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**802 NONMETALLIC MINING RECLAMATION
PART I – GENERAL**

802.01 Title

Nonmetallic mining reclamation ordinance for the County of Wood.

802.02 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 the County of Wood after the effective date of this chapter, in compliance with Chapter NR 135, Wisconsin Administrative Code and Subchapter I of Chapter 295, Wisconsin Statutes.

802.03 Statutory Authority

This chapter is adopted under authority of Section 295.13(1), Wisconsin Statutes, Section NR 135.32, Wisconsin Administrative Code, and Section 59.51, Wisconsin Statutes.

802.04 Restrictions Adopted Under Other Authority

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

802.05 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 Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code. 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 Chapter NR 135, Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted to be consistent with the Wisconsin Statutes and the provisions of Chapter NR 135, Wisconsin Administrative Code.

802.06 Severability

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

802.07 Applicability

(1) Overall Applicability

The requirements of this chapter apply to all operators of nonmetallic mining sites within the County of Wood and as provided in Sections NR 135.02(1) and (2), Wisconsin Administrative Code except where exempted in sub. 802.07(2) and except for nonmetallic mining sites located in a city, village or town within Wood County that has adopted an ordinance pursuant to Section 295.14, Wisconsin Statutes, and Section NR 135.32(2), Wisconsin Administrative Code.

(2) Exemptions

This chapter does not apply to the exempt activities listed in Section NR 135.02(3), Wisconsin Administrative Code.

802.08 Administration

The provisions of this chapter shall be administered by the Wood County Land Conservation Department.

802.09 Effective Date

This ordinance shall be effective upon adoption by the Wood County Board of Supervisors and publication.

802.10 Definitions

All definitions for the purposes of this chapter are those contained in Section NR 135.03, Wisconsin Administrative Code.

PART II - STANDARDS

802.11 Standards

All nonmetallic mining sites subject to this chapter shall be reclaimed in conformance with the standards contained in Subchapter II of Chapter NR 135, Wisconsin Administrative Code.

PART III - PERMITTING

802.12 Nonmetallic Mining Reclamation Permit Application Required. No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in **subs 802.07(1), 802.07(2) or 802.10(b)**.

- (1) Required Submittal.** The operator of all nonmetallic mining sites shall apply for a reclamation permit from the County of Wood. All reclamation permit applications under this section shall be accompanied by the information required by Section NR 135.18(1), Wisconsin Administrative Code.

(2) **Reclamation Permit Application Contents.**

The operator of any nonmetallic mine site shall submit an application that meets the requirements of Sections NR 135.18(2), Wisconsin Administrative Code and the submittals required under sub. 802.12(1) to the Wood County Land Conservation Department prior to beginning operations.

802.13 Reclamation Plan

(1) **Reclamation Plan Requirements**

All operators of nonmetallic mining sites subject to this chapter shall prepare and submit a reclamation plan that meets the requirements of Section NR 135.19, Wisconsin Administrative Code.

(2) **Existing Plans and Approvals**

To avoid duplication of effort, the reclamation plan required by sub. 802.13(1) may, by reference, incorporate existing plans or materials that meet the requirements of this chapter.

(3) **Approval of Reclamation Plan**

The County of Wood shall approve, conditionally approve or deny the reclamation plan submitted under this section in writing as part of permit issuance pursuant to sub. 802.16(2). Conditional approvals of reclamation plans shall be made according to sub. 802.16(5), and denials of reclamation plans made according to s. 802.17. The operator shall keep a copy of the reclamation plan required by this section, once approved by the County of Wood under this chapter, at the mine site or, if not practicable, at the operator's nearest office or place of business.

802.14 Financial Assurance.

(1) **Financial Assurance Requirements**

All operators of nonmetallic mining sites in the County of Wood shall prepare and submit a proof of financial assurance of successful reclamation that meets the requirements of Section NR 135.40, Wisconsin Administrative Code.

(2) **Private Nonmetallic Mines**

The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with sub. 802.12(3) shall submit the proof of financial assurance required by sub. 802.14(1) as specified in the reclamation permit issued to it under this chapter.

(3) **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.

802.15 Public Notice and Right of Hearing

(1) Reclamation Plan Hearing

The County of Wood shall provide public notice and the opportunity for a public informational hearing as set forth in Sections NR 135.20(1) and (2), Wisconsin Administrative Code for any nonmetallic mining site for which a complete reclamation permit application that satisfies s. 802.12 is received.

(2) Local Transportation-Related Mines

No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to sub. 802.16(3).

802.16 Issuance of a Nonmetallic Mining Reclamation Permit.

(1) Permit Required

Every operator of a nonmetallic mining site in the County of Wood, who engages in or plans to engage in nonmetallic mining after September 1st, 2001 shall obtain a reclamation permit issued under this section, except nonmetallic mining sites exempt from this chapter as provided in sub. 802.07(2). No person may engage in nonmetallic mining or nonmetallic mining reclamation after September 1st, 2001 without a reclamation permit issued pursuant to this chapter. **Failure to obtain a reclamation permit prior to beginning mining shall result in the doubling of the applicable permit fee.**

(2) Permit Issuance

Applications for reclamation permits for nonmetallic mining sites that satisfy s. 802.12 shall be issued a reclamation permit or otherwise acted on as provided in Section NR 135.21(2), Wisconsin Administrative Code. The permit shall require compliance with a reclamation plan submitted by the applicant that conforms with sub. 802.13(1), and provision by the applicant of financial assurance that conforms with sub. 802.14 payable to Wood County prior to beginning mining.

(3) Automatic Permit for Local Transportation-Related Mines

The County of Wood shall issue an automatic permit under this subsection for any borrow site operated to provide material for a locally-administered transportation project that meets the criteria in Section NR 135.23(1)(a), Wisconsin Administrative Code. This automatic permit shall be issued according to the provisions of Sections NR 135.23(1)(b) through (j), Wisconsin Administrative Code.

(4) Expedited Review

Any operator of a nonmetallic mining site may obtain an expedited review of a reclamation permit application by paying the expedited review fee specified in s. 802.26(2). The expedited review shall be carried out according to the provisions

of Section NR 135.23(1), Wisconsin Administrative Code. Such expedited review shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to s. 802.15.

(5) Permit Conditions

Permits issued under this section may include conditions as provided in Section NR 135.21(2), Wisconsin Administrative Code. One required condition shall be that new mines shall obtain financial assurance prior to beginning mining pursuant to Section NR 135.40, Wisconsin Administrative Code.

802.17 Permit Denial

An application for a nonmetallic mining reclamation permit shall be denied if any of the factors specified in Section NR 135.22, Wisconsin Administrative Code exist.

802.18 Alternative Requirements

(1) Scope of Alternative Requirements Approvable

An operator of a nonmetallic mining site may request an alternative requirement to any reclamation standard established in s. 802.11. Such a request may be made only on the basis of the criteria set forth in Section NR 135.26(1), Wisconsin Administrative Code.

(2) Procedures

The operator of a nonmetallic mining site requesting an alternate requirement in sub. 802.18(1) shall demonstrate all the criteria in Section NR 135.26(1), Wisconsin Administrative Code. This shall be submitted in writing to the Wood County Land Conservation Committee, 400 Market Street, P.O. Box 8095, Wisconsin Rapids, WI 54495-8095. The Land Conservation Committee may authorize in specific cases, a variance from the terms of this chapter as will not be contrary to the public interest, where due to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship to the operator. The Land Conservation Committee will hear arguments by the operator and/or their legal representatives concerning s. 802.18(1). A publicly noticed hearing will be conducted by the Land Conservation Committee within 30 days of the receipt of a request under s. 802.18(1). Variance approvals require a majority vote of a quorum of the Land Conservation Committee. A decision will be made by the Land Conservation Committee within 30 days of the public hearing.

(3) Transmittal of Decision on Request for Alternate Requirements

The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

(4) Notice to Wisconsin Department of Natural Resources

The County of Wood shall provide notice to the Wisconsin Department of Natural Resources as provided in Section NR 135.26(3)(a), Wisconsin Administrative Code

802.19 Permit Duration

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 sub. 802.32(2), or as limited under Section NR 135.27, Wisconsin Administrative Code where the mine operator is not the landowner.

802.20 Permit Transfer

A nonmetallic mining reclamation permit issued under this chapter shall be transferred to a new owner or operator upon satisfaction of the conditions in Section NR 135.28, Wisconsin Administrative Code.

802.21 Previously Permitted Sites

For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Chapter NR 135, Wisconsin Administrative Code that becomes subject to reclamation permitting authority of the County of Wood, the previously-issued municipal reclamation permit's terms and conditions shall remain in force until they can be modified by Wood County pursuant to sub. 802.23(1).

802.22 Review

Any permitting decision or action made by the County of Wood under this chapter may be reviewed as set forth in Section NR 135.30, Wisconsin Administrative Code.

PART IV - ADMINISTRATION

802.23 Permit Modification.

(1) By the County of Wood

A nonmetallic mining reclamation permit issued under this chapter may be modified by the County of Wood if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with this chapter. Such modification shall be by an order conforming to the procedures in s. 802.32 and as provided in Section NR 135.24(1), Wisconsin Administrative Code.

(2) At the Operator's Option

If the 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 the Wood County Land Conservation Department, Wood County Courthouse, 400 Market Street, P.O. Box 8095, Wisconsin Rapids, WI 54495-8095. 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 required under the circumstances set out in Section NR 135.27, Wisconsin Administrative Code. Such application for permit modification shall be acted on using the standards and procedures of this chapter.

(4) Review

All actions on permit modifications requested or initiated under this section are subject to review under s.802.22

802.24 Permit Suspension or Revocation

(1) Grounds

The County of Wood may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this chapter if it finds any of the grounds listed in Section NR 135.25(1), Wisconsin Administrative Code.

(2) Procedures

If the County of Wood finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in sub. 802.24(1), it may issue a special order suspending or revoking such permit as set forth in sub. 802.32(2).

(3) Consequences

The consequences of a reclamation permit suspension or revocation order under sub. 802.24(2) shall be as set forth in Sections NR 135.25(2) and (3), Wisconsin Administrative Code.

802.25 Annual Operator Reporting.

(1) Contents and Deadline

The operators of nonmetallic mining sites that satisfy the requirements of Section NR 135.36, Wisconsin Administrative Code, shall submit annual reports. These reports shall be for reclamation during a calendar year, and submitted in writing within 60 days of the end of each calendar year to the Wood County Land Conservation Department, Wood County Courthouse, 400 Market Street, P.O. Box 8095, Wisconsin Rapids, WI 54495-8095 . Annual reports shall be submitted until reclamation at each nonmetallic mining site is certified as complete under sub. 802.29(3)

(2) Inspection in Lieu of Report

The County of Wood may, at its discretion, obtain the information required in sub. 802.25(1) by written documentation of an inspection it completes during a calendar year, as set forth in Section NR 135.36(4), Wisconsin Administrative Code.

(3) Retention of Annual Reports

Annual reports submitted under this section or inspection records that replace them shall be retained by the County of Wood for at least 10 years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the Wisconsin Department of Natural Resources upon written request or during its inspection or audit activities carried out pursuant to Chapter NR 135, Wisconsin Administrative Code.

802.26 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 s. 802.12 shall submit a non-refundable plan review fee of \$400.00 to the Wood County Land Conservation Department, Wood County Courthouse, 400 Market Street, P.O. Box 8095, Wisconsin Rapids, WI 54495-8095. No plan review fee may be assessed under this section for any local transportation-related mine issued an automatic permit under sub. 802.16(3). A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to s. 802.23.

(2) Expedited Plan Review Fee

A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under s. 802.12 may obtain expedited reclamation plan review by paying a fee of \$400.00. Such fee shall be in addition to that required in sub. 802.26(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 s. 802.27.

802.27 Annual Fees

(1) Areas Subject to Fees, Procedures, Deadline, and Amount

Operators of all nonmetallic mining sites subject to reclamation permits issued under this chapter shall pay annual fees to the Wood County Land Conservation Department, 400 Market Street, P.O. Box 8095, Wisconsin Rapids, WI 54495-8095. These fees shall be calculated based on amount of unreclaimed acres of each site, as defined in Section NR 135.39(1)(a), Wisconsin Administrative Code and according to its provisions. 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 s. 802.29. Fees shall be paid no later than January 31 for the previous year.

(2) Wisconsin Department of Natural Resources Share of Fee

Fees paid under this section shall include a share for the Wisconsin Department of Natural Resources equal to the amount specified in Section NR 135.39(3), Wisconsin Administrative Code. For sites on which no nonmetallic mining has taken place during a calendar year, fees to be paid under this section for the following year shall be \$15.00. The County of Wood shall forward fees collected under this subsection to the Wisconsin Department of Natural Resources by March 31st.

(3) Wood County's Share of Fee

(1) Fees paid under this section shall also include an annual fee due to the County of Wood as shown in Table 1. The amount of the fees under this section shall be established from time to time by the Land Conservation Committee. Section NR 135.39(4)(b) [preamble], Wis. Adm. Code further requires that annual fees must equal as closely as possible the county's expenses to administer the program, including, but not limited to the examination and approval of plans, cost to ensure compliance, inspecting nonmetallic mining sites and administering the reclamation program set up under this ordinance. Section NR 135.39(4)(b)1., Wis. Adm. Code also provides the county may use these fees only for reasonable expenses associated with administration of a nonmetallic mining reclamation program.

(2) The annual fee collected by the County of Wood under this subsection for local transportation-related mines issued permits under sub. 802.16(3) may not exceed the amounts set forth in Table 2 of Section NR135.39 and shall include both a share for the Wisconsin Department of Natural Resources and the County of Wood.

Table 1 – Permit Fee Schedule

Mine Size in Unreclaimed Acres	Wood County's Share of Annual Fee	Wisconsin DNR Share of Annual Fee	Total Annual Fee
1 to 5 acres Does not include < 1 acre	\$190	\$35	\$225
6 to 10 acres	\$380	\$70	\$450
11 to 15 acres	\$570	\$105	\$675
16 to 25 acres	\$760	\$140	\$900
26 to 50 acres	\$890	\$160	\$1050
51 acres or larger	\$950	\$175	\$1125

***Failure to obtain a reclamation permit prior to the beginning of mining shall result in a doubling of the applicable permit fee.**

(4) 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 of \$50.00.

(5) Documentation of Wood County's Share of Fee

If the annual fee in sub. 802.27(3) is greater than that established in Section NR 135.39(4)(c), Wisconsin Administrative Code, the County of Wood shall document in writing its estimated program costs and the need for its annual fees established in sub 802.27(3) on or before June 1, 2007. This documentation shall be available for public inspection.

802.28 Regulatory Reporting and Documentation.

(1) Reporting

Wood County shall send an annual report to the Wisconsin Department of Natural Resources including the information required by Section NR 135.37, Wisconsin Administrative Code by March 31st for the previous calendar year.

(2) Documentation

Wood County shall, to the best of its ability, maintain the information set forth in Section NR 135.47(3), Wisconsin Administrative Code, and make it available to the Wisconsin Department of Natural Resources for that agency's audit of Wood County's reclamation program pursuant to Section NR 135.47, Wisconsin Administrative Code.

802.29 Completed Reclamation - Reporting, Certification and Effect

(1) Reporting

The operator of a nonmetallic mining site may certify completion of reclamation for a portion or the entire nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this chapter and Chapter NR 135, Wisconsin Administrative Code.

(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 Chapter NR 135, Wisconsin Administrative Code. Reporting of interim reclamation shall be done according to the procedures in sub. 802.29(1).

(3) Certification of Completed Reclamation

The County of Wood 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 NR 135.40(7)(c), Wisconsin Administrative Code. If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with s. 802.13, the County of Wood shall issue the mine operator a written certificate of completion.

(4) Effect of Completed Reclamation

If reclamation is certified by the County of Wood as complete under sub. 802.29(3) for part or all of a nonmetallic mining site, then:

- (1) No fee shall be assessed under s. 802.27 for the area so certified.
- (2) The financial assurance required by s. 802.14 shall be released or reduced in the case of completion for a portion of the mining site.

(5) Effect of Inaction Following Report of Completed Reclamation

If no written response as required by sub. 802.29(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 Wood County for it under s. 802.27 shall be refunded.

802.30 Permit Termination

When all final reclamation required by a reclamation plan conforming to s. 802.13 and required by this chapter is certified as complete pursuant to sub. 802.29(3), the County of Wood shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

PART V - ENFORCEMENT

802.31 Right of Entry and Inspection

For the purpose of ascertaining compliance with the provisions of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, or this chapter, any authorized officer, agent, employee or representative of the County of Wood may inspect any nonmetallic mining site subject to this chapter as provided in Section 295.17(1), Wisconsin Statutes and Section NR 135.42, Wisconsin Administrative Code.

802.32 Orders and Citations

(1) Enforcement Orders

The County of Wood may issue orders as set forth in Section 295.19(1)(a), Wisconsin Statutes to enforce Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 802.13 and a permit issued under this chapter. A violation of this chapter, an order or permit issued pursuant to this chapter or a reclamation plan required by s. 802.13 and a permit issued under this chapter shall be considered a violation of Subchapter I of Chapter 295, Wisconsin Statutes and Chapter NR 135, Wisconsin Administrative Code.

(2) Special Orders

The County of Wood may issue a special order as set forth in Sections 295.19(1)(b) and (c), Wisconsin Statutes suspending or revoking a nonmetallic mining reclamation permit pursuant to s. 802.24, or directing an operator to immediately cease an activity regulated under Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code or this chapter until the necessary plan approval is obtained.

(3) Review of Orders

An order issued under sub. 802.32(1) or sub. 802.32(2) may be reviewed as provided in Section NR 135.43(2), Wisconsin Administrative Code.

(4) Enforcement.

The County of Wood may submit any order issued under s. 802.32 to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement as provided in Section 295.19(1)(d), Wisconsin Statutes.

802.33 Penalties.

Any violation of Subchapter I of Chapter 295, Wisconsin Statutes, Chapter NR 135, Wisconsin Administrative Code, this chapter, a permit issued pursuant to this chapter or a reclamation plan required by s. 802.13 and a permit issued under this chapter may result in forfeitures as provided in Section 295.19(3), Wisconsin Statutes, as follows:

- (1) Any person who violates Chapter NR 135, Wisconsin Administrative Code or an order issued under s. 802.32 may be required to forfeit not less than \$25 nor more than \$1,000 for each violation. Each day of continued violation is a separate offense. While an order issued under s. 802.32 is suspended, stayed or enjoined, this penalty does not accrue.

Except for the violations referred to in sub. (1), any person who violates subchapter I of ch. 295, Stats., Chapter NR 135, Wisconsin Administrative Code, any reclamation plan approved pursuant to this chapter or an order issued pursuant to s. 802.32 shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of violation is a separate offense. While an order issued under s. 802.32 is suspended, stayed or enjoined, this penalty does not accrue.

NOTE: The Nonmetallic mining reclamation was adopted on, July 17, 2001, Table 1, Fee Schedule Change effective for the fees that are due December 31, 2002, Plan Review fee change effective January 1, 2004.

Table 1, Fee Schedule Change effective January 1, 2005 .

May 2007 – Ordinance revised per NR135 requirements. Fee Schedule Change and After the Fact Permit fee added.