

ESTIMATING FEES TO SUPPORT A NONMETALLIC MINING RECLAMATION PROGRAM



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BACKGROUND AND PURPOSE

Chapter 295, Wis. Stats., requires that county and local nonmetallic mining reclamation programs be established and administered to ensure that uniform reclamation standards are implemented statewide. The Legislature intended that these Regulatory Authorities (RAs) establish reclamation programs that are self-funded through fees on active mining operations as opposed to funding through taxes. The fee amount is based only on the unreclaimed portions of active nonmetallic mining operations and these fees are intended to support administration by county or municipal RAs as well as department statewide oversight and technical support.

This publication is intended to provide guidance in establishing reasonable fees for county and municipal RAs. It is not intended to identify every aspect of program cost that will need to be considered so your discretion is needed to address any unique aspects of your program.

Counties and local governments may set and collect fees that reflect the reasonable and actual costs for administering the reclamation program. These costs include permitting, plan review, administrative and inspection costs. Fees are often established in the county or local reclamation ordinance or in other fee schedules established by the Board. The reasonableness of fees is ensured in four ways listed below.

1. State law prohibits county or local government from setting and collecting reclamation fees that exceed their actual administrative costs.

2. Since fees are often established by ordinance or through the amendment of a fee schedule, a public hearing before the county or local elected officials will be held prior to the adoption of the ordinance. This will provide an opportunity for operators and the public to express any concerns regarding the fee structure.
3. Chapter NR 135 Wis. Adm. Code, sets a ceiling on local fees. If a county or local fee exceeds the DNR costs given in the fee tables contained in the rule, the RA must provide special justification.
4. As required by law, DNR oversight of county and local programs includes annual and long-term oversight. On an annual basis, the DNR will receive and review annual reports. The department will conduct comprehensive audits of non-metallic mine reclamation programs. Fees will be examined as part of these audits. Further, the department will use this fee data and the advice of the Nonmetallic Mining Advisory Committee in preparing reports on the reasonableness of fees when compared to administrative costs. These periodic reports are submitted to the Natural Resources Board.

ESTABLISHING FEES

First, the county or local RA is needs to ensure that their records of the number of existing mines and unreclaimed acres are accurate. Fees are assessed on the basis of total unreclaimed acres on the mine site (see definition in s. NR 135.03(25)). Areas subject to fees are either currently being mined or are areas that support mining activities such as processing areas and on-site storage areas. Examples of areas not subject to fees would be an adjacent area that was used for mining before August 1, 2001 and is no longer being used or an area that has already been reclaimed either permanently or on an interim basis if approved by the RA.

ESTIMATING REQUIRED RESOURCES & TRACKING EXPENDITURES

Following completion of the basic inventory, the RA will need to estimate what it will cost to administer a successful Nonmetallic Mining Reclamation Program. This is done by looking at all the tasks or work activities necessary to administer a successful program. To facilitate an accurate estimate it is necessary to consider both one-time costs such as review of reclamation plans or modifications and on-going (continuing) administrative costs. There may be other costs specific to your jurisdiction to be considered. These might include contracting for some or all of the program elements, the need to work with other parties or regulatory authorities or special physical conditions that may be present in your jurisdiction. Because the review of reclamation plans, significant modifications and possible information hearings are one-time costs it is

ONE-TIME COSTS

- Review of new reclamation plans for compliance with reclamation standards & post-mining land use
- Review of financial assurance
- Possible public informational hearings
- Permit issuance
- Processing of automatic permits (30 day review time)

ONGOING PROGRAM ADMINISTRATION COSTS

- Routine Inspections:
 - During permitting
 - Minimum of once annually
 - Complaint/Enforcement follow-up
 - Reclamation evaluation visits
- Fee collection, review of operator reports & reporting to DNR
- Other compliance activities
- Overhead costs including travel, per diem, office space and equipment
- Review of financial assurance levels
- Informational hearings on reclamation plans for new mines (as needed)
- Certification inspections - to evaluate and document (data gathering, photodocumentation) successful reclamation and to support release or partial release of financial assurance

recommended that the RA assess a separate plan review fee. If a separate plan review fee is recovered, the annual fees should reflect only the RA's on-going program administration costs. This allows a clear distinction between the costs of plan review versus the ongoing annual administrative activities that are supported by the acreage based fee. RA's can refer to Table 3 in s. NR 135.39 for guidance on reasonable plan review costs. Plan review fees, including those related to major modifications of the plan, are usually one time fees that are assessed separately from annual fees.

Example of Use of the Recommended Procedures for Estimating Annual Fees:

The following is an example of the above procedure for setting fees described above. For purposes of this example it is assumed that the RA has 50 mining operations with a total of 750 unreclaimed acres.

Step #1 - Determine the number of mine sites and acreage.

Step #2 - Determine on-going administrative costs. Multiply the number of sites by the number of hours per site by the cost per hour.

$$\text{_____ mines} \times \text{_____ hrs/site} \times \$\text{_____}/\text{hr} = \$\text{_____} \text{ (cost/year)}$$

Example Result: 50 Sites x 15 hrs/site x \$22.00/hour = \$16,500.00/year – so acreage fees must be set up with this amount in mind.

Note: The department estimates that each mining operation will require an average of 15-20 hours of staff time per year. The cost per hour will vary for each RA but should reflect staff time and necessary overhead expenses as appropriate. This amount does not include administrative overhead.

Step #3 - Determine total site-specific annual fee. Add together the acreage fee and applicable DNR fee from Table 1 in s. NR 135.39.

$$\text{_____ acreage fee} + \text{_____ DNR fee} = \text{_____ total fee}$$

Note: The total fee paid by a specific operator will include an additional component reflecting the department's share of fees must be added. Table 1 in s. NR 135.39 specifies the appropriate amount based on acreage. The total amount paid for a given operation will be the amount from Table 1 plus the amount derived from the acreage-based fee determined above.

Example Result: For a 15 acre site, the total fee would be { \$42/acre x 15 acres } + \$90 = \$720/year

Finally, it is highly recommended that the RA establish and employ an accurate system of tracking costs. This allows RA program managers to better assess the relationship between program costs and fees, to support any fee adjustments and to be prepared for periodic department audits. It is best to select a cost tracking method that is easily understood by staff and convenient enough to be consistently used.

QUESTIONS

Contact 608/266-2111 or Waste.Materials@dnr.state.wi.us for further information.

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