

Chapter 41 NON-METALLIC MINE RECLAMATION

41.1 Purpose and Policy	41.13 Permit Transfer
41.2 Adoption, Amendment, Repeal	41.14. Review
41.3 Definitions	41.15. Permit Modification
41.4 Administration	41.16. Permit Suspension or Revocation
41.5 Applicability	41.17. Annual Operator Reporting
41.6 Standards	41.18. Annual Fees
41.7 Nonmetallic Mining Reclamation Permit	41.19. Regulatory Reporting and Documentation
41.8 Reclamation Plan	41.20. Completed Reclamation-Reporting, Certification and Effect
41.9 Financial Assurance	41.21. Permit Termination
41.10 Public Notice and Right of Hearing	41.22. Right of Entry and Inspection
41.11 Alternative Requirements	41.23. Violations
41.12 Permit Duration	

41.1. Purpose and Policy.

41.1-1. *Purpose.* The purpose of this law is to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place within the boundaries of the reservation of the Oneida Tribe of Indians of Wisconsin and any other lands added under any law of the United States.

41.1-2. *Policy.* It is the policy of the Tribe to have procedures for reclamation of nonmetallic mining sites within the Reservation.

41.2. Adoption, Amendment, Repeal.

41.2-1. This law was adopted by the Oneida Business Committee by resolution BC-08-01-07-G.

41.2-2. This law may be amended by the Oneida Business Committee or the Oneida General Tribal Council as set forth under the laws governing Tribal administrative procedures.

41.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

41.2-4. Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

41.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

41.3. Definitions.

41.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Alternative requirement” means an alternative to the reclamation standards of this law provided through a written authorization granted by the Department pursuant to 41.11.

(b) “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.

(c) “Department” means the Oneida Zoning Department.

(d) “Environmental pollution” means the contaminating or rendering unclean or impure

the air, land or waters within the Reservation, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(e) “Financial assurance” means a commitment of funds or resources by an operator to the Department that satisfies the requirements in 41.9 and is sufficient to pay for reclamation activities required by this law.

(f) “Landowner” means the person who has title to land in fee simple or who possesses land held in trust 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 possesses land held in trust or holds a land contract for that land.

(g) “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.

(h) “Nonmetallic mining” or “mining” means all of the following:

(1) 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.

(2) 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.

(i) “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 law, 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.

(j) “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 by-products 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.

(k) “Nonmetallic mining site” or “site” means all contiguous areas of present or proposed mining on tribal lands and waters held in trust, tribal lands and waters held in fee status, fee status lands under the control of individual Oneida members, heirship lands and waters and individual and tribal trust lands and waters, within the exterior boundaries

of the Oneida Tribe of Indians of Wisconsin Reservation; and such other lands as may be hereafter added, both within and without the exterior boundaries of the Oneida Reservation, under any law of the United States, except as otherwise provided by law, including:

- (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.
- (l) "Operator" means any person or entity who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employers, contractors or subcontractors.
- (m) "Reservation" means all land within the exterior boundaries of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (n) "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, or source material, special nuclear material or by-product material which is defined as radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material or the tailings or waste produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.
- (o) "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.
- (p) "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.
- (q) "Tribe" means the Oneida Tribe of Indians of Wisconsin.
- (r) "Unreclaimed acre" or "unreclaimed acres" means:
- (1) those unreclaimed areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under 41.20-3. However the term does not include any areas described in 41.3-1(r)(2).
 - (2) "Unreclaimed acre" or "unreclaimed acres" does not include:

(A) Those areas where reclamation has been completed and certified as reclaimed under 41.20-3.

(B) Those portions of nonmetallic mining sites which are included in nonmetallic mining reclamation plan approved pursuant to this law but are not yet affected by nonmetallic mining.

(C) Areas previously mined but used 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.

(D) For purposes of fees under 41.8, those areas within a nonmetallic mining site which the Department has determined to have been successfully reclaimed on an interim basis in accordance with 41.20-3.

41.4. Administration.

41.4-1. The provisions of this law shall be administered by the Oneida Zoning Department.

41.5. Applicability.

41.5-1. *Overall Applicability.* The provisions of this law shall extend to all tribal lands and waters held in trust, all tribal lands and waters held in fee status, all fee status lands under the control of individual Oneida members, all heirship lands and waters and all individual and tribal trust lands and waters, all within the exterior boundaries of the Oneida Tribe of Indians of Wisconsin Reservation; and to such other lands as may be hereafter added, both within and without the exterior boundaries of the Oneida Reservation, under any law of the United States, except as otherwise provided by law.

41.5-2. Exemptions. This law does not apply to the following activities:

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

(b) 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.

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

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

(e) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total land over the life of the mine.

(f) Any metallic mining operation.

(g) Any activities required to prepare, operate or close a solid waste disposal facility, or a hazardous waste disposal facility, that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this law 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.

(h) 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.

41.6. Standards.

41.6-1. All nonmetallic mining sites subject to this law shall be reclaimed in conformance with the standards contained in this section.

41.6-2. General Standards.

(a) Refuse and Other Solid Wastes. Nonmetallic mining refuse and other solid wastes shall be reused in accordance with a reclamation plan.

(b) 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.

(c) Public Health, Safety and Welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with Tribal regulations governing public health, safety and welfare.

(d) Habitat Restoration. When the land use required by the reclamation plan approved pursuant to this law 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.

(e) Compliance with Environmental Regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable laws including those related to environmental protection, zoning and land use control.

41.6-3. *Surface Water and Wetlands Protection.* Nonmetallic mining reclamation shall be conducted and completed in a manner that assures compliance with the Tribe's water quality standards for surface waters and wetlands contained. 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 within the Reservation shall be installed in accordance with the reclamation plans approved pursuant to this law. Diverted or channelized runoff resulting from reclamation may not adversely affect neighboring properties.

41.6-4. 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 to be exceeded.

41.6-5. Topsoil Management.

(a) Removal. Topsoil and topsoil substitute material shall be removed, protected and redistributed to support reclamation and site stabilization. Topsoil shall be managed as specified in the reclamation plan approved pursuant to this law in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, 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 law.

(1) Existing resources that may be used to identify the soil present on a site include soil surveys and information obtained from a soil scientist or other available resources. Topsoil or topsoil substitute material shall be removed from areas to be affected by mining operations to the depth indicated in the reclamation plan or as determined in the field by a soil scientist, project engineer or other qualified professional.

(c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this law, 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.

41.6-6. *Final Grading and Slopes.*

(a) All areas affected by mining shall be graded in accordance with the reclamation plan approved pursuant to this law to achieve a stable and safe condition consistent with the post mining land use. The reclamation plan may designate areas such as stable slopes and rock faces which do not require final grading.

(b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless alternative requirements are approved under 41.11, and stable slopes can be demonstrated based on site-specific engineering analysis. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically six (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.

(c) 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.

41.6-7. *Topsoil Redistribution for Reclamation.* Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this law in a manner which minimizes compaction 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.

41.6-8. *Revegetation and Site Stabilization.* Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this law, 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.

41.6-9. *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 law. 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 an agent of the Department;

(2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photodocumentation 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.

41.6-10. *Intermittent Mining.* Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to 41.9 is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

41.6-11. *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 section, or to meet the goals specified in the reclamation plan approved pursuant to this law.

41.7. Nonmetallic Mining Reclamation Permit.

41.7-1. *Permit Required.* Every operator of a nonmetallic mining site on the reservation who engages in or plans to engage in nonmetallic mining shall obtain a reclamation permit issued under this section, except for nonmetallic mining sites that are exempt from this law under 41.5-2. No person may engage in nonmetallic mining or nonmetallic mining reclamation without a reclamation permit issued pursuant to this law.

41.7-2. *Application.* All operators of nonmetallic mining sites shall apply for a reclamation permit from the Department. All applications for reclamation permits shall be accompanied by the following:

(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 nonmetallic mining reclamation standards established by this law.

(f) A reclamation plan and plan review fees.

(g) A land use permit.

41.7-3. *Expedited Review.* Any operator of a nonmetallic mining site may request expedited review of a reclamation permit application under 41.7-3(a) or 41.7-3(b) as follows:

(a) The operator may submit a request for expedited permit review with payment of the expedited review fee specified in 41.18-2. This request shall state the need for such expedited review and the date by which such expedited review is requested.

(b) Following receipt of a request under this subsection, the Department 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 41.7-3(a) shall be returned.

(c) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to 41.10. This section does not impose an obligation upon the Department to act upon a permit application under this section by a specific date.

41.7-4. *Permit Conditions.* Any decision under this section may include conditions as provided below:

(a) The Department 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 law.

(b) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to 41.9 prior to beginning mining.

41.7-5. *Permit Approval.* An application for a nonmetallic mining reclamation permit shall be approved unless the Department finds any of the following:

(a) The applicant has, after being given an opportunity to make corrections, failed to provide to the Department an adequate permit application, reclamation plan, financial assurance or any other submittal required by this law.

(b) The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this law.

(c) The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin or elsewhere within ten (10) years of the permit application or modification request being considered shown a pattern of serious violations of this law or of other environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:

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

(2) Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this law, or other reclamation ordinances.

(3) Forfeitures of financial assurance.

(d) The applicant fails to meet the requirements under 41.8.

(e) The permit would violate Tribal policy.

41.7-6. A decision to deny an application to issue a reclamation permit may be reviewed under

41.14-2.

41.7-7. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.

41.8. Reclamation Plan.

41.8-1. *Reclamation Plan Requirements.* All operators of nonmetallic mining sites subject to this law shall prepare and submit a reclamation plan that meets the following requirements:

(a) **Plan Required.** An operator who conducts or plans to conduct nonmetallic mining shall submit to the Department a reclamation plan that meets the requirements and standards of this law. To avoid duplication, the reclamation plan may, by reference, incorporate existing plans or materials that meet the requirements of this law.

(b) **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:

(1) Maps of the nonmetallic mining site including the general location, property boundaries, the areal extent, depth to bedrock, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of ground water, the location of surface waters and the existing drainage patterns.

(A) Topsoil or topsoil substitute material required to support revegetation needed for reclaiming the site to approved postBmining land use can be identified using soil surveys or other available information.

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

(3) Existing topography as shown on contour maps of the site at contour intervals as specified by the Department.

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

(A) Some of or all of the information required above may be shown on the same submittal, i.e., the site map required by 41.8-1(b)(1) may also show topography required by 41.8-1(b)(3).

(c) **PostBMining Land Use.**

(1) The reclamation plan shall specify a proposed postBmining land use for the nonmetallic mine site. The proposed postBmining land use shall be consistent with Tribal land use plans and Tribal zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed postBmining land use shall also be consistent with any applicable laws in effect at the time the plan is submitted.

(2) Land used for nonmetallic mineral extraction in areas zoned exclusively for agricultural use shall be restored to agricultural use.

(d) **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:

(1) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope

stabilization measures.

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

(3) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

(4) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.

(5) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.

(6) 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.

(7) Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved postmining land use. Standards for revegetation may be based on the percent of vegetative cover, productivity, plant density, diversity or other applicable measures.

(8) 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.

(9) A hydrogeological investigation is required by a hydrogeologist to assure that there will not be a permanent lowering of base flow in adjacent streams or degradation of groundwater quality.

(10) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the reduction of fees pursuant to 41.20-4(c) and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in this law and timing of interim and final reclamation.

(A) Some of the information required by this subsection may be combined to avoid duplication, e.g. a single map may show anticipated postmining topography required by 41.8-1(d)(3) as well as structures and roads as required by 41.8-1(d)(4).

(e) The reclamation plan shall contain criteria for assuring successful reclamation in accordance with 41.6-9.

(f) Certification of Reclamation Plan. The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. The landowner and lessee, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

(g) Approval. The operator shall keep a copy of the reclamation plan required by this section, once approved by the Department under this law, at the mine site or, if not practicable, at the operator's nearest office or place of business.

41.8-2. *Plan Review Fees.* A person who intends to operate a nonmetallic mining site for which

a permit application has been submitted under 41.7-2 shall submit a non-refundable plan review fee, which shall be established by the Department. A separate plan review fee shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to 41.15.

41.8-3. *Expedited Plan Review Fee.* A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under 41.7-2 may obtain expedited reclamation plan review by paying a fee to the Department. Such fee shall be in addition to that required in 41.8-2.

41.8-4. *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 41.18.

41.8-5. *Public Nonmetallic Mining.* The plan review fee requirements of this section do not apply to nonmetallic mining conducted by the Tribe through its agencies or departments.

41.9. Financial Assurance.

41.9-1. The following financial assurance requirements do not apply to nonmetallic mining conducted by the Tribe through its agencies or departments.

41.9-2. *Financial Assurance Requirements.* All operators of nonmetallic mining sites on the reservation shall prepare and submit a proof of financial assurance that meets the following requirements:

(a) *Notification.* The Department shall provide written notification to the operator of the amount of financial assurance required under 41.9-2(c).

(b) *Filing.* Following approval of the nonmetallic reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with the Department. The financial assurance shall provide that the operator shall faithfully perform all requirements in this law, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable to the Oneida Tribe of Indians of Wisconsin. In cases where one or more regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the Department only if it currently has primary regulatory responsibility.

(c) *Amount and Duration of Financial Assurance.* The amount of financial assurance shall equal as closely as possible the cost to the Department 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 the Department to assure it equals outstanding reclamation costs. Any financial assurance filed with the Department shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The Department 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.

(d) 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 the Department 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, 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 the Department, 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.

(e) Multiple Projects. Any operator who obtains a permit from the Department for two (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 the Department.

(f) Certification of Completion and Release.

(1) The operator shall notify the Department, 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. The Department 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. The Department 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, the Department 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.

(2) The Department shall make a determination of whether or not the certification in 41.9-2(f)(1) can be made within sixty (60) days after the request is received.

(3) The Department may make a determination under this subsection that:

(A) Reclamation is not yet complete;

(B) It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;

(C) Reclamation is complete in a part of the mine; or

(D) Reclamation is fully complete.

(g) Forfeiture. Financial assurance shall be forfeited if any of the following occur:

(1) A permit is revoked under 41.16 and the appeals process has been completed.

(2) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.

(h) Cancellation. Financial assurance shall provide that it may not be cancelled by the surety or other holder or issuer except after not less than a ninety (90) day notice to the Department in writing by registered or certified mail. Not less than thirty (30) days prior

to the expiration of the ninety (90) day notice of cancellation, the operator shall deliver to the Department 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.

(i) 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 41.9-2(k). The operator shall give the Department at least sixty (60) days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the Department.

(j) Bankruptcy Notification. The operator of a nonmetallic mining site shall notify the Department by certified mail of the commencement of voluntary or involuntary proceeding under bankruptcy code, 11 USC, et seq., naming the operator as debtor, within ten (10) days of commencement of the proceeding.

(k) Adjustment of Financial Assurance. Financial assurance may be adjusted when required by the Department. The Department may notify the operator in writing that adjustment is necessary and the reasons for it. The Department may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.

41.9-3. 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 law.

41.10. Public Notice and Right of Hearing.

41.10-1. The Department shall, except as provided in 41.10-2, provide public notice for a public hearing as set forth below:

(a) Public Notice.

(1) When the Department receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than thirty (30) days after receipt of a complete application that satisfies 41.7-2.

(2) The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published in the Kalihwisaks and shall advise the following:

(A) The locations at which the public may review the application and all supporting materials, including the reclamation plan.

(B) The time, place, whom, and manner in which views may be presented. Said notice shall be published and posted for no less than ten (10) days prior to the public hearing.

(3) Copies of the notice shall be forwarded by the Department to the owners of land within twelve hundred (1,200) feet of the boundaries of the parcel or parcels of land on which the site is located.

(b) Public Hearing. The Department shall provide interested persons a reasonable opportunity to submit data, views, or arguments in writing in regards to an application for a nonmetallic mining reclamation permit. It is the intent of this law that public hearings be held in order to receive comment on the nature, feasibility and effects of the proposed reclamation.

(1) Subsequent to the public comment period and prior to the Department-s

recommendation to the Land Commission, the Department shall consider fully, all oral and written comments concerning the proposed action.

(2) If a zoning-related public hearing is conducted on a proposed nonmetallic mine site, the Department shall allow testimony on both the zoning-related and reclamation-related matters. This opportunity shall fulfill the requirement for a public hearing for a nonmetallic mining reclamation permit.

(3) The Department shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this law.

41.10-2. **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 41.10-1.

41.11. Alternative Requirements.

41.11-1. *Scope of Alternative Requirements Approvable.* An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in 41.6, if the following criteria are met:

(a) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.

(b) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.

(c) 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.

41.11-2. *Procedures.*

(a) The operator of a nonmetallic mining site requesting an alternate requirement shall demonstrate all the criteria in 41.11-1. This shall be submitted in writing to the Department.

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

41.11-3. *Transmittal of Decision on Request for Alternate 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.

41.12. Permit Duration.

41.12-1. A nonmetallic mining reclamation permit issued under this law shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to 41.16.

41.12-2. 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 41.13.

41.13. Permit Transfer.

41.13-1. A nonmetallic mining reclamation permit issued under this law shall be transferred to a new owner or operator upon satisfaction of the following conditions:

(a) The new permit holder submits to the Department proof of financial assurance and a certification in writing that all conditions of the permit will be complied with.

(b) The new operator submits financial assurance and it has been accepted by the Department and the Department makes a written finding that all requirements of the permit and reclamation plan 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.

41.14. Review.

41.14-1. Before a permit and/or a plan can be approved or denied, the Department shall submit to the Land Commission a written recommendation that the permit and/or plan be approved, conditionally approved or denied.

(a) The Land Commission shall respond to the Department by agreeing with, disagreeing with, or remaining silent on the recommendation of the Department.

(b) Failure of the Land Commission to act upon a recommendation within thirty (30) days of the Department's recommendation shall be considered an approval of the recommendation.

41.14-2. Any decision or action made under this law may be reviewed as set forth in this section. Any person may obtain a contested case hearing under the Tribe's administrative procedures act provided that:

(a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;

(b) There is no evidence of legislative intent that the interest is not to be protected;

(c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and

(d) There is a dispute of material fact.

41.15. Permit Modification.

41.15-1. *By Department.* A nonmetallic mining reclamation permit issued under this law may be modified by the Department if it finds that the nonmetallic mining site is no longer in compliance with this law. Such modification shall be by an order modifying the permit in accordance with this section. 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 this law.

41.15-2. *At the Operator's Option.* If an operator holds a reclamation permit issued under this law and desires to modify such permit or reclamation plan approved under this law, it may request such modification by submitting a written application to the Department. The application for permit or plan modification shall be acted on using the standards and procedures of this law.

41.15-3. *Required by the Operator.* An operator that holds a reclamation permit issued under this law 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. Such application for permit modification shall be acted on using the standards and procedures of this law.

41.15-4. *Review.* All actions on permit modifications requested or initiated under this section are subject to review under 41.14-2.

41.16. Permit Suspension or Revocation.

41.16-1. *Grounds.* The Department may suspend or revoke a nonmetallic mining reclamation permit if it finds that the operator has done any of the following:

- (a) Failed to submit a satisfactory reclamation plan within the time frames specified in this law.
- (b) Failed to submit or maintain financial assurance as required by this law.
- (c) Failed on a repetitive and significant basis to follow the approved reclamation plan.

41.16-2. *Procedures.* If the Department finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in this section, it may issue an order suspending or revoking such permit as set forth in 41.23-2.

41.16-3. *Consequences.*

- (a) If the Department makes any of the findings in 41.16-1, it may suspend a nonmetallic mining reclamation permit for up to thirty (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 Department pursuant to 41.23-2.
- (b) If the Department makes any of the findings in 41.16-1, it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided to the Department. The Department may use forfeited financial assurance to reclaim the site to the extent needed to comply with this law and the applicable reclamation ordinance.

41.17. Annual Operator Reporting.

41.17-1. Contents and Deadline.

(a) Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.

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

- (A) The name and mailing address of the operator.
- (B) The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.
- (C) The identification number of the applicable nonmetallic mining permit, if assigned by the Department.
- (D) The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
- (E) The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
- (F) A plan, map or diagram accurately showing the acreage described in 41.17-1(a)(1)(D) and (E).
- (G) 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 permit."

(b) *Deadline.* The annual report shall cover activities for a calendar year and be submitted within sixty (60) days following the end of the year.

(c) *When Reporting May End.* Annual reports shall be submitted by an operator for all active and intermittent mining sites to the Department for each calendar year until

nonmetallic mining reclamation at the site is certified as complete pursuant to 41.20-3 or at the time of release of financial assurance pursuant to 41.9-2(f).

41.17-2. The Department may, at its discretion, obtain the information required in 41.19-1 for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If the Department obtains and documents the required information, the annual report need not be submitted by the operator. If the Department determines that the operator need not submit an annual report pursuant to this section, it shall advise the operator in writing at least thirty (30) days before the end of the applicable calendar year. In that case, the Department shall require the operator to submit the certification required in 41.17-1(a)(1)(G).

41.17-3. *Retention of Annual Reports.* Annual reports submitted under this section or inspection records that replace them under 41.17-2 shall be retained by the Department for at least ten (10) years after the calendar year to which they apply.

41.18. Annual Fees.

41.18-1. Areas Subject to Fees, Procedures and Deadline. Operators of all nonmetallic mining sites subject to reclamation permits issued under this law shall pay annual fees to the Department. Fees paid under this section shall equal, as closely as possible, the costs of examination and approval on nonmetallic mining reclamation plans and the inspection of nonmetallic mining sites.

41.18-2. Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mining site, as defined below:

(a) AUnreclaimed acre(s)@ means those unreclaimed areas in which nonmetallic mining has occurred and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under 41.9-2(f). However the term does not include any areas described in 41.18-2(b).

(b) AUnreclaimed acre(s)@ does not include:

(1) Those areas where reclamation has been completed and certified as reclaimed under 41.20-3.

(2) Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining.

(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 later 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) Those areas within a nonmetallic mining site which the Department has determined to have been successfully reclaimed on an interim basis in accordance with 41.20-2 and 41.20-3.

(6) Those areas not included in a nonmetallic mining site.

(c) 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 41.20. Fees shall be paid no later than December 31st for the subsequent year.

(d) For mines that submit a reclamation permit application under 41.7-2, the first year-s

annual fee shall be based upon the unreclaimed acres which are anticipated at the end of that calendar year.

(e) 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 the Department pending certification of completed reclamation pursuant to 41.20-1. Upon such certification, the Department shall refund that portion of the annual fee that applies to the reclaimed areas. If the Department fails to make a determination under 41.20-1 within sixty (60) days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.

Table 1: Annual Fees Collected by the Department	
Mine Size in Unreclaimed Acres, Rounded to the Nearest Whole Acre	Annual Fee
1 to 5 acres [does not include mines <1 acre]	\$30
6 to 10 acres	\$60
11 to 15 acres	\$90
16 to 25 acres	\$120
26 to 50 acres	\$140
51 acres or larger	\$150

41.18-3. Reduced Fee for Inactive Mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a reduced fee, determined by the Department, for the following calendar year.

41.18-4. Public Nonmetallic Mining. The annual fee requirements of this section do not apply to nonmetallic mining conducted by the Tribe through its agencies or departments.

41.19. Regulatory Reporting and Documentation.

41.19-1. Reporting. The Department shall prepare a report by March 31st of each 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 permits in effect.
- (b) The number of new permits issued within the jurisdiction of the Department.
- (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.
- (e) The number of acres that have been reclaimed and have had financial assurance released pursuant to 41.9-2(f).
- (f) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this section pursuant to 41.20-4(b) and (c).
- (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.

41.19-2. *Documentation.* The Department shall, to the best of its ability, maintain the information set forth below:

- (a) The procedures employed by the Department regarding reclamation plan review, and the issuance and modification of permits.
- (b) The methods for review of annual reports received from operators.
- (c) The method and effectiveness of fee collection.
- (d) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
- (e) Responses to citizen complaints.
- (f) The method of and accuracy in determining the amount of financial assurance obtained from the operator to guarantee reclamation performance.
- (g) The maintenance and availability of records.
- (h) The number and type of approvals for alternative requirements issued pursuant to 41.11.
- (i) 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 41.9-2(f)(1).
- (j) Any changes in Tribal regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the Department to implement its nonmetallic mining reclamation program under this law.
- (k) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.

41.20. Completed Reclamation-Reporting, Certification and Effect

41.20-1. *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 law.

41.20-2. *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 law. Reporting of interim reclamation shall be done according to the procedures in 41.20-1.

41.20-3. *Certification of Completed Reclamation.* The Department shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within sixty (60) days of receipt, and make a determination in writing in accordance with 41.9-2(f)(3). If it is determined that interim or final reclamation is complete, including revegetation as specified in a reclamation plan that conforms with 41.8, the Department shall issue the mine operator a written certificate of completion.

41.20-4. *Effect of Completed Reclamation.* If reclamation is certified by the Department as complete under 41.20-3 for part or all of a nonmetallic mining site, then:

- (a) No fee shall be assessed under 41.18 for the area so certified.
- (b) The financial assurance required by 41.9 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 41.20-2 and so certified under 41.20-3, financial assurance for reclaiming the certified area shall be reduced.

41.20-5. *Effect of Inaction Following Report of Completed Reclamation.* If no written response

as required by 41.20-3 for an area of the mine site reported as reclaimed or interim reclaimed is given within sixty (60) days of receiving such request, any annual fee paid to the Department for it under 41.18 shall be refunded.

41.21. Permit Termination.

41.21-1. When all final reclamation required by a reclamation plan conforming to 41.8 and required by this law is certified as complete pursuant to 41.9-2(f) and 41.20-3, the Department shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

41.22. Right of Entry and Inspection.

41.22-1. For the purpose of ascertaining compliance with the provisions of this law, any authorized officer, agent, employee or representative of the Department may inspect any nonmetallic mining site subject to this law as provided below:

(a) 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 applicable laws or regulations controlling persons on the nonmetallic mining site.

(b) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of the Department who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit or this law.

41.23. Violations.

41.23-1. *Warnings.* The Department shall issue a warning to an operator or owner before issuing an order or a citation if a violation is committed under this Law, including:

(a) Refusing entry or access onto a nonmetallic mining site

(b) Activity that violates the approved plan unless the owner or operator immediately ceases the activity.

41.23-2. *Orders.* If an operator or owner continues to violate this Law after the Department issues a warning, the Department may issue an order requiring the operator or owner to comply with this Law.

(a) An order may suspend or revoke a nonmetallic mining reclamation permit pursuant to 41.16, or direct an operator to immediately cease an activity regulated under this law.

(b) Any person who violates an order issued under this section may be required to forfeit not less than \$25 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense. While an order issued under this section is suspended, stayed or enjoined, this penalty does not accrue.

41.23-3. *Citations.* The Department, or designee, may issue a citation to collect fines to enforce this law, a permit issued pursuant to this law or a reclamation plan approved under this law. 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.

41.23-4. *Appeals.* A person who is subject to a citation issued pursuant to this section shall have sixty (60) days to either appeal the citation to the Land Commission for review or pay the fine.

End.

Adopted BC-08-01-07-G