



To: House Regulatory Reform Committee Members  
From: Megan Tinsley, Water Policy Director  
Emily S. Smith, Land and Water Conservation Program Manager  
Date: May 9, 2023  
Re: Testimony in Opposition to House Bills 4527 and 4528

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Thank you Chair Carter, Majority Vice Chair Liberati, Minority Vice Chair Mueller, and members of the committee for your consideration of the following testimony in opposition to House Bills 4527 and 4528, as introduced, which seek to require the Department of Environment, Great Lakes, and Energy (EGLE) to regulate aggregate mining in Michigan.

House Bill 4528 would create Part 639 within NREPA to regulate sand and gravel mining. However, this part would not apply to existing mines nor mines with a total sand and gravel deposit of 1M tons or fewer. Aggregate resource extraction is known to release harmful sediments, including salts and other chemicals into surface waters, groundwater sources, soil, and air, often from erosion. Aggregate mining destroys farmland and natural areas through the clearing of soil, trees, shrubs and wildlife habitat from the land. In addition to these impacts, aggregate mining creates noise and dust, which has been proven to decrease property values and pose health risks for nearby residents.

HB 4528 would also preempt an ordinance, regulation, resolution, policy, practice, or master plan of local units of government that prohibits or regulates mining, including, but not limited to, the location, development, or operation, including processing and trucking activities, of a mine, or that would duplicate, modify, extend, revise, contradict, or conflict with the proposed Part. House Bill 4527 mirrors the preemption by amending the Michigan Zoning Enabling Act to add that a zoning ordinance would be subject to the newly created Part 639. This bill also specifically states that "natural resources" does not include sand and gravel, removing any exemption a local zoning ordinance could have had against the extraction of natural resources by mining. Additionally, HB 4528 would allow a mining area to be located up to 50 feet from a public roadway, equipment used for screening and crushing located up to 200 feet from a public roadway or 300 feet from another property line, and up to 500 feet from a residential building. For perspective, a football field is 360 feet long and 160 feet wide. Allowing these extremely short distances of mining activities within people's homes, properties, and travel accesses while also not allowing these residents to have a say in the mining process and the protection of their health is problematic.

Public and private drinking water sources utilizing wells become more vulnerable when aggregate mining strips away the sand, gravel, and clay deposits that naturally filter and seal groundwater aquifers from surface contamination. Once these layers are removed, the aquifer becomes vulnerable to contaminants such as fuel, oil and runoff containing fertilizers, pesticides, herbicides and other pollution. Lakes under five acres do not undergo water quality reviews unless they connect to another body of water via the surface or a shallow aquifer. This could represent a direct pathway of exposure to drinking water supplies. Additionally, aggregate mining on or near floodplains, rivers, and other bodies of water can alter the direction of water flow and the groundwater pressure gradient, disrupting surface and subsurface water flow and depleting wells. This movement can also cause plumes of contamination to move quicker to a residential water source or spread wider<sup>1</sup> throughout the aquifer. While HB 4528 prohibits the unauthorized release of pollutants to groundwater from any material mined, handled, or disposed of within the mining area or any area to be reclaimed, and that existing groundwater contamination will not be exacerbated, as stated, public water sources can still become vulnerable to contaminants nearby the mine or elsewhere and also lose groundwater sources for their wells. There is no monitoring plan required to ensure that exacerbation of existing groundwater contamination is not occurring.

While HB 4528 would require a mine to be “reasonably” screened from view from adjoining properties, a screen would not filter out nor prevent air or noise pollution from drifting to the nearby adjoining properties. Pollution from particulate matter such as silica dust and diesel exhaust are both dangerous carcinogenic airborne pollutants that result from aggregate mining. The industry is exempt from the requirement to monitor airborne silica leaving the mine site. Industrial truck traffic, diesel emissions, and fugitive dust both from the trucks transporting the materials and the site themselves pose a risk to immediately adjacent neighborhoods and are specifically exempt from environmental pollution considerations under the bill. Areas with existing air quality issues are particularly vulnerable as the impacts of air pollution act cumulatively. (Understanding this issue, the city of Dearborn recently passed an ordinance limiting “fugitive dust” airborne debris from industrial sites and truck hauling.<sup>2</sup> The bill would regulate noise levels, but would base it on an 8-hour average. This means that noise levels can be double the standard for 4 hours, as it would average out to the approved 8-hour average under the bill, exposing nearby communities and property owners of unsafe noise levels. Additionally, a single blast from a mine can cause immediate hearing damage to neighboring properties, and regulating such blasts for undefined “unreasonable dust or noise” is insufficient.

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<sup>1</sup> EPA investigating spread of dioxane from Metamora Superfund site, *ABC 12 News*, July 14, 2021,

[https://www.abc12.com/news/local/epa-investigating-spread-of-dioxane-from-metamora-superfund-site/article\\_065faa89-a585-574a-a3c5-ddd01f8608bb.html](https://www.abc12.com/news/local/epa-investigating-spread-of-dioxane-from-metamora-superfund-site/article_065faa89-a585-574a-a3c5-ddd01f8608bb.html).

<sup>2</sup> New Dearborn ordinance aims to reduce air pollution from fugitive dust, *The Detroit News*, August 26, 2020,

<https://www.detroitnews.com/story/news/local/wayne-county/2020/08/26/new-dearborn-ordinance-aims-reduce-air-pollution-fugitive-dust/3443020001/>.

Furthermore, mine operations put downward pressure on property values in surrounding neighborhoods, often for years to decades. This impact can be reversed if a high-quality reclamation project is implemented upon completion of the project, but the legislation offers no enforcement mechanisms to ensure robust reclamation occurs. There is also no monitoring or management plan required to ensure reclaimed areas do not just become a harbor for invasive plant species that can spread and degrade nearby areas.

Finally, Michigan is not experiencing a shortage of aggregate mines nor materials. Recent directories show there are approximately 557 construction grade sand and gravel producers operating about 1,348 sites in Michigan. Because Michigan has chronically underinvested in mapping its geologic and groundwater resources, we lack the ability to strategically locate these operations based on adequate knowledge. Better mapping would equate to better decision making ability for both EGLE and local units of government.

In conclusion, these bills do not adequately allow for local review if project developers submit the required paperwork. Aggregate mines simply don't belong everywhere. A balanced bill, in the public interest, would encourage the reduction, reuse, and recycling of aggregate materials where possible. It would also generate research and foster the transition to more resilient, non-virgin material road construction. Finally, it would offer more robust safeguards for protecting water resources and carefully consider and compel ecologically responsible reclamation of past and future aggregate mine sites.

We appreciate the consideration of these comments.

Sincerely,

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