

2013 Nonmetallic Mining Fee Report to the Natural Resources Board



Industrial Sand Mining, Western Wisconsin. Photo Credit: TJ Maglio

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**December 2013
PUB-WA 1818**

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Executive Summary

As required by s. NR 135.39(7), Wis. Adm. Code, the Department of Natural Resources (DNR) prepares a report once every five years for the Natural Resources Board (NRB) on the reasonableness and fairness of nonmetallic mining (NMM) fees charged by county or local NR 135 Regulatory Authorities (RAs). This report includes a review of the balance between fee revenue and expenses for NR 135 RAs. It also evaluates RA compliance with NR 135 reclamation standards and discusses DNR revenue and administrative expenditures. As required under s. NR 135.39 (7), DNR consulted with the Nonmetallic Mining Advisory Committee (NMAC) in the preparation of this report.

The findings of this report include:

- Fees assessed by NR 135 RAs remain reasonable and fair. Most RAs met the code objective that there be a close balance between revenue fees and expenses.
- The uniform statewide reclamation standards are being complied with during reclamation, as required by ch. 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code. This was confirmed by DNR through field inspections conducted during regular performance review audits. Likewise, all 39 RAs that received a DNR audit encompassing financial data are administering their reclamation programs in compliance with requirements in ch. 295, Wis. Stats., and in ch. NR 135, Wis. Adm. Code regardless of the RA's funding status.
- Eleven RAs received audits that did not encompass fee and cost information, and a subset of these were found to be deficient in meeting NR 135 reclamation program administrative requirements. DNR staff are providing technical assistance to bring these RAs into compliance.
- DNR NMM revenue, collected from active mining operations and forwarded to the DNR by RAs, exceeded the expenses directly incurred against the NMM budget, while additional DNR costs necessary to manage nonmetallic mining activities, such as the single point of contact and other non-WMM program staff hours, were not charged against the NMM budget.
- Several counties in western Wisconsin have received an increase in applications for reclamation permits due to the growth in industrial sand mining activity. Some NR 135 programs have modified their fee structure to ensure revenue is adequate to meet increased administrative expenses.
- While DNR revenue exceeded expenses, the DNR is now experiencing increased NMM workload, primarily due to the increase in industrial sand mines. The department has added a half-time staff person to the NMM program. The difference between DNR revenue and expenses is projected to decrease accordingly.

Acknowledgments

The authors would like to thank the county and local NR 135 reclamation program administrators for maintaining records on fees and expenses related to their NMM programs. These data are essential to the completion of this report. Thanks also goes to the Nonmetallic Mining Advisory Committee (NMAC) for consultation in the report preparation and for ongoing representation of NR 135 stakeholders. A list of NMAC members is included in Appendix 3.

Background and Purpose

Section 295, Wis. Stats., requires that county and local NMM reclamation programs be administered in a manner that ensures that uniform reclamation standards are implemented statewide. The Legislature intended that these reclamation programs be self-funded through annual reclamation fees on active mining operations. Fee amounts are based on the unreclaimed portions of active mines. These fees support county or local program administration as well as DNR oversight and technical support. Counties and local governments may set and collect annual reclamation fees on unreclaimed acres that reflect the reasonable and actual costs for administering the reclamation program. These costs include permitting, plan review, administrative and inspection costs. Fees are established through the county or local reclamation ordinance, either directly or by reference to other fee schedules established by the county or local board.

When the NMM program began, there were concerns from stakeholders regarding accuracy and fairness in the assessment of annual reclamation fees. Subsequent to the completion of the 2003 fee report, the NMAC advised the DNR that the question of the reasonableness of fees should be revisited once RAs had completed the review of reclamation permits and when more complete financial information became available.

At the advice of the NMAC, when the NR 135 rule was revised in 2006, a requirement that a report on the fees and revenue balance be provided to the NRB every five years was formalized in s.NR 135.39 (7).

The DNR prepared a second fee report in 2008; this report is available on the DNR website at <http://dnr.wi.gov/files/PDF/pubs/wa/WA1366.pdf>.

Methods

The DNR performs audits and provides written evaluation of the compliance status of each county and local RA at least once every ten years as required by state statute. The audit includes obtaining fee revenue and administrative cost information from the RA to allow an evaluation of the reasonableness of nonmetallic mining reclamation fees.

Between July 2008 and August 2013, the DNR performed 53 performance review audits (including follow-up audits) involving 50 individual county and local NR 135 NMM reclamation programs. Of these 50 RAs, 39 were selected for evaluation in this report and are listed in Table 1. These RAs received comprehensive audits and provided information on reclamation program finances adequate for evaluation in this report. The other 11 RAs were not selected because their audits were targeted to address specific needs or to follow up on identified deficiencies, or were otherwise unrelated to NMM program finances (see Appendix 1 for a listing of all RAs that have received DNR performance review audits since the beginning of the NR 135 reclamation program).

Program performance review criteria are established and identified in NR 135.47, Wis. Adm. Code, and the objective of achieving a close balance between revenue and expenses is established in NR 135.39 (4) (b), Wis. Adm. Code (see Appendix 2). Information on various approaches used by NR 135 RAs to come to a closer balance between revenue and administrative expenses is contained in this 2013 fee report.

During the preparation of the 2013 fee report, DNR staff consulted with the NMAC as required in s. NR 135.39(7), Wis. Adm. Code (see Appendix 3 for a list of NMAC members).

RA Revenue and Expense Balances

The 39 audited RAs for whom financial information was available are ranked in Table 1 according to their surplus or deficit per reclamation permit.

**Table 1: RA Revenue Versus Administrative Expenses
(Ranked by Balance Per Permit)**

Regulatory Authority (Year Audited)	Operating Revenues in Audit Year	Expenses in Audit Year	Number of Active Permits	Acres Being Mined	Local Account Balance (\$)	
					Per Permit	Per Acre
Door (2011)	\$ 50,516	\$ 35,931	51	796	\$285.98	\$18.33
Town of Genesee (2009)	1,020	554	3	227	154.67	2.04
Fond du Lac (2012)	45,915	40,300	52	1,323	107.98	4.24
Manitowoc (2008)	44,835	39,555	56	628	94.29	8.41
Dodge (2008)	11,660	9,240	28	667	86.43	3.63
Walworth (2008-11 avg)	26,575	24,862	26	924	65.88	1.85
Adams (2011)	8,085	7,958	7	132	18.88	0.62
City of New Berlin (2009)	2,545	2,482	4	149	15.75	0.42
Vilas (2011)	13,971	13,355	66	369	9.33	1.67
Grant (2009)	15,735	15,735	54	396	0.00	0.00
Green (2012)	6,030	6,030	25	188	0.00	0.00
Marathon (2010)	66,615	67,052	114	1,630	-3.83	-0.27
Oneida (2011)	8,285	8,726	58	575	-7.60	-0.77
Eau Claire (2009)	2,165	2,222	7	66	-8.14	-0.86
Price (2008)	8,450	8,985	41	169	-13.05	-3.16
Langlade (2009)	11,820	12,463	43	287	-14.96	-2.24
Rusk (2008)	10,920	11,903	59	410	-16.66	-2.40
City of Madison (2010)	460	499	2	16	-19.50	-2.44
Columbia (2011)	12,830	13,595	35	699	-21.86	-1.10
Rock (2012)	15,305	16,261	42	1,339	-22.76	-0.71
Kenosha (2008)	1,650	1,777	5	98	-25.40	-1.30
Shawano (2010)	20,100	21,618	54	648	-28.11	-2.34
Winnebago (2012)	24,448	25,763	40	807	-32.13	-1.59
City of Muskego (2010)	650	690	1	11	-40.00	-1.29
Outagamie (2012)	39,630	41,711	49	1,306	-42.46	-1.59
Ozaukee (2008-10 avg)	972	1,155	4	98	-45.75	-1.87
Polk (2009)	14,535	19,473	65	687	-75.97	-7.19
Dane (2010)	52,525	60,355	97	1,200	-82.16	-6.64
Forest (2012)	4,300	5,400	12	93	-83.42	-10.80
St. Croix (2008)	12,435	14,277	22	342	-83.73	-5.39
Clark (2011)	7,665	10,585	34	480	-85.88	-6.08
Iowa (2010)	6,030	7,960	22	210	-87.74	-9.18
Juneau (2011)	1,360	1,789	4	13	-107.25	-33.00
Lincoln (2009)	14,420	20,749	50	460	-126.58	-13.77
Town of Menasha (2009)	3,488	4,442	5	189	-231.60	-6.13
Marquette (2009)	1,485	2,185	5	76	-295.20	-19.42
Kewaunee (2009)	12,815	21,870	29	337	-312.24	-26.84
Pierce (2010)	10,262	29,250	39	409	-486.87	-46.43
Dunn (2009)	10,970	28,934	24	456	-748.50	-39.39

Table 2 indicates an improvement in the percentage of NR 135 RAs that achieved an approximate balance between revenues and expenses since the 2008 report. DNR audits emphasize the objective of matching revenue and expenses. DNR staff continues to provide guidance to RAs on establishing a fee structure in line with actual expenses and accurately recording ongoing NR 135 administrative costs.

**Table 2: RA Revenue Versus Administrative Costs
Comparison between 2008 Report and 2013 Report**

Category	2008 NRB Report	2013 NRB Report
Surplus > \$100/permit	4 (17%)	3 (8%)
Generally Balanced	12 (50%)	29 (74%)
Deficit > \$100/permit	8 (33%)	7 (18%)
Total RAs evaluated	24	39

Many RAs identified as having a surplus or deficit in 2008 have taken steps to come into a better balance between revenue and expenditures. Recommendations in DNR audit findings letters and DNR outreach on the topic have been helpful in improving this balance for many RAs. For example, better methods of recording legitimate expenses give a more accurate indication of the true balance. In several instances, fees have been reduced either because the initial permitting phase was completed, or because of improvements in efficiency in administering the NR 135 program as RA staff gained experience. A few recently audited RAs have modified their reclamation ordinances or fee schedules to reduce or increase revenue as needed.

An effective method of communicating how to improve fee and cost balances is to share solutions among NR 135 RAs at annual roundtable meetings or by discussions with individual RAs during performance review audits. The approach used by the East Central Wisconsin Regional Planning Commission (ECWRPC) to reduce surpluses and reserves provides an example of how RAs can address fund balance issues. The ECWRPC is the contractual agent administering the NR 135 reclamation program for five counties (Calumet, Outagamie, Shawano, Waupaca and Winnebago). When ECWRPC first became aware of surpluses in 2003, it addressed this by coordinating with member counties to lower annual fees on unreclaimed acres by implementing a short-term under-assessment of annual reclamation fees.

It is common to find RAs administering their program at a deficit despite having the authority to balance revenue with expenses. Seven RAs administer reclamation programs with a greater than \$100 per permit deficit while 21 others continue to administer their reclamation programs at a deficit. While NR 135.39 articulates the need to achieve a reasonable balance between revenue and expenses, at times an RA may purposely hold down fees to operators because the aggregate industry benefits the local economy. NR 135 does not prohibit this practice provided that program performance remains adequate and the uniform statewide reclamation standards contained in ch. NR 135 are complied with during reclamation.

The DNR will continue to monitor actions taken by NR 135 RAs to address surpluses and deficits to ensure that program revenue and administrative costs remain fair and reasonable.

RA Compliance with Reclamation Standards and NR 135 Requirements

RECLAIMED ACREAGE TO DATE

For the 39 RAs discussed in this report the number of acres reclaimed between 2008 and 2012 was reported as 1,224 (See Appendix 4.). For all RAs on a statewide basis, 3,766 acres have been reported reclaimed during this period.

For comparison, NR 135 RAs had reported that 1,260 acres had been certified as reclaimed by the end of 2007.

Source: *Nonmetallic Mining Newsletter* Spring 2009 (PUB WA 1340 2009)

The NR 135 reclamation program audit process is primarily intended to ensure uniform standards are complied with during reclamation, as required by ch. 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code. DNR does this by addressing program performance review criteria in NR 135.47 (see Appendix 2) during performance audits. A key audit element is to ensure that financial or other factors do not compromise the RA's capacity to administer the program and achieve acceptable reclamation outcomes in the field.

The 39 RAs evaluated for this report, and most RAs that have been audited, have been found to be in compliance with uniform statewide reclamation standards, based on DNR's on-site reclamation inspections. RA program funding deficits in and of themselves have not been found to have an adverse effect on reclamation in the field.

Where deficiencies have been found in RA programs during NR 135 audits, DNR staff have sometimes had to spend a significant amount of time and effort to help the RA regain compliance. This issue was brought to the NMAC at its 2012 meeting. Some RAs have successfully corrected their program deficiencies in response to DNR audit findings letters. Some RAs have addressed problems by letting their programs return to county administration. In still other cases, the process of correcting deficiencies remains on-going. DNR staff have also provided assistance on issues stemming from prior reclamation issues, such as permitting decisions by RAs, have given testimony at a contested case hearings, and have used performance audits to address citizen complaints regarding specific mine operations.

Development of Industrial Sand Resources in Wisconsin's Western Counties

Since approximately 2010, counties in mainly western Wisconsin have experienced an increase in applications for reclamation permits due to the growing number of industrial sand mines and ancillary facilities in that geographic area. Between July 2011 and July 2013 the number of permitted industrial sand mines increased from 28 to 105. This increase is attributable to the expansion of the industrial sand sector in response to increased demand for industrial sand by the oil and gas industry.

Increasing mining and reclamation activities has led to increased workload in the DNR program areas that issue DNR permits and provide technical assistance to industrial sand mines, including the NR 135 reclamation program. In 2011, the DNR found it necessary to create a position designated as the single point of contact between DNR and the industrial sand mine applicants to address media requests and facilitate the acquisition of the various DNR permits. The increase in industrial sand mine reclamation permits or modifications and actively mined acreage is shown in Table 3 for selected western Wisconsin counties.

Table 3: Total NR 135 Permits/Modifications and Actively Mined Acreage in Western Wisconsin

County	Increase in number of permits or modifications from 2010 – 2012	Increase in active acres 2010 – 2012
Barron	13	280
Chippewa	12	1,991
Eau Claire	4	870
Jackson	10	291
Monroe	12	753
Trempealeau	34	2,530
Wood	17	102
Totals	102	6,817

During the same period, there has also been an increase in permitting demands associated with ancillary facilities such as wash-dry plants, resin coating plants and associated transportation infrastructure. When such facilities are not located at the industrial sand mine site, these ancillary facilities do not require NR 135 reclamation permits, but other permitting associated with these facilities creates significant workload for county and local RAs.

Increased industrial sand mine and ancillary facility development has caused public concern resulting in more public inquiries and additional hearings, further increasing demands on RA staff. This has resulted in some NR 135 programs re-evaluating and revising their fee structures to cover increased administrative expenses, allowing some county NR 135 programs to generate increased revenue to cover their increased administrative expenses. In doing so, they have departed from the traditional fee assessment approach. Industrial sand mines often exceed the previous statewide average acreage of approximately 15 acres. These larger operations are more dynamic and do not resemble the typical fixed-footprint hardrock quarries on which the NR 135 fee structure was based. Because NR 135 RAs are allowed to recover administrative expenses, these recent revisions to their revenue structure appear reasonable, provided the RA justifies expenses and documents the rationale behind their fee structure. There is an opportunity for any business or citizen concerned with the revision to the fee structure to have input as changes to the fee structure must be approved by a board or committee at a public meeting.

Comparison of the DNR’s Program Revenue and Administrative Costs

The DNR’s revenue and administrative costs since the start of the NMM program are summarized in Table 4.

Table 4: DNR NMM Reclamation Program Revenue and Administration Costs by Year

Fiscal Year	DNR Revenue (collected by RAs and forwarded to DNR)	DNR NR 135 Expenditures	Surplus (Deficit)
Pre-2001	0	N/A	N/A
2001	\$ 108,606	\$ 137,816	(\$ 29,210)
2002	141,312	150,864	(9,552)
2003	134,880	188,083	(53,203)
2004	151,116	204,321	(53,205)
2005	160,319	174,689	(14,370)
2006	159,417	162,335	(2,918)
2007	165,414	146,224	19,190
2008	182,389	130,684	51,705
2009	206,880	128,617	78,263
2010	195,435	103,400	92,035
2011	190,360	111,795	78,565
2012	195,865	128,153	67,712

When the NMM Program was authorized in the 1997 – 99 biennial budget, it included three full-time equivalent (FTE) positions. The positions were authorized from the Environmental Fund, where the NMM reclamation fees are deposited. These resources were distributed among the DNR regions to maintain a statewide presence. From 2005 to 2010, budget cuts and position losses reduced the resources dedicated to the NMM program and, consequently, the program’s expenditures. Around 2010, the Waste

and Materials Management (WMM) Team decided to streamline the NMM reclamation program and dedicate about one FTE of work to the program.

Since 2010, the DNR's NMM reclamation program and other DNR programs have taken on significant additional NMM workload due to the increase in industrial sand mines and associated facilities. Additional DNR NR 135 workload is related to several factors:

- More DNR staff time has been directed toward providing technical assistance and outreach, addressing public concerns, responding to complaints and open records requests associated with new mines, and participating in enforcement efforts. Significant turnover in NR 135 administrators during this period resulted in additional training by DNR for new NR 135 program administrators as well as more ongoing technical support.
- In 2011, the DNR designated a single point of contact for new industrial sand operations. This position was created to educate applicants, facilitate acquisition of DNR permits and to respond to expanded media, legislative and other information requests. Because its duties included air and water regulatory issues, this position was not funded through NR 135 program funds. Approximately one third of this position's time was spent on NR 135 reclamation related issues.
- Municipalities that previously did not enact a reclamation ordinance and administer a voluntary NR 135 reclamation program have begun to do so. For example, three cities have recently annexed lands from adjacent townships that contain existing or potential industrial sand mines. These three cities and one additional township have submitted ordinances for DNR review and approval, and will soon request DNR assistance in establishing NR 135 reclamation programs.

NR 135-related reclamation work performed by the DNR single point of contact for the industrial sand mine industry for 2011 and 2012 totaled approximately \$45,000 per year. Additional time spent on industrial sand mine work by staff in programs other than the Waste and Materials Management (WMM) program is not included in the DNR administrative cost figures shown in Table 4. This is due to how time is recorded by staff in other programs, which is often driven by funding sources. Including the costs associated with the single point of contact and other non-WMM staff hours would significantly reduce or eliminate the apparent surplus shown in Table 4.

Recently, the DNR hired a half-time limited term employee to assist in meeting the new demands on the DNR's NR 135 staff resources, which will increase NR 135 program expenditures and reduce the account surplus.

Conclusions

This report addresses specific issues prescribed in NR 135.39(4), with a focus on program funding and reasonableness of the fees. It is based on DNR performance review audits of RAs mandated by ch. 295, Wis. Stats., which encompass both administrative reviews and field inspections of reclamation activities. Audits are conducted pursuant to criteria in NR 135.47 to ensure compliance with the uniform statewide reclamation standards and to verify that all NR 135 RAs are meeting requirements for proper program administration. Based on these audits, and in particular the 39 audits between 2008 and 2013 that evaluated RA fee and cost data, we conclude that:

- Fees assessed by NR 135 RAs remain reasonable and fair. Most RAs met the code objective that there be a close balance between revenue fees and expenses.
- The uniform statewide reclamation standards are being complied with during reclamation as required by ch. 295, Wis. Stats., and ch. NR 135, Wis. Adm. Code. This was confirmed by DNR through field inspections conducted during regular performance review audits. Likewise, all 39 RAs that received a DNR audit encompassing financial data are administering their reclamation programs in compliance with requirements in ch. 295, Wis. Stats., and in ch. NR 135, Wis. Adm. Code regardless of the RA's funding status.

- Eleven RAs received audits that did not encompass fee and cost information, and a subset of these were found to be deficient in meeting NR 135 reclamation program administrative requirements. DNR staff are providing technical assistance to bring these RAs into compliance.
- DNR NMM revenue, collected from active mining operations and forwarded to the DNR by RAs, exceeded the expenses directly incurred against the NMM budget, while additional DNR costs necessary to manage nonmetallic mining activities, such as the single point of contact and other non-WMM program staff hours, were not charged against the NMM budget.
- Due to further workload increases primarily due to the increase in industrial sand mining, the DNR has added a half-time staff person to the NMM program. This will reduce the gap between revenue and expenses.
- Several counties in western Wisconsin have experienced an increase in applications for reclamation permits due to the growth in industrial sand mining activity. Some NR 135 programs have modified their fee structure to ensure revenue is adequate to meet increased administrative expenses.

Appendix 1

RA Audit History 2003 - 2013

County or Local RA	Region	Year(s) Audited	Financial Data Used in 2013 Fee Report?	Comments
Adams	WCR	2011	Yes	
Ashland	NOR	2004/2007	No	
Barron	NOR	2003/2007	No	
Bayfield	NOR	2007	No	
Buffalo	WCR	2003/2013	No	Audit performed in 2013 but too late for inclusion in this report. Financial data not collected.
Burnett	NOR	2005	No	
Brown	NER	2008	No	
Calumet	NER	2004	No	
City of Franklin (Milwaukee Co.)	SER	2003/2013	No	Forthcoming 2013 audit
City of Madison (Dane Co.)	SCR	2010	Yes	
City of Muskego (Waukesha Co.)	SER	2011	Yes	
City of New Berlin (Waukesha Co.)	SER	2010	Yes	
Clark	WCR	2003/2012	Yes	
Chippewa	WCR	2007/2010	No	Financial data not collected in 2010.
Columbia	SCR	2003/2012	Yes	
Crawford	WCR	2006/2013	No	Audit performed in 2013 but too late for inclusion in this report.
Dane	SCR	2003/2011	Yes	
Dodge	SCR	2009	Yes	
Door	NER	2003/2012	Yes	
Douglas	NOR	2007	No	
Dunn	WCR	2009	Yes	
Eau Claire	WCR	2010	Yes	
Florence	NOR	2008	No	
Fond du Lac	NER	2003/2013	Yes	
Forest	NOR	2005/2013	Yes	
Grant	SCR	2010	Yes	
Green	SCR	2003/2013	Yes	
Green Lake	NER	2006	No	

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Iowa	SCR	2011	Yes	
Iron	NOR	2005	No	
Jackson	WCR	2005/2013	No	Audit performed in 2013 but too late for inclusion in this report.
Jefferson	SCR	2006	No	
Juneau	SCR	2003/2012	Yes	
Kenosha	SER	2009	Yes	
Kewaunee	NER	2009	Yes	
La Crosse	WCR	2003/2013	No	Audit performed in 2013 but too late for inclusion in this report.
Lafayette	SCR	2006	No	
Langlade	NOR	2005/2010	Yes	
Lincoln	NOR	2005/2010	Yes	
Manitowoc	NER	2008	Yes	
Menominee	NER	n/a	n/a	Passed ordinance in case mine proposed in non-tribal lands
Marathon	NOR	2010	Yes	
Marinette	NER	2003/2013	No	Forthcoming 2013 audit
Marquette	NER	2010	Yes	
Milwaukee	SER	n/a	n/a	City of Franklin has program covering the only mines in county; therefore exempt by statute.
Monroe	WCR	2005	No	
Oconto	NER	2005	No	
Oneida	NOR	2003/2005 & 2012	Yes	
Outagamie	NER	2006/2013	Yes	
Ozaukee	SER	2003/2012	Yes	
Pepin	WCR	2005	No	
Portage	WCR	2007	No	
Pierce	WCR	2011	Yes	
Polk	NOR	2003/2011	Yes	
Price	NOR	2005/2009	Yes	
Racine	SER	2003/2013	No	Forthcoming 2013 audit
Richland	SOR	2007	No	
Rock	SCR	2005/2012	Yes	
Rusk	NOR	2004/2009	Yes	
Saint Croix	WCR	2008	Yes	
Sauk	SCR	2008	No	
Sawyer	NOR	2005	No	
Taylor	NOR	2005	No	
Shawano	NER	2011	Yes	
Sheboygan	SER	2003/2013	No	Forthcoming 2013 audit

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Town of Cedarburg (Ozaukee Co.)	SER	2012	n/a	Rescinded ordinance; now administered by county
Town of Genesee (Waukesha Co.)	SER	2010	Yes	
Town of Hartford (Washington Co.)	SER	2011	n/a	Kept ordinance but turned program administration over to county
Town of Jackson (Washington Co.)	SER	2012	No	
Town of Lawrence (Brown Co.)	NER	2012	No	Follow-up audit needed
Town of Menasha (Winnebago Co.)	NER	2010/2012	Yes	
Town of Ogema (Price Co.)	NOR	2004		
Town of Saukville (Ozaukee Co.)	SER	Audited with follow-up in 2012	No	not included due to limitations of available financial data
Town of Wayne (Washington Co.)	SER	2005	No	
Town of West Bend (Washington Co.)	SER	2011	n/a	Kept ordinance but turned program administration over to county
Trempealeau	WCR	2005	No	
Vernon	WCR	2006	No	
Vilas	NOR	2003/2012	Yes	
Village of Hobart (Brown Co.)	NER	2012	No	Audit incomplete
Village of Sussex (Waukesha Co.)	DER	2008	No	
Walworth	SER	2003/2012	Yes	
Washburn	NOR	2004/2011	No	Inadequate financial data
Washington	SER	2003/2013	No	Audit performed in 2013 but too late for inclusion in this Fee Report.
Waukesha	SER	2013	No	Audit performed in 2013 but too late for inclusion in this Fee Report.
Waupaca	NER	2007	No	
Waushara	NER	2007	No	
Winnebago	NER	2003/2013	Yes	
Wood	WCR	2007	No	

Appendix 2: Relevant Code Citations

NR 135.39 FEES.

(1) – (3) ...

(4) REGULATORY AUTHORITY'S SHARE, (a) The fee under this subsection shall be collected as established in the regulatory authority's reclamation ordinance.

(b) The regulatory authority's share of the annual fees shall as closely as possible equal its expenses to administer its reclamation program...

(5) and (6)...

(7) Within 36 months after December 2000, and within each 5 year period thereafter, the department shall submit to the natural resources board a report on whether the nonmetallic mining reclamation revenue, expenditures and fees established by this section and by other regulatory authorities are reasonable. The report shall be prepared in consultation with the nonmetallic mining advisory committee established under s. NR 135.51.

NR 135.47 DEPARTMENT AUDITS. (1) The department shall periodically review the nonmetallic mining program of each regulatory authority to determine if the program is being conducted in compliance with this chapter, and is effective and consistent in ensuring operator compliance with the statewide uniform reclamation standards contained in this chapter.

(2) The program review shall include a performance audit and on-site inspections of mining operations within the jurisdiction.

(3) During the performance audit the department may evaluate the regulatory authority with respect to all of the following:

(a) Compliance with the county or local regulatory authority's nonmetallic mining reclamation ordinance and the standards in this chapter.

(b) The procedures employed by the regulatory authority 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 department's 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 of alternative requirements pursuant to this chapter.

(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 s. NR 135.40(7).

(L) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the regulatory authority to implement its nonmetallic mining reclamation program.

(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 that the department may deem necessary to ascertain compliance with this chapter.

(4) The department shall issue a written determination to the audited regulatory authority not less than every 10 years within 90 days of its audit, of whether or not the reclamation program administered by the regulatory authority is in compliance with the provisions of this chapter.

Appendix 3: **Information on NMAC Members**

Justin Cavey - Reclamation Specialist, Marathon County Conservation Planning and Zoning Department

Mr. Cavey represents the Wisconsin County Code Administrators (WCCA), and has long been a key [part of the Marathon County Reclamation Program – the initial and model program in Wisconsin. He worked with Mr. James Burgener, former Zoning Administrator and member of the NR 135 Technical Advisory Committee (TAC) and NMAC. Mr. Cavey has been very generous with his time in sharing his extensive experience in supporting his colleagues in their NR 135 programs. He has been a member of the NMAC since 2012.

Susan Courter - Sr. Safety & Environmental Specialist, EOG Resources, Inc.

Ms. Courter is a geologist and has supported the minerals industry in the areas of resource development, environmental compliance, and community education for more than 15 years. Ms. Courter first served on the Governor's Nonmetallic Mining Council beginning in 1996 and has served on the NMAC since 2008.

Mike Erickson - Aggregate producer and owner, Erickson Quarries, Inc.

Mr. Erickson, a long-term mine owner and producer, represented the perspective of the small operator during the rulemaking process. He has been actively involved with NR 135 since 1995, participating as a member of the Governor's Council and the Aggregate Producers of Wisconsin. Mr. Erickson has served on the NMAC since 2008.

Mr. Ronald L. Garrison - Geologist, Milestone Materials

Mr. Garrison plans and designs mine development and supervises aggregate resource development, reclamation permitting and reclamation activities. He is involved in permitting with the townships, counties and the DNR. Mr. Garrison is a past member of the Sauk County Ad-hoc Mineral Extraction Committee and has participated in the development of mining and reclamation ordinances in a number of other Wisconsin counties. Ron previously worked as a consulting geologist and a project geologist. Mr. Garrison has been involved in the developing the NR 135 rule and statewide program since 1994 and has served on the NMAC since 2008.

Dr. Tom Hunt - Director of Science, Applied Ecological Services (AES)

Dr. Hunt is a natural resources professional with decades of experience as an administrator, teacher and consultant for policy and program development and management in systems science, ecology, agriculture and conservation; as well as land planning and design, regulatory permitting, restoration, research and project management. Dr. Hunt began his career as a soil scientist and restoration ecologist in 1977 and served in many capacities, from private utilities, consulting, research, teaching, to government. Dr. Hunt is an emeritus professor at the University of Wisconsin-Platteville, where he taught and served as Director of Reclamation and Director of Research and Outreach of Pioneer Farm. In addition he was Director of the Social and Environmental Justice Program.

Marty Lehman - Safety Associate, Badger Mining Corporation

Mr. Lehman has a BS in Wildlife Management from UW Stevens Point and a Masters from the University of Connecticut in Allied Health – Occupational Health and Safety. As a Safety Associate, Mr. Lehman is involved in the development and implementation of the comprehensive environmental management program. He is concerned with both reclamation plans and closure plans for corporate owned landfills. Marty previously worked for the Fond du Lac Land Conservation Department and with

the DNR. Mr. Lehman has been involved in the developing the NR 135 rule and statewide program since 1994 and has served on the NMAC since 2008.

Edward A. Reesman - Senior Manager, Payne & Dolan, Inc.

Mr. Reesman has been involved with community relations, environmental compliance and permitting. He has worked with all levels of government in promoting resolution or issues around nonmetallic mining. Mr. Reesman has participated in the MEAC Group, the purpose of which is, to bring all affected parties together on a regular basis for problem solving. In his capacity as a representative of the Wisconsin Transportation Builders Association has contributed to the development of the NR 135 rule and statewide program since 1994. Mr. Reesman has served on the NMAC since 2008.

Bryce Richardson - Soil and Water Conservationist, Monroe County Land Conservation

Mr. Richardson represents the Wisconsin Association of Land Conservation Employees (WALCE). Although not appointed to the NMAC by the Secretary of the DNR, he participates at the request of the NMAC. Mr. Richardson has served on the NMAC since 2003.

Gary Werner - Sierra Club

Besides representing the Sierra Club, Mr. Werner is the Executive Director of the Partnership for the National Trails System, a nationwide, non-profit federation of citizen organizations that works in partnership with the National Park Service, the USDA Forest Service and the Bureau of Land Management in achieving the goals of the National Trails System Act. Mr. Warner has served on the NMAC since 2001.

Appendix 4

Example of NR 135 RA Audit Financial Data

General Program Information	
Regulatory Authority/ Audit year	Adams County (2011)
Administered by:	Adams County
Fee structure <ul style="list-style-type: none"> • Revised with amended ordinance? • Other? 	The Reclamation Ordinance in SECTION 27.30 refers to 'Addendum A' – an external fee schedule established by Adams County that exists outside of the reclamation ordinance.
Overhead costs - Expenditures on Program Administration	
Supplies	\$100.00
Salary & Fringe Benefits	\$5,550.00
Transportation and office space etc./Administrative Support/ Data Management	\$1,900.00
Equipment or services (GPS or fees to access data base or contract services).	\$458.00
Total administrative expenses	\$7,958.00
Other Financial Data	
Fees collected on unreclaimed acres	\$8,025.00
(+) Permit Review Fees	\$905.00
(-) Amount transferred to DNR	\$845.00
Total operating revenue	\$8,085.00
(-) Total administrative expenses	\$7,958.00
Surplus or (deficit)	\$ 127.00
Other Information	
Total permits	7
Total acres being mined	132
Mines and acreage reclaimed since 2008	0