



2019-2023
Nonmetallic Mining
Reclamation Program
Update

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About the Nonmetallic Mining Reclamation Program

Under Wisconsin Administrative Code Chapter [NR 135](#), the Wisconsin Department of Natural Resources (DNR) Nonmetallic Mining Program is responsible for ensuring uniform statewide implementation of nonmetallic mining reclamation requirements. It does this by overseeing county and local reclamation programs, known as regulatory authorities (RAs). The DNR provides technical assistance to these programs and audits them periodically to ensure they are administering reclamation programs in a uniform and reasonable manner across the state. The DNR administers the program within the Integration Services Section of the Bureau of Environmental Analysis & Sustainability. A stakeholder group, the Nonmetallic Mining Advisory Committee, advises the DNR on its administration of the statewide reclamation program.

About this Report

This update provides a regulatory update of DNR oversight of RAs administering a nonmetallic mining reclamation program from 2019-2023. Included in this report is a synopsis of reclamation activities as reported by these authorities, a summary of audits and compliance of these authorities, and other reclamation activities of the program.



Annual Report Data

Reports are submitted annually by county and local reclamation programs, known as regulatory authorities (RAs). Reports are submitted each year by March 31, and represent reclamation activities that took place in the previous calendar year.

Table 1 below is a summary of reported reclamation activities over the 5-year period from 2019-2023 and represents an average of 97% of RAs reporting:

Table 1: 5 Year Reporting Trends

Year	Active Permits	Inactive Permits	New Acres Approved	Un-Reclaimed Acres	Reclaimed Acres	Pending Release
2019	2570	260	2757	45,710	673	652
2020	2531	241	1977	46,735	1,759	610
2021	2569	232	2583	46,530	840	457
2022	2535	257	1480	48,515	944	497
2023	2538	218	891	50,106	2,256	456

Accounting for all RAs, the number of active reclamation permits has remained consistent at nearly 2,600 facilities. The number of un-reclaimed acres reported has increased by approximately 4,400 acres to a total of approximately 50,000 acres, or a 9% increase.

In 2023, approximately 144,000 acres were approved (permitted) for mining. The un-reclaimed acreage comprises 35% of approved acres and less than 2% are reclaimed or waiting release. This leaves 63% of approved acreage available to be mined. DNR staff continue to have conversations with RAs to reduce un-reclaimed acres by a practical amount and encourage operators to perform reclamation contemporaneously with active operations. In 2023, the number of reclaimed acres that have been released or are waiting release exceeds the number of newly approved acres by a three-to-one ratio.

Table 2 shows the trends in mine size over the same 5-year timeframe:

Table 2: 5 Year Mine Size Trends

Year	1-5 Acres	6-10 Acres	11-15 Acres	16-25 Acres	26-50 Acres	>50 Acres
2019	693	516	304	339	274	184
2020	677	499	311	322	294	187
2021	666	500	333	337	304	197
2022	644	488	327	341	291	187
2023	633	497	321	370	294	205

Over the 5 year-period there was a 9% decrease in the number of 1–5-acre sites and a 10% increase in mines sites over 50 acres. This indicates mines are increasing in size over time and the need for continued discussion regarding contemporaneous reclamation as operators continue mining is needed. According to s. NR135.01(b), Wis. Adm. Code, the purpose of reclamation is to minimize the area affected by mining and provide for contemporaneous reclamation. This is further supported by the standards in the code including the requirement that reclamation commence as soon as practicable when mining is done in any part of the mine site (ss. NR135.06(2), NR135.12, and NR135.14, Wis. Adm. Code).

A summary of RA administrative actions from 2019-2023 is provided in Table 3 below:

Table 3: 2019-2023 Administrative Actions

Year	Alternatives	Modifications	Enforcement	Suspension/Revocation	Hearings
2019	1	30	16	11	54
2020	8	52	16	5	83
2021	4	66	28	6	75
2022	3	72	15	1	67
2023	5	60	22	1	53

In 2023, the reported administrative actions were as follows:

- 45% of permit modifications were due to expansions and changes in mining boundaries.
- Enforcement actions were taken through orders for correction and citations (64% of events), and through stop-work orders (32% of events).
- One permit was revoked for a site that did not provide financial assurance and did not conduct mining at the site.
- Of the public hearings held, 54% pertained to conditional use permits and other RA zoning matters and only 4% were for reclamation hearings.

The following charts display the nature of the plan modifications, enforcement actions, and topics of public hearings.

Chart 1: 2023 Nature of Modifications

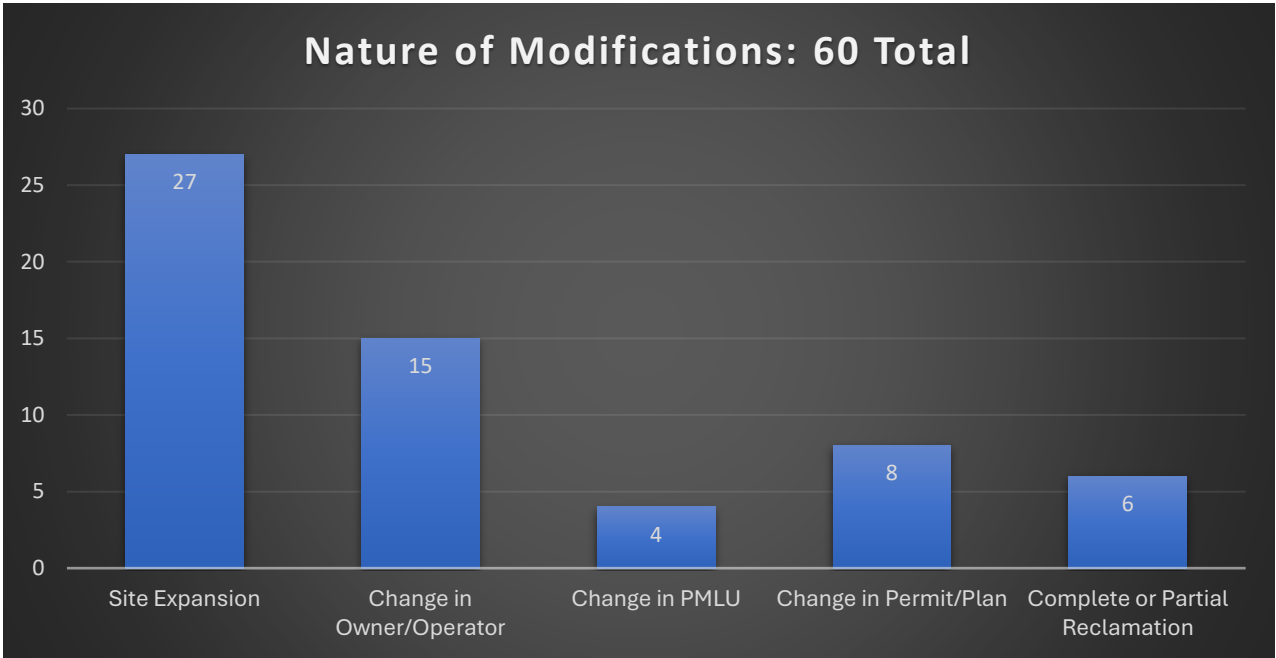
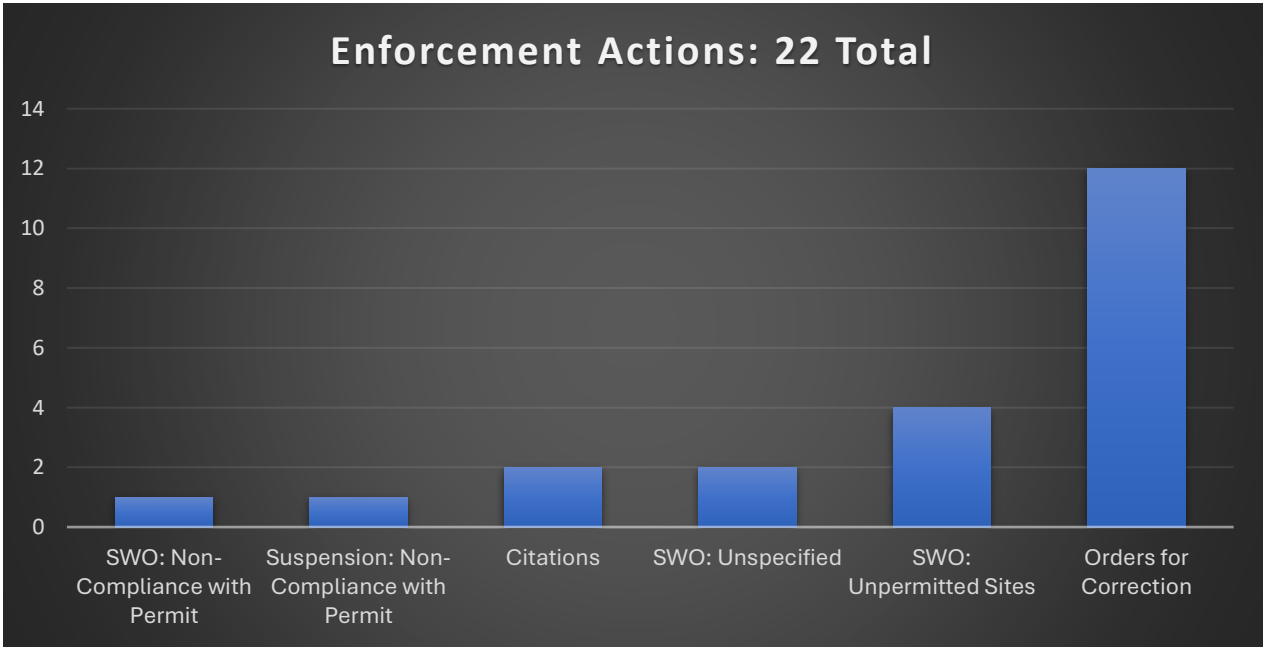
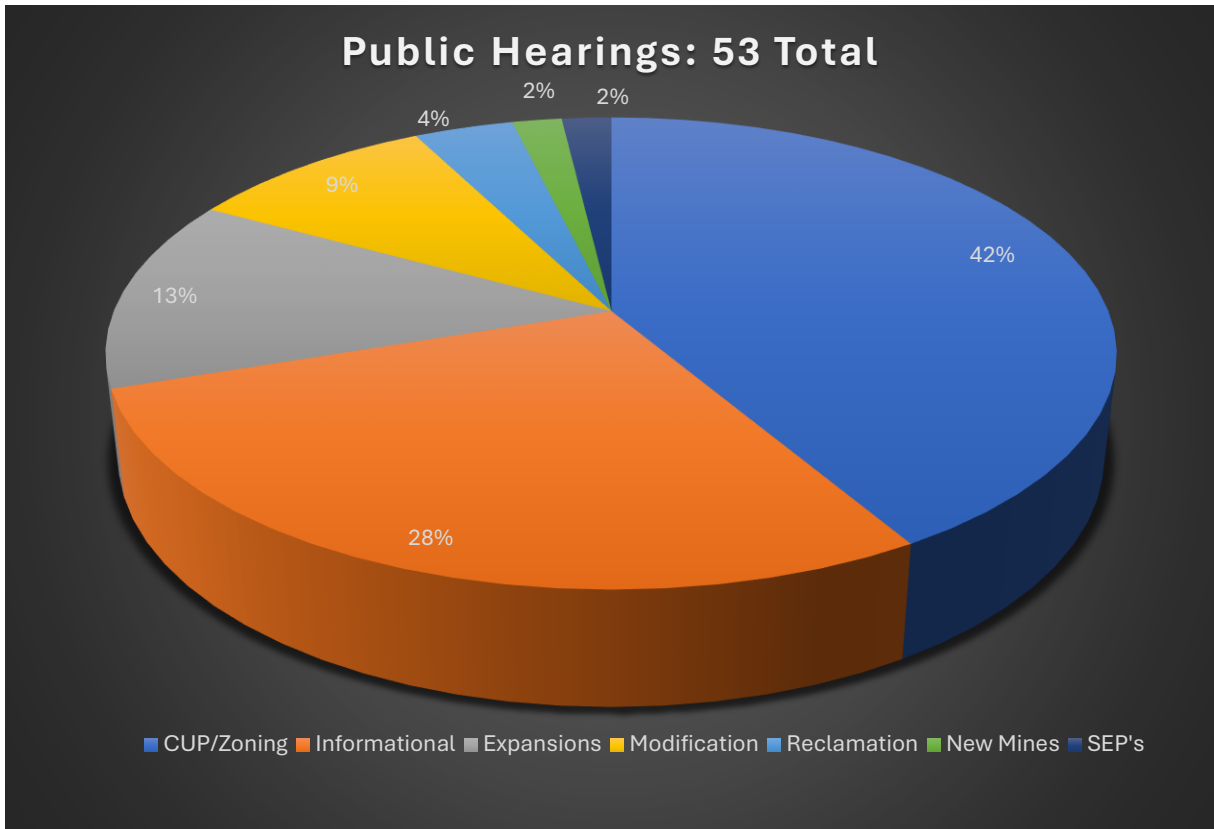


Chart 2: 2023 Nature of Enforcement Actions by Type



Note: In Chart 1, PMLU = Post Mining Land Use and in Chart 2, SWO = Stop Work Order

Chart 3: 2023 Public Hearings by Topic



Note: CUP = Conditional Use Permit and SEP = Special Exception Permit

NR135 Audit Data

Audits of RAs are scheduled based on the date of their last audit and are to be conducted once every 10 years per s. 295.18(1)(c), Wis. Stats. Each performance audit consists of a desk review and a field site inspection. The scope of an audit is defined ins. NR135.47, Wis. Adm. Code and includes 24 categories that address processes and methods of program administration.

NR135 Audits and Compliance

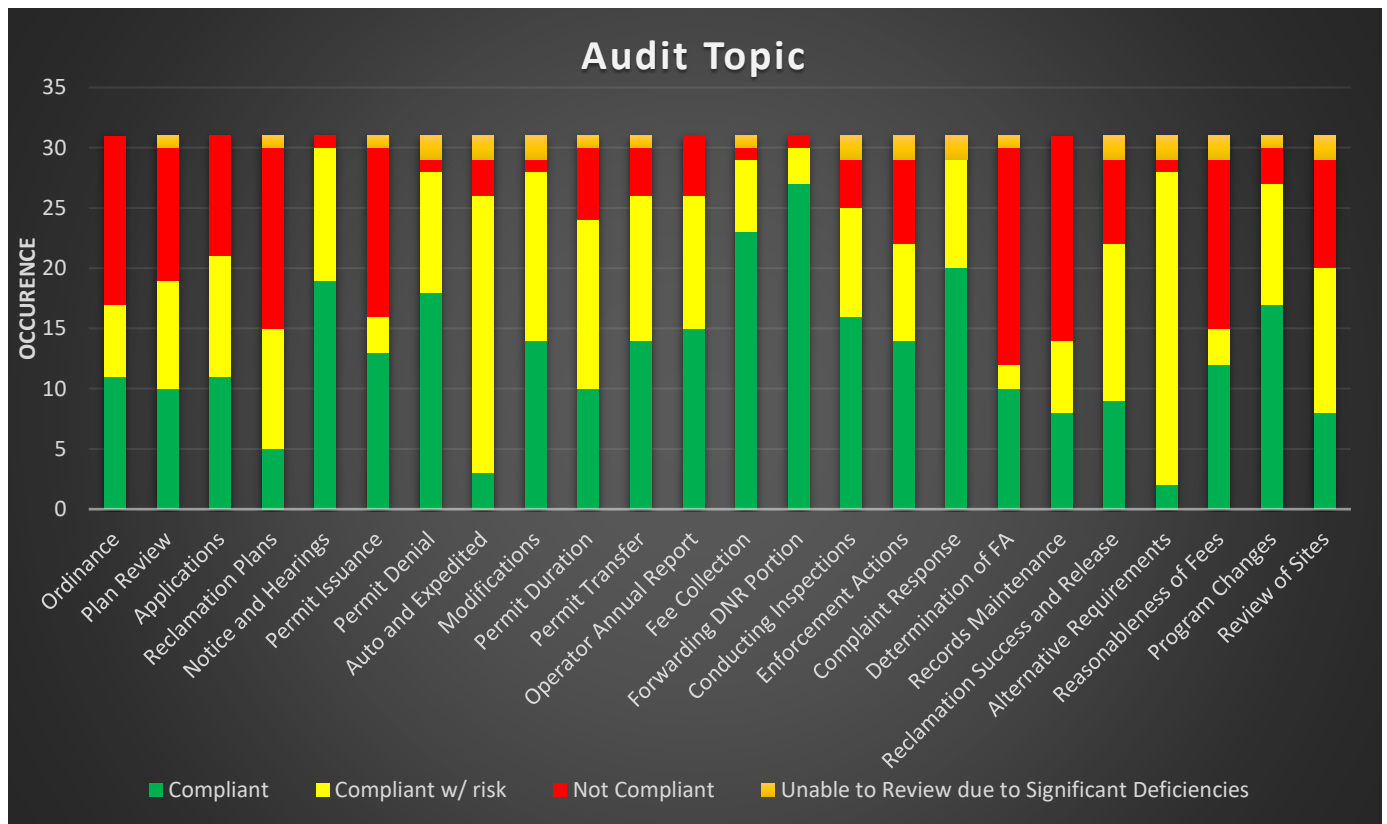
Since 2019, there have been a total of 31 audits of RAs which includes 4 municipal RAs. There was an average of 5 categories per RA requiring corrective action (findings). The categories with the most common findings include:

- Determining financial assurance amount
- Maintenance of records (financial assurance documents)
- Ordinance provisions
- Permit issuance
- Reasonableness of fees
- Reclamation plan content
- Reclamation plan review and approval

Of these, financial assurance determinations, reclamation plan content, and reclamation plan reviews and approvals were the most common repeat findings from previous audits.

Figure 1 below summarizes the overall occurrences for each audit category since 2019. Green sections represent those RAs fully compliant with NR 135, yellow sections are considered compliant with risks that may lead to non-compliance, and red sections are considered non-compliant and in need of corrective action.

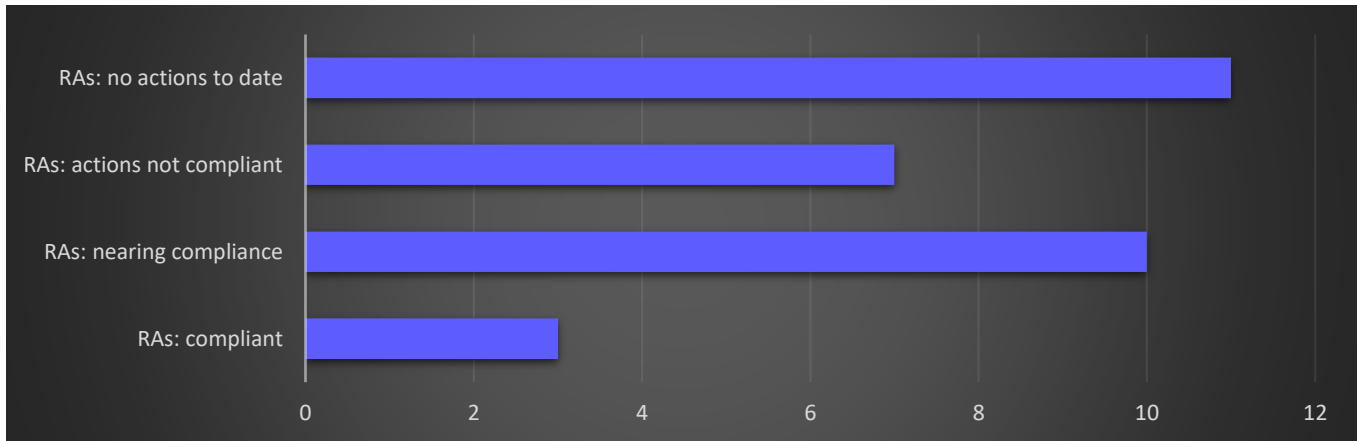
Figure 1: NR135 RA Compliance



Any RA that has non-compliant categories in the audit findings is given a compliance schedule with required actions for returning to compliance. The RAs audited between 2019 and 2023 are currently at varying stages of compliance.

Figure 2 below summarizes RA compliance status. About 58% of RAs since 2019 have not taken successful action toward addressing their non-compliance categories; However, this represents a decline as reported in 2022 (68%).

Figure 2: NR135 RA Compliance Status



DNR has identified 6 steps for working with RAs to achieve compliance. The goal is to encourage correction at the lowest step needed to regain compliance. These steps are outlined below. RAs that have not taken action or whose actions have not achieved compliance are currently at step three:

- Step 1: Audit
- Step 2: Opportunity for correction
- Step 3: Not meeting compliance schedule
- Step 4: Outreach means
 - Dependent on degree of progress
- Step 5: Letter of continued non-compliance
 - Notice of Non-compliance/Notice of Claim
 - Timelines established
- Step 6: RA non-compliance consequences
 - NMAC involvement
 - DNR considers taking program

NR135 Audit Backlog

As previously indicated, audits of RAs are scheduled based on date of last audit and are to be conducted once every 10 years. The number of past-due audits where the time between audits of RAs exceed the 10-year timeframe began in 2019 and increased during the 2020 pandemic. Since 2022, the number of RAs due for audit has also increased.

Table 3 below shows the number of due or past due audits since 2021. The Department is planning to initiate efforts in 2025 to reduce the number of past due audits by initiating a process through which desk review will be conducted by virtual means ahead of the field season. This, in addition to expanded staffing capacity, is expected to aide in reducing the number of past-due audits and help achieve the targeted 10-year audit schedule.

Table 3: NR135 Audit Status

Status	2021	2022	2023	2024	2025	2026 (projected)
Total due/past due	19	25	29	35	39	43
Past Due	13	13	15	21	29	30
High Priority*	7	8	4	8	15	20

Regulatory Authority Activity

Throughout 2024 RA requests for assistance and interpretation of NR135 administration was similar to the number of requests tracked over the 5-year audit timeline. Assistance and interpretation was requested by 43 regulatory authorities (47% of the total number of RAs), encompassing 78 situations in 14 categories of topics including:

- Certificate of Completion (6)
- Enforcement (9)
- Exemptions (6)
- Fees (1)
- Financial assurance (8)
- Inspecting (2)
- Non-mining activity (3)
- NR340 jurisdictions (2)
- Operations (6)
- Ordinances (3)
- Permitting (20)
- Solid waste (6)
- Wetland protections (2)
- Zoning (4)

Regulatory staff turnover occurred at high rates in 2024, with 13 counties and 4 municipalities experiencing turnover (~ 20% of RAs). Notably, one county had staff turnover four consecutive years, and two counties have chosen not to replace their vacancies. Additionally, one county regained status as an RA, assuming jurisdiction formerly contracted with a regional planning commission. These trends support the continued need for DNR training and assistance to RAs.

Efforts to provide organized training to RAs included:

- Presentation on reclamation best practices at WI Land and Water conference in Green Bay March 2024
- Presentation on audit compliance at WI County Code Administrators conference March 2024
- Pre-recorded webinars on program administration for new RAs housed on the WI Land and Water training website.

The 2019-2023 NRB Fee Report was distributed to the Natural Resources Board on December 05, 2024, and was provided to the NMAC members for review and discussion at the annual stakeholder meeting on December 16, 2024. The NRB Fee Report has been generated every 5 years starting in 2003. It evaluates the reasonableness of program revenue, expenditures, and fees collected in the administration of the program.

Contact

For more information about the Nonmetallic Mine Reclamation Program, please contact:

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