



**House
Legislative
Analysis
Section**

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SAND DUNE MINING

House Bill 4756 (Substitute H-1)

Sponsor: Rep. Leon Stille

**Committee: Conservation, Environment
and Great Lakes**

Complete to 5-2-94

A SUMMARY OF HOUSE BILL 4756 (SUBSTITUTE H-1)

Currently, under the Sand Dune Protection and Management Act, a permit for sand dune mining, issued by the Department of Natural Resources (DNR), is valid for up to three years. In critical dune areas, however, the DNR may only renew or amend permits issued prior to July 5, 1989, including permits for adjacent land which the operator owned prior to that date. House Bill 4756 would amend the act to rewrite these provisions, among others; to exclude from the current definition of "sand dune mining" the removal of sand from sand dune areas in volumes of less than 3,000 tons under certain conditions; and to distinguish between "active" and "interim" cell-unit status. The following summarizes the provisions of the bill:

Permits. Currently, under the Sand Dune Protection and Management Act, a permit for sand dune mining, issued by the Department of Natural Resources (DNR), is valid for up to three years. House Bill 4756 would amend the act to extend the length of validity of a permit to five years. The act also requires that the DNR prepare a list of all sand dune mining applications. The bill would delete the current provision that this list be prepared every four months, and that those requesting copies of the list submit an annual fee of \$5.

The bill would also clarify current conditions under which the DNR may deny a permit to specify that a permit would be denied if the DNR determined that the proposed mining activity was likely to pollute, impair, or destroy the air, water, or other natural resources or the public trust, as provided by the Thomas J. Anderson, Gordon Rockwell Environmental Protection Act.

Amended/Renewed Permits. The bill would require that, when an amendment is sought for an existing sand dune mining permit to include adjacent land in a critical dune area, an operator must have submitted an environmental impact statement, a cell-unit (a sub-unit of a mining project) mining and reclamation plan, and a 15-year mining plan with the original permit application. In addition, the bill would define "adjacent" land as land that was contiguous with the land for which the operator held a sand dune mining permit, with no land or space -- including a highway or road right-of-way -- between that property and the property on which sand dune mining was conducted.

Environmental Impact Statement. Currently, the act requires that an environmental impact statement, when submitted with a mining permit application, include data on the compatibility of the proposed mining operation with adjacent land uses or plans; the impact of the operation on vegetation and wildlife; the economic impact on surrounding areas; the

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effects on groundwater supply and flow and on adjacent surface resources; and the reason for the choice of the proposed mining site over others. House Bill 4756 would expand the required list to include the following:

****The effect of the proposed sand dune mining activity on air quality within 1,000 feet of the mining.**

****Whether the proposed activity was located within 1,000 feet of a residence, 2,000 feet of a school, or 500 feet of a commercial development.**

****A description of the environment as it existed prior to commencement of sand dune mining activity, including details of areas and environmental elements that would receive a minor impact, as well as those that would receive the major impact from the proposed activity.**

****An inventory of the physical environmental elements of the proposed site, conducted at a time of the year -- or at different times of the year -- that would provide the most complete information regarding the existing conditions of the area to be affected, directly or indirectly, by the proposed activity.**

Cell-unit Mining and Reclamation Plan. Under the act, a progressive cell-unit mining and reclamation plan must be submitted with an application for a sand dune mining permit. At present, cell-unit permits for existing operations are limited to 30 acres, and subsequent permits for expansions or new operations are limited to 10 acres. House Bill 4756 would amend this provision. Under the bill, permits would not be issued for operations that were in existence before March 31, 1977 for an area exceeding 30 acres if the progressive cell-unit mining and reclamation plan included more than three 30-acre cell-units; and permits would not be issued to cover subsequent or expanded operations that began after that date if the plan included any cell-unit having an area exceeding 10 acres. In addition, a progressive cell-unit mining and reclamation plan for permits issued 30 days after the bill's effective date would have to meet the following requirements:

--All upland reclamation grades for sand dune mining operations would be required to have a slope not steeper than one-foot vertical rise in a three-foot horizontal plane. However, the department could approve plans that allowed steeper reclaimed slopes to provide a smoother transition to undisturbed topographic features or to protect existing environmental features.

--All submerged grades established by the excavation of material below the water table and the creation of a water body would be required to have the following underwater slopes: a) for water bodies with a surface area of less than five acres, the submerged grades would have to be one-foot vertical rise in a three-foot horizontal plane, or flatter, to a depth of six feet; b) for water bodies with a surface area of five acres or more, the submerged grades would have to be one-foot vertical rise in a six-foot horizontal plane, or flatter, to a depth of six feet; c) for all water bodies where the plan designated a final use after sand dune mining as public access, the area designated for public access would have to have

submerged grades of one-foot vertical rise in a 10-foot horizontal plane, or flatter, to a depth of six feet.

--A 200-foot minimum setback distance from the property line to the cell-unit boundary line would be required on all cell-unit mining and reclamation plans, except that the DNR could approve plans with less than 100 feet if it determined that the mining activity was compatible with adjacent existing land use.

--A 500-foot minimum setback distance from the ordinary high-water mark of the Great Lakes would be provided on all plans.

--All plans would have to include fencing, or other techniques, to minimize trespassing or unauthorized access to the mining activity.

--If the proposed mining activity proposed to mine below the water table, the DNR could require a hydrogeological survey of the surrounding area.

--If threatened or endangered species were identified within the cell-unit boundaries, the cell-unit mining and reclamation plan would have to indicate how the species would be protected, or, if not protected, what mitigation measures would be performed.

--If the proposed mining activity included beneficiation or treatment of the sand, the application documents would have to include specific plans depicting the methods, techniques, and manufacturer's material safety data sheets on all chemicals, or other additives that are not natural to the site, that would be utilized in the process. The operator would also obtain all applicable state and federal permits prior to beginning the beneficiation process.

Bonds. Currently, the act requires that the holder of a permit file a bond with the DNR prior to disturbing the land. House Bill 4756 would amend this requirement to specify that the bond be a conformance bond, and that it be required to a maximum of three active cell-units and three cell-units in interim cell-unit status within the mining permit; that it be for an amount equal to \$10,000 per cell-unit, or \$1,000 per each acre in the cell-unit, whichever was greater for cell-units bonded prior to the effective date of the bill. For all cell-units bonded after the effective date of the bill, the conformance bond would be in an amount equal to \$20,000 per cell-unit, or \$2,000 per each acre in the cell-units, whichever was greater. The bond for a cell-unit bonded prior to the effective date of the bill would remain in effect until the cell-unit was released from the requirements of the bond, or the cell-unit boundary was revised, as approved by the DNR. If an existing cell-unit boundary was revised, the bond for the cell-unit would be increased to the amounts provided for cell-units bonded after the effective date of the bill. In addition, the bill would specify that a conformance bond would remain in full force until the release of the cell-unit from the conformance bond requirements, including the period of time the cell-unit might have been placed in interim cell-unit status.

Under the bill, the DNR would not be permitted to reclassify a cell-unit from active to interim cell-unit status until the following minimum conditions or requirements for the

cell-unit had been met: all permitted sand dune mining activities had been completed; all extraction or processing equipment had been removed except for the maintenance of a road through a cell-unit, which would have to be removed and revegetated under the restoration provisions of the progressive cell-unit mining and reclamation plan; all upland areas that were disturbed by mining had been regraded; all submerged grades established by mining had been regraded; all upland areas disturbed by mining had been revegetated; and the operator had provided proper measures to aid in establishing growth of the planted vegetation until adequate root systems had developed. Under the bill, the DNR could reclassify an active cell-unit to interim cell-unit status upon receipt of a written request by the operator. The department would conduct an on-site inspection within 45 days, determine if the completed reclamation activities were adequate to reclassify the active cell-unit, and notify the operator within 30 days. If reclamation activities did not meet conditions and requirements for interim cell-unit status, the notification would include the reasons for denial. The operator could not then reapply for reclassification of the same active cell-unit until one year from the previous request. Notification given to an operator upon completion or acceptance by the DNR would constitute the release of the cell-unit from the conformance bond if all mining activities permitted within the cell-unit had been completed, all extraction or processing equipment had been removed, all upland areas and submerged grades had been regraded or revegetated, there were no areas within the revegetated portions of the cell-unit where a ten-foot by ten-foot test plot could be measured with less than 80 percent survival of the planted vegetation, the plant material would have to sustain itself throughout one full growing season, and there were no areas within the revegetated portion of the cell-unit with ongoing erosion, except for some wind erosion that would be permitted if it did not threaten the stability of the regraded slopes or the ability of the plant material to accommodate the accretion of sand.

MCL 281.652 et al.