall send an annual report to the Wisconsin Department of Natural Resources by March 31st for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:

(a) The total number of nonmetallic mining reclamation permits in effect.

(b) The number of new permits issued within the jurisdiction of Sauk County.

(c) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.

(d) The number of acres being mined or unreclaimed acres.

(e) The number of acres that have been reclaimed and have had financial assurance released pursuant to Section 24.07(7).

(f) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this subchapter pursuant to Section 24.16(1) and (2).

(g) 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.

(2) Documentation. Sauk County Land Resources and Environment 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 Sauk County's reclamation program pursuant to Wis. Adm. Code ch. NR 135:

(a) Documentation of compliance with Wis. Adm. Code ch. NR 135 and this chapter.

(b) The procedures employed by Sauk County regarding reclamation plan review, and the issuance and modification of permits.

(c) The methods for review of annual reports received from operators.

(d) The method and effectiveness of fee collection.

(e) Procedures to accurately forward the Wisconsin Department of Natural Resources' portion of collected fees in a timely fashion.

(f) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.

(g) Responses to citizen complaints.

(h) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.

(i) The maintenance and availability of records.

(j) The number and type of approvals for alternative requirements issued pursuant to Section 24.09(8).

(k) 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 Section 24.07(7).

(l) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of Sauk County to implement its nonmetallic mining reclamation program under this chapter.

(m) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.

(n) Any other performance criterion necessary to ascertain compliance with Wis. Adm. Code ch. NR 135.

24.16 Completed Reclamation - Reporting, Certification and Effect (1) 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 Wis. Adm. Code ch. NR 135.

(2) 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 Wis. Adm. Code ch. NR 135. Reporting of interim reclamation shall done according to the procedures in Section 24.16(1).

(3) Certification of Completed Reclamation. Sauk County Land Resources and Environment 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 Section 24.07(7). If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with Section 24.06, Sauk County Land Resources and Environment shall issue the mine operator a written certificate of completion.

(4) Effect of Completed Reclamation. If reclamation is certified by Sauk County Land Resources and Environment as complete under Section 24.16(3) for part or all of a nonmetallic mining site, then:

(a) No fee shall be assessed under Section 24.14 for the area so certified.

(b) The financial assurance required by Section 24.07 shall be released or appropriately reduced in the case of completion of reclamation for a portion of the mining site.

(c) For sites which are reported as interim reclaimed under Section 24.16(2) and so certified under Section 24.16(3), financial assurance for reclaiming the certified area shall be reduced.

(5) Effect of Inaction Following Report of Completed Reclamation. If no written response as required by Section 24.16(3) 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 Sauk County for it under Section 24.14 shall be refunded.

(6) Permit Termination. When all final reclamation required by a reclamation plan conforming to Section 24.06 and required by this chapter is certified as complete pursuant to Section 24.16(2) and (3), Sauk County Land Resources and Environment shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

24.17 Right of Entry and Inspection. For the purpose of ascertaining compliance with the provisions of Subchapter I of Wis. Stat. ch. 295, Wis. Adm. Code ch. NR 135, or this chapter, any authorized officer, agent, employee or representative of Sauk County Land Resources and Environment 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, employee or agent of Sauk County Land Resources and Environment or the Wisconsin Department of Natural Resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, this chapter, Wis. Adm. Code ch. NR 135, or Subchapter I of Wis. Stat. ch. 295.

(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.

24.18 Orders and Citations. Sauk County Land Resources and Environment may issue orders as set forth in Wis. Stat. § 295.19(1)(a), to enforce Subchapter I of Wis. Stat. ch. 295, Wis. Adm. Code ch. NR 135, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by Section 24.06 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 Section 24.06 and a permit issued under this chapter shall be considered a violation of Subchapter I of Wis. Stat. ch. 295, and Wis. Adm. Code ch. NR 135.

(1) Special Orders. Sauk County Land Resources and Environment may issue a special order as set forth in Wis. Stat. § 295.19(1)(b) and (c), suspending or revoking a nonmetallic mining reclamation permit pursuant to Section 24.11, or directing an operator to immediately cease an activity regulated under Subchapter I of Wis. Stat. ch. 295, Wis. Adm. Code ch. NR 135 or this chapter until the necessary plan approval is obtained.

(2) Review of Orders. A person holding a reclamation permit who is subject to an order pursuant this section shall have the right to review the order in a contested case hearing under Wis. Stat. § 68.11, notwithstanding the provisions of Wis. Stat. §§ 68.001, 68.03 (8) and (9), 68.06 and 68.10 (1) (b).

(3) Citations. Sauk County Land Resources and Environment may issue a citation under Wis. Stat. § 66.119, and Sauk County Ordinance to collect forfeitures to enforce Subchapter I of Wis. Stat. ch. 295, Wis. Adm. Code ch. NR 135, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by Section 24.06 and a permit issued under this chapter. 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.

24.19 Enforcement. Sauk County Land Resources and Environment may submit any order issued under Section 24.18 to abate violations of this chapter to corporation counsel for enforcement. The corporation counsel may enforce those orders.

24.20 Penalties. Any violation of Subchapter I of Wis. Stat. Ch. 295, Wis. Adm. Code ch. NR 135, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by Section 24.06 and a permit issued under this chapter may result in forfeitures as provided in Wis. Stat. § 295.19(3), as follows:

(1) Any person who violates Wis. Adm. Code ch. NR 135 or an order issued under Section 24.18 may be required to forfeit not less than $25.00 nor more than $1,000.00 for each violation. Each day of continued violation is a separate offense. While an order issued under Section 24.18 is suspended, stayed or enjoined, this penalty does not accrue.

(2) Except for the violations referred to in sub. (1), any person who violates Subchapter I of Wis. Stat. ch. 295, Wis. Adm. Code ch. NR 135, any reclamation plan approved pursuant to this chapter or an order issued pursuant to Section 24.18 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 Section 24.18 is suspended, stayed or enjoined, this penalty does not accrue.

As adopted by the Sauk County Board of Supervisors on May 15, 2001 - Ordinance No. 21-01. Repealed and recreated by the Sauk County Board of Supervisors on October 16, 2007 - Ordinance No. 127-07. Amended by the Sauk County Board of Supervisors on August 18, 2020 – Ordinance No. 05-2020.