

**2019 DRAFTING REQUEST****Assembly Amendment (AA-AB56)**

For: **Legislative Fiscal Bureau** Drafter: **emueller**  
 By: **Bonderud** Secondary Drafters:  
 Date: **6/7/2019** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email:  
 Carbon copy (CC) to: **eric.mueller@legis.wisconsin.gov**  
**zachary.wyatt@legis.wisconsin.gov**  
**kendra.bonderud@legis.wisconsin.gov**  
**paul.ferguson@legis.wisconsin.gov**

---

**Pre Topic:**

LFB:.....Bonderud -

---

**Topic:**

Local regulation of nonmetallic mining at quarry operations

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 6/7/2019	aernstr 6/7/2019			
/P1	emueller 6/10/2019		jmurphy 6/7/2019		
/P2		aernstr 6/10/2019	mbarman 6/10/2019		

FE Sent For:

<END>

Kendra Bondaruk

under this subsection as emergency rules is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under these provisions.

*EVM* 36. *Local Regulation of Nonmetallic Mining at Quarry Operations.* Move to incorporate the provisions of LRB 3029/P4 which would limit the authority of political subdivisions to place limits or conditions on the operations of a quarry. A political subdivision would include a county, city, village, or town. The provisions would take effect on the general effective date of the bill, except as specified. Include the following provisions:

a. Definitions. Create the following definitions:

1. "Quarry" would mean the surface area from which nonmetallic minerals, including soil, clay, sand, gravel, and construction aggregate, that are used primarily for a public works project or a private construction or transportation project, are extracted and processed.

2. "Quarry operations" would mean the extraction and processing of minerals at a quarry site and all related activities, including blasting, vehicle and equipment access to the quarry site, and loading and hauling of material to and from the quarry site.

3. "Permit" would mean a form of approval granted by a political subdivision for the operation of a quarry.

4. "Nonconforming quarry site" would mean land on which a quarry existed lawfully before the quarry became a nonconforming use, including any contiguous parcel. The nonconforming status of any contiguous parcel shall be subject to the requirement that, on a five-year rolling average, 75% of the quarry materials extracted from the contiguous parcel shall be used for infrastructure-related projects, as determined by the quarry operator. If this 75% requirement is not met as to any contiguous parcel, the nonconforming status of the contiguous parcel may be suspended. The definition would not preclude a determination that a particular parcel is nonconforming under: (a) the current law definition of a nonconforming use, which means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance; or (b) common law.

5. "Contiguous" would mean sharing a common boundary or being separated only by a waterway, section line, public road, private road, transportation right-of-way, or utility right-of-way.

6. "Contiguous parcel" would mean any parcel of land, up to a cumulative limit of 80 acres, that as of January 1, 2001, is: (a) contiguous to, and is located in the same political subdivision as, land on which a quarry existed lawfully before the quarry became a nonconforming use; (b) is under the common ownership, leasehold, or control of the person who owns, leases, or controls the land on which the quarry is located; and (c) is shown to have been intended for quarry operations prior to the effective date of the ordinance that rendered the use nonconforming. The provision would specify that if the contiguous parcel of land was commonly owned, leased, or controlled on January 1, 2001, there is a presumption that the contiguous parcel of land was intended for quarry operations prior to the effective date of the ordinance that rendered the use nonconforming.

b. Local Regulation of Quarry Operations. Specify that none of the new provisions may be construed to affect the authority of a political subdivision to regulate land use for a purpose other than the quarry operations, including the provisions related to permits, blasting, water quality or quantity, and air quality. Specify that none of these listed provisions may be construed to exempt a quarry from a regulation of general applicability placed by a political subdivision that applies to other property in the political subdivision that is not a quarry unless the regulation is inconsistent with the included provisions.

Create the following prohibitions and authorizations related to local regulation of quarry operations.

1. Except as provided in (2) and (3), authorize a political subdivision to require a quarry operator to obtain a zoning or nonzoning permit to conduct quarry operations.

2. Prohibit a political subdivision from requiring a quarry operator to obtain a zoning or nonzoning permit to conduct quarry operations unless, prior to the establishment of quarry operations, the political subdivision enacts an ordinance that requires the permit.

3. Prohibit a political subdivision from requiring a quarry operator to obtain a nonzoning permit to conduct quarry operations if the quarry operation operates under a previously issued zoning permit.

4. Specify that if a political subdivision enacts a nonzoning ordinance regulating the operation of a quarry that was not in effect when quarry operations began at a quarry, the limit would not apply to that quarry or to land that is contiguous to the land on which the quarry is located, is under the common ownership, leasehold, or control of the person who owns, leases, or controls the land on which the quarry is located, and is located in the same political subdivision.

5. Prohibit a political subdivision from adding conditions to a zoning or nonzoning permit during the duration of the permit, unless the permit holder consents.

6. Prohibit a political subdivision from enacting an ordinance that prohibits continued quarry operations at a nonconforming quarry site. Continued quarry operations would include conducting quarry operations in an area of a nonconforming quarry site in which quarry operations have not previously been conducted. This provision would not modify or limit an operator's reclamation obligations under a reclamation permit.

7. Specify that, if a political subdivision requires a quarry operator to comply with another political subdivision's ordinance as a condition for obtaining a zoning or nonzoning permit, the political subdivision that grants the permit may not require the quarry operator to comply with a provision of the other political subdivision's ordinance enacted after the permit is granted while the permit is in effect.

8. Prohibit a town from requiring, as a condition for granting a permit to a quarry operator, that the quarry operator satisfy a condition that a county requires in order to grant a permit that is imposed by a county ordinance enacted after the county grants a permit to the quarry operator. Prohibit a county from requiring, as a condition for granting a permit to a quarry operator, that the quarry

operator satisfy a condition that a town requires in order to grant a permit that is imposed by a town ordinance enacted after the town grants a permit to the quarry operator.

c. Local Regulation of Blasting at Quarry Operations. Create the following provisions related to local regulation of blasting at quarries:

1. "Affected area" would mean an area within a certain radius of a blasting site that may be affected by a blasting operation, as determined using a formula established by the Department of Safety and Professional Services (DSPS) by rule that takes into account a scaled-distance factor and the weight of explosives to be used. (Administrative code Chapter SPS 307.41 (2) includes a scaled-distance formula calculation. In general, a scaled-distance formula is used to determine the maximum amount of explosives that can be used that ensures safety to structures within a certain distance of the blasting site.)

2. Prohibit a political subdivision from limiting blasting at a quarry. Notwithstanding the prohibition, authorize a political subdivision to require the operator of a quarry to do any of the following: (a) provide pre-blast notice of the blasting operation to all political subdivisions in which the quarry is located and owners of dwellings or other structures within the affected area; (b) require that a pre-blast building survey be conducted by a third party on dwellings and other structures within the affected area; (c) require that pre-blasting well surveys and testing be conducted by a third party within the affected area; (d) provide evidence of insurance to each political subdivision in which any part of the quarry is located; (e) provide copies of blasting logs to each political subdivision in which any part of the quarry is located; (f) provide maps of the affected area to each political subdivision in which any part of the quarry is located; and (g) provide copies of any reports submitted to DSPS relating to blasting at the quarry.

3. Authorize a political subdivision to suspend a permit for a violation of the state blasting requirements under s. 101.15 of the statutes, and rules promulgated by DSPS related to blasting under s. 101.15 (2)(e), only if DSPS determines that a violation of the requirements or rules has occurred and only for the duration of the violation, as determined by DSPS. (Under s. 101.15, DSPS administers rules under Chapter SPS 307, which regulate blasting and use of explosives at nonmetallic mining sites.)

4. Prohibit a political subdivision from making or enforcing a local order that limits blasting at a quarry. As an exception to this prohibition, authorize a political subdivision to petition DSPS for an order granting the political subdivision the authority to impose additional restrictions and requirements related to blasting on the operator of a quarry. If DSPS issues the order, the order may grant the political subdivision the authority to impose restrictions and requirements related to blasting at the quarry that are more restrictive than the state blasting requirements under s. 101.15 of the statutes, and DSPS rules promulgated under s. 101.15. Prohibit DSPS from charging a fee for a petition submitted by a political subdivision under this provision. Specify that, if a political subdivision submits a petition to DSPS because of concerns regarding the potential impact of blasting on a qualified historic building, DSPS would be authorized to require the operator of the quarry to pay the costs of an impact study related to the qualified historic building.

d. Local Regulation of Water Quality and Quantity Related to Quarry Operations. Prohibit a political subdivision from doing any of the following with respect to the operation of a quarry: (1)

establish or enforce a water quality standard; (2) issue permits, including permits for discharges to the waters of the state, or any other form of approval related to water quality or quantity; (3) impose any restriction related to water quality or quantity; and (4) impose any requirements related to monitoring water quality or quantity.

Authorize a political subdivision to require the operator of a quarry to conduct and provide water quality and quantity baseline testing and ongoing water quality testing, to occur not more frequently than annually, of all wells within 1,000 feet of the perimeter of a quarry site when a new high-capacity well is added to an existing quarry site or a new quarry site is established. A testing requirement under this provision could not impose any standard that is more stringent than the standards for groundwater quality required by rules promulgated by the Department of Natural Resources (DNR). Authorize the political subdivision to request a report of well testing results within 30 days of the completion of testing and require the quarry operator to provide the results within that time. Specify any person offered the opportunity to have a well tested under this requirement, but who knowingly refuses testing, would waive any claim against a quarry operator related to the condition of the well, if within 90 days of the offer, the quarry operator records with the county Register of Deeds a written certification, verifying under oath that the person owning the property knowingly refused testing. Authorize a political subdivision that imposes a requirement to conduct any ongoing water quality or quantity testing of wells adjacent to existing quarry sites prior to the effective date of the budget act, to continue to do so.

Authorize a political subdivision to enforce properly adopted local water regulations. In addition, authorize a political subdivision to suspend a permit for a quarry operation for a violation of state law or rules promulgated by DNR relating to water quality or quantity, only if DNR determines that a violation of state law or rules has occurred and only for the duration of the violation, as determined by DNR.

e. Local Regulation of Air Quality and Fugitive Dust Related to Quarry Operations. Notwithstanding the current authorization in s. 285.73 of the statutes for local governments to administer certain air pollution control programs, prohibit a political subdivision from doing any of the following with respect to the operation of a quarry: (1) establish or enforce an ambient air quality standard, standard of performance for a new stationary source, or other emission limitation related to air quality; (2) issue permits or any other form of approval related to air quality; (3) impose any restriction related to air quality; or (4) impose any requirement related to monitoring air quality.

As exceptions to this prohibition, authorize a political subdivision to: (1) take actions related to air quality that are specifically required or authorized by state statute; (2) require the operator of a quarry to use best management practices to limit off-site fugitive dust; (3) enforce properly adopted fugitive dust regulations; or (4) suspend a permit for operation of a quarry for a violation of state law or rules promulgated by DNR relating to air quality, only if DNR determines that a violation of state statute or rules has occurred and only for the duration of the violation, as determined by DNR.

## Mueller, Eric

---

**From:** Champagne, Rick  
**Sent:** Friday, June 07, 2019 11:35 AM  
**To:** Mueller, Eric; Wyatt, Zachary; Pleviak, Krista  
**Subject:** FW: LRB 3029 Tweaks  
**Attachments:** 2338\_001.pdf

Can you incorporate the changes in red into 3029 which is the draft used in the motion adopted last night and then be sure it gets into LFB draft. Ok to left LFB know of changes. Thanks.

---

**From:** Schwanz, Nathan <Nathan.Schwanz@legis.wisconsin.gov>  
**Sent:** Friday, June 07, 2019 11:25 AM  
**To:** Champagne, Rick <Rick.Champagne@legis.wisconsin.gov>  
**Subject:** LRB 3029 Tweaks

Hi Rick,

The red items in the attachment are changes that need to be incorporated into LRB 3029. Let me know if you have any questions. Thank you.

*Nathan Schwanz*  
Chief of Staff  
State Representative John Nygren  
Co-Chair, Joint Committee on Finance  
608-266-2343



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-3029/P4  
EVM/ZDW/KRP:ahc

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to renumber and amend* 59.69 (10) (ab), 60.61 (5) (ab) and 62.23 (7) (ab);  
2             and *to create* 59.69 (10) (ab) 1., 59.69 (10) (ab) 1m., 59.69 (10) (ab) 2., 59.69 (10)  
3             (ab) 4., 59.69 (10) (ab) 5., 59.69 (10) (ap), 60.61 (5) (ab) 1., 60.61 (5) (ab) 3., 60.61  
4             (5) (ab) 4., 60.61 (5) (as), 62.23 (7) (ab) 1., 62.23 (7) (ab) 3., 62.23 (7) (ab) 4., 62.23  
5             (7) (hd), 66.0414 and 101.02 (7y) of the statutes; **relating to:** local regulation  
6             of certain quarry operations.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

7             **SECTION 1.** 59.69 (10) (ab) of the statutes is renumbered 59.69 (10) (ab) (intro.)  
8             and amended to read:  
9             59.69 (10) (ab) (intro.) In this subsection "~~nonconforming-use~~":

**SECTION 1**

1           3. "Nonconforming use" means a use of land, a dwelling, or a building that  
2 existed lawfully before the current zoning ordinance was enacted or amended, but  
3 that does not conform with the use restrictions in the current ordinance.

4           **SECTION 2.** 59.69 (10) (ab) 1. of the statutes is created to read:

5           59.69 (10) (ab) 1. "Contiguous" means sharing a common boundary or being  
6 separated only by a waterway, section line, public road, private road, transportation  
7 right-of-way, or utility right-of-way.

8           **SECTION 3.** 59.69 (10) (ab) 1m. of the statutes is created to read:

9           59.69 (10) (ab) 1m. "Contiguous parcel" means any parcel of land, up to a  
10 cumulative limit of 80 acres, that, as of January 1, 2001, is contiguous to and is  
11 located in the same political subdivision as land on which a quarry existed lawfully  
12 before the quarry became a nonconforming use, is under the common ownership,  
13 leasehold, or control of the person who owns, leases, or controls the land on which the  
14 quarry is located, and is shown to have been intended for quarry operations prior to  
15 the effective date of the ordinance that rendered the use nonconforming. For purposes of this  
16 subdivision, if the contiguous parcel of land was commonly owned, leased, or  
17 controlled on January 1, 2001, there is a presumption that the contiguous parcel of  
18 land was intended for quarry operations prior to the effective date of the ordinance that  
19 rendered the use nonconforming.

20           **SECTION 4.** 59.69 (10) (ab) 2. of the statutes is created to read:

21           59.69 (10) (ab) 2. "Nonconforming quarry site" means land on which a quarry  
22 existed lawfully before the quarry became a nonconforming use, including any  
23 contiguous parcel. The nonconforming status of any contiguous parcel shall be  
24 subject to the requirement that, on a 5 year rolling average, 75 percent of the quarry  
25 materials extracted from the contiguous parcel shall be used for



1 infrastructure-related projects, as determined by the quarry operator. If this 75  
2 percent requirement is not met as to any contiguous parcel, the nonconforming  
3 status of the contiguous parcel may be suspended. This definition does not preclude  
4 a determination that a particular parcel of land is nonconforming under subd. 3. or  
5 common law.

6 **SECTION 5.** 59.69 (10) (ab) 4. of the statutes is created to read:

7 59.69 (10) (ab) 4. "Quarry" has the meaning given in s. 66.0414 (2) (c).

8 **SECTION 6.** 59.69 (10) (ab) 5. of the statutes is created to read:

9 59.69 (10) (ab) 5. "Quarry operations" has the meaning given in s. 66.0414 (2)  
10 (d).

11 **SECTION 7.** 59.69 (10) (ap) of the statutes is created to read:

12 59.69 (10) (ap) Notwithstanding par. (am), an ordinance enacted under this  
13 section may not prohibit the continued operation of a quarry at a nonconforming  
14 quarry site. For purposes of this paragraph, the continued operation of a quarry  
15 includes conducting quarry operations in an area of a nonconforming quarry site in  
16 which quarry operations have not previously been conducted. Nothing in this section  
17 shall be construed as modifying or limiting an operator's reclamation obligations  
18 under a reclamation permit.

19 **SECTION 8.** 60.61 (5) (ab) of the statutes is renumbered 60.61 (5) (ab) (intro.)  
20 and amended to read:

21 60.61 (5) (ab) (intro.) In this subsection "~~nonconforming use~~";

22 2. "Nonconforming use" means a use of land, a dwelling, or a building that  
23 existed lawfully before the current zoning ordinance was enacted or amended, but  
24 that does not conform with the use restrictions in the current ordinance.

25 **SECTION 9.** 60.61 (5) (ab) 1. of the statutes is created to read:

*the land, buildings, premises, or structures shall conform to the ordinance. ★*  
*If quarry operations at a nonconforming quarry site are discontinued for a period of 12 months, any future use of*

1           60.61 (5) (ab) 1. "Nonconforming quarry site" has the meaning given in s. 59.69  
2 (10) (ab) 2.

3           **SECTION 10.** 60.61 (5) (ab) 3. of the statutes is created to read:

4           60.61 (5) (ab) 3. "Quarry" has the meaning given in s. 66.0414 (2) (c).

5           **SECTION 11.** 60.61 (5) (ab) 4. of the statutes is created to read:

6           60.61 (5) (ab) 4. "Quarry operations" has the meaning given in s. 66.0414 (2)  
7 (d).

8           **SECTION 12.** 60.61 (5) (as) of the statutes is created to read:

9           60.61 (5) (as) Notwithstanding par. (am), an ordinance enacted under this  
10 section may not prohibit the continued operation of a quarry at a nonconforming  
11 quarry site. For purposes of this paragraph, the continued operation of a quarry  
12 includes conducting quarry operations in an area of a nonconforming quarry site in  
13 which quarry operations have not previously been conducted.

*Nothing in that section*

14           **SECTION 13.** 62.23 (7) (ab) of the statutes is renumbered 62.23 (7) (ab) (intro.)  
15 and amended to read:

16           62.23 (7) (ab) ~~Definition~~ Definitions. (intro.) In this subsection  
17 "noneonforming use";

18           2. "Nonconforming use" means a use of land, a dwelling, or a building that  
19 existed lawfully before the current zoning ordinance was enacted or amended, but  
20 that does not conform with the use restrictions in the current ordinance.

21           **SECTION 14.** 62.23 (7) (ab) 1. of the statutes is created to read:

22           62.23 (7) (ab) 1. "Nonconforming quarry site" has the meaning given in s. 59.69  
23 (10) (ab) 2.

24           **SECTION 15.** 62.23 (7) (ab) 3. of the statutes is created to read:

25           62.23 (7) (ab) 3. "Quarry" has the meaning given in s. 66.0414 (2) (c).

*★ from p. 3*

*shall be construed as modifying or limiting an operator's reclamation obligation under a reclamation permit.*





1 for a public works project or a private construction or transportation project are  
2 extracted and processed.

3 (d) "Quarry operations" means the extraction and processing of minerals at a  
4 quarry and all related activities, including blasting, vehicle and equipment access  
5 to the quarry, and loading and hauling of material to and from the quarry.

6 (3) LIMITATIONS ON LOCAL REGULATION. (a) *Permits*. 1. Consistent with the  
7 requirements and limitations in this subsection, except as provided in subd. 2., a  
8 political subdivision may require a quarry operator to obtain a zoning or nonzoning  
9 permit to conduct quarry operations. ~~Any such zoning or nonzoning permit~~  
10 ~~requirement shall be subject to the applicable provisions of ss. 59.69 (5e), 60.61 (4e),~~  
11 ~~and 62.23 (7) (de).~~ (delete)

12 2. A political subdivision may not require a quarry operator to obtain a zoning  
13 or nonzoning permit to conduct quarry operations unless prior to the establishment  
14 of quarry operations the political subdivision enacts an ordinance that requires the  
15 permit. A political subdivision may not require a quarry operator to obtain a  
16 nonzoning permit to conduct quarry operations if the quarry operation operates  
17 under a previously issued zoning permit.

18 (b) *Applicability of local limit*. If a political subdivision enacts a nonzoning  
19 ordinance regulating the operation of a quarry that was not in effect when quarry  
20 operations began at a quarry, the limit does not apply to that quarry or to land that  
21 is contiguous, as defined in s. 59.69 (10) (ab) 1., to the land on which the quarry is  
22 located, is under the common ownership, leasehold, or control of the person who  
23 owns, leases, or controls the land on which the quarry is located, and is located in the  
24 same political subdivision.

and it shows to have, intended for quarry operations prior to the effective date of the nonzoning ordinance.

1           (c) *Blasting*. 1. In this paragraph, “affected area” means an area within a  
2           certain radius of a blasting site that may be affected by a blasting operation, as  
3           determined using a formula established by the department of safety and professional  
4           services by rule that takes into account a scaled-distance factor and the weight of  
5           explosives to be used.

6           2. Except as provided under subsds. 3. and 4., a political subdivision may not  
7           limit blasting at a quarry.

8           3. A political subdivision may require the operator of a quarry to do any of the  
9           following:

10          a. Before beginning a blasting operation at the quarry, provide notice of the  
11          blasting operation to each political subdivision in which any part of the quarry is  
12          located and to owners of dwellings or other structures within the affected area.

13          b. Before beginning a blasting operation at the quarry, cause a 3rd party to  
14          conduct a building survey of any dwellings or other structures within the affected  
15          area.

16          c. Before beginning a blasting operation at the quarry, cause a 3rd party to  
17          conduct a survey of and test any wells within the affected area.

18          d. Provide evidence of insurance to each political subdivision in which any part  
19          of the quarry is located.

20          e. Provide copies of blasting logs to each political subdivision in which any part  
21          of the quarry is located.

22          f. Provide maps of the affected area to each political subdivision in which any  
23          part of the quarry is located.

24          g. Provide copies of any reports submitted to the department of safety and  
25          professional services relating to blasting at the quarry.

**SECTION 18**

1           4. A political subdivision may suspend a permit for a violation of the  
2 requirements under s. 101.15 relating to blasting and rules promulgated by the  
3 department of safety and professional services under s. 101.15 (2) (e) relating to  
4 blasting only if the department of safety and professional services determines that  
5 a violation of the requirements or rules has occurred and only for the duration of the  
6 violation as determined by the department of safety and professional services.

7           (d) *Water quality or quantity.* 1. Except as provided under subds. 2. to 5., a  
8 political subdivision may not do any of the following with respect to the operation of  
9 a quarry:

10           a. Establish or enforce a water quality standard.

11           b. Issue permits, including permits for discharges to the waters of the state, or  
12 any other form of approval related to water quality or quantity.

13           c. Impose any restriction related to water quality or quantity.

14           d. Impose any requirements related to monitoring of water quality or quantity.

15           2. A political subdivision may take actions related to water quality that are  
16 specifically required or authorized by state law.

17           3. A political subdivision may require the operator of a quarry to conduct and  
18 provide water quality and quantity baseline testing and ongoing quality testing, to  
19 occur not more frequently than annually, of all wells within 1,000 feet of the  
20 perimeter of a quarry site when a new high capacity well is added to an existing  
21 quarry site or a new quarry site is established. A testing requirement under this  
22 subdivision may not impose any standard that is more stringent than the standards  
23 for groundwater quality required by rules promulgated by the department of natural  
24 resources. The political subdivision may request a report of well testing results  
25 within 30 days of the completion of testing, and the quarry operator shall provide the

1 results within that time. Any person offered the opportunity to have a well tested  
2 under this subdivision but who knowingly refuses testing waives any claim against  
3 a quarry operator related to the condition of the well if, within 90 days of the offer,  
4 the quarry operator records with the register of deeds for the county in which the well  
5 is located a written and sworn certification that the person refused the offer.

6 4. A political subdivision that imposes a requirement to conduct any ongoing  
7 water quality or quantity testing of wells adjacent to an existing quarry prior to the  
8 effective date of this subdivision .... [LRB inserts date], may continue to do so.

9 5. In addition to the ability to enforce properly adopted local regulations as  
10 allowed by this section, a political subdivision may suspend a permit authorizing the  
11 operation of a quarry for a violation of state law or rules promulgated by the  
12 department of natural resources relating to water quality or quantity only if the  
13 department of natural resources determines that a violation of state law or rules has  
14 occurred and only for the duration of the violation, as determined by the department  
15 of natural resources.

16 (e) *Air quality.* 1. Notwithstanding s. 285.73, and except as provided under  
17 subs. 2. to 4., a political subdivision may not do any of the following with respect to  
18 the operation of a quarry:

19 a. Establish or enforce an ambient air quality standard, standard of  
20 performance for new stationary sources, or other emission limitation related to air  
21 quality.

22 b. Issue permits or any other form of approval related to air quality.

23 c. Impose any restriction related to air quality.

24 d. Impose any requirement related to monitoring air quality.

1           2. A political subdivision may require the operator of a quarry to use best  
2 management practices to limit off-site fugitive dust and may enforce properly  
3 adopted fugitive dust regulations.

4           3. A political subdivision may take actions related to air quality that are  
5 specifically required or authorized by state law.

6           4. In addition to the ability to enforce properly adopted local regulations as  
7 allowed by this section, a political subdivision may suspend a permit authorizing the  
8 operation of a quarry for a violation of state law or rules promulgated by the  
9 department of natural resources relating to air quality only if the department of  
10 natural resources determines that a violation of state law or rules has occurred and  
11 only for the duration of the violation, as determined by the department of natural  
12 resources.

13           (f) *Quarry permit requirements.* 1. A political subdivision may not add a  
14 condition to a permit during the duration of the permit unless the permit holder  
15 consents.

16           2. If a political subdivision requires a quarry to comply with another political  
17 subdivision's ordinance as a condition for obtaining a permit, the political  
18 subdivision that grants the permit may not require the quarry operator to comply  
19 with a provision of the other political subdivision's ordinance that is enacted after the  
20 permit is granted and while the permit is in effect.

21           3. a. A town may not require, as a condition for granting a permit to a quarry  
22 operator, that the quarry operator satisfy a condition that a county requires in order  
23 to grant a permit that is imposed by a county ordinance enacted after the county  
24 grants a permit to the quarry operator.







RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

INSERT

6/7/19

1 **AN ACT to renumber and amend** 59.69 (10) (ab), 60.61 (5) (ab) and 62.23 (7) (ab);  
2 and **to create** 59.69 (10) (ab) 1., 59.69 (10) (ab) 1m., 59.69 (10) (ab) 2., 59.69 (10)  
3 (ab) 4., 59.69 (10) (ab) 5., 59.69 (10) (ap), 60.61 (5) (ab) 1., 60.61 (5) (ab) 3., 60.61  
4 (5) (ab) 4., 60.61 (5)-(as), 62.23 (7) (ab) 1., 62.23 (7) (ab) 3., 62.23 (7) (ab) 4., 62.23  
5 (7) (hd), 66.0414 and 101.02 (7y) of the statutes; **relating to:** local regulation  
6 of certain quarry operations.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

insert:  
56314 -  
7

7 " SECTION 1. 59.69 (10) (ab) of the statutes is renumbered 59.69 (10) (ab) (intro.)  
8 and amended to read:  
9 59.69 (10) (ab) (intro.) In this subsection "nonconforming use";

**SECTION 1**

1           3. “Nonconforming use” means a use of land, a dwelling, or a building that  
2 existed lawfully before the current zoning ordinance was enacted or amended, but  
3 that does not conform with the use restrictions in the current ordinance.

4           <sup>e 9609</sup>  
**SECTION 2.** 59.69 (10) (ab) 1. of the statutes is created to read:

5           59.69 (10) (ab) 1. “Contiguous” means sharing a common boundary or being  
6 separated only by a waterway, section line, public road, private road, transportation  
7 right-of-way, or utility right-of-way.

8           <sup>e 760K</sup>  
**SECTION 3.** 59.69 (10) (ab) 1m. of the statutes is created to read:

9           59.69 (10) (ab) 1m. “Contiguous parcel” means any parcel of land, up to a  
10 cumulative limit of 80 acres, that <sup>as</sup> of January 1, 2001, is contiguous to, and is  
11 located in the same political subdivision as <sup>the</sup> land on which a quarry existed lawfully  
12 before the quarry became a nonconforming use, <sup>is</sup> is under the common ownership,  
13 leasehold, or control of the person who owns, leases, or controls the land on which the  
14 quarry is located, and is shown to have been intended for quarry operations prior to  
15 the <sup>effective</sup> date of the ordinance that rendered the use nonconforming. For purposes of this  
16 subdivision, if the contiguous parcel of land was commonly owned, leased, or  
17 controlled on January 1, 2001, there is a presumption that the contiguous parcel of  
18 land was intended for quarry operations prior to the <sup>effective</sup> date of the ordinance that  
19 rendered the use nonconforming.

20           <sup>e 760P</sup>  
**SECTION 4.** 59.69 (10) (ab) 2. of the statutes is created to read:

21           59.69 (10) (ab) 2. “Nonconforming quarry site” means land on which a quarry  
22 existed lawfully before the quarry became a nonconforming use, including any  
23 contiguous parcel. The nonconforming status of any contiguous parcel shall be  
24 subject to the requirement that, on a 5 year rolling average, 75 percent of the quarry  
25 materials extracted from the contiguous parcel shall be used for

1 infrastructure-related projects, as determined by the quarry operator. If this 75  
2 percent requirement is not met as to any contiguous parcel, the nonconforming  
3 status of the contiguous parcel may be suspended. This definition does not preclude  
4 a determination that a particular parcel of land is nonconforming under subd. 3. or  
5 common law.

6 SECTION 5. 59.69 (10) (ab) 4. of the statutes is created to read: *e 760t* *66.04135* ✓

7 59.69 (10) (ab) 4. "Quarry" has the meaning given in s. 66.0414 (2) (c).

8 SECTION 6. 59.69 (10) (ab) 5. of the statutes is created to read: *e 760w* *66.04125* ✓

9 59.69 (10) (ab) 5. "Quarry operations" has the meaning given in s. 66.0414(2)  
10 (d).

11 SECTION 7. 59.69 (10) (ap) of the statutes is created to read: *e 760y*

12 59.69 (10) (ap) Notwithstanding par. (am), an ordinance enacted under this  
13 section may not prohibit the continued operation of a quarry at a nonconforming  
14 quarry site. For purposes of this paragraph, the continued operation of a quarry  
15 includes conducting quarry operations in an area of a nonconforming quarry site in  
16 which quarry operations have not previously been conducted. Nothing in this section  
17 shall be construed as modifying or limiting an operator's reclamation obligations  
18 under a reclamation permit. "

INS  
A

inserted:  
563,5

19 SECTION 8. 60.61 (5) (ab) of the statutes is renumbered 60.61 (5) (ab) (intro.)  
20 and amended to read:

21 60.61 (5) (ab) (intro.) In this subsection "~~nonconforming use~~":

22 2. "Nonconforming use" means a use of land, a dwelling, or a building that  
23 existed lawfully before the current zoning ordinance was enacted or amended, but  
24 that does not conform with the use restrictions in the current ordinance.

25 SECTION 9. 60.61 (5) (ab) 1. of the statutes is created to read: *e 761e*

1 60.61 (5) (ab) 1. "Nonconforming quarry site" has the meaning given in s. 59.69

2 (10) (ab) 2.

3 SECTION <sup>e 7619</sup> 10. 60.61 (5) (ab) 3. of the statutes is created to read:

4 60.61 (5) (ab) 3. "Quarry" has the meaning given in s. 66.0414 (2) (c). <sup>e 66.04135</sup>

5 SECTION <sup>e 7612</sup> 11. 60.61 (5) (ab) 4. of the statutes is created to read:

6 60.61 (5) (ab) 4. "Quarry operations" has the meaning given in s. 66.0414 (2) <sup>e 66.04135 ✓</sup>

7 (d).

8 SECTION <sup>e 7619</sup> 12. 60.61 (5) (as) of the statutes is created to read:

9 60.61 (5) (as) Notwithstanding par. (am), an ordinance enacted under this  
10 section may not prohibit the continued operation of a quarry at a nonconforming  
11 quarry site. For purposes of this paragraph, the continued operation of a quarry  
12 includes conducting quarry operations in an area of a nonconforming quarry site in  
13 which quarry operations have not previously been conducted. "

NSA  
NSB

NSA  
564, 12

14 " SECTION <sup>e 7612</sup> 13. 62.23 (7) (ab) of the statutes is renumbered 62.23 (7) (ab) (intro.)  
15 and amended to read:

16 62.23 (7) (ab) ~~Definition~~ Definitions. (intro.) In this subsection  
17 "nonconforming use":

18 2. "Nonconforming use" means a use of land, a dwelling, or a building that  
19 existed lawfully before the current zoning ordinance was enacted or amended, but  
20 that does not conform with the use restrictions in the current ordinance.

21 SECTION <sup>e 7619</sup> 14. 62.23 (7) (ab) 1. of the statutes is created to read:

22 62.23 (7) (ab) 1. "Nonconforming quarry site" has the meaning given in s. 59.69

23 (10) (ab) 2.

24 SECTION <sup>e 7619</sup> 15. 62.23 (7) (ab) 3. of the statutes is created to read:

25 62.23 (7) (ab) 3. "Quarry" has the meaning given in s. 66.0414 (2) (c). <sup>e 66.04135 -</sup>

1

SECTION 16. 62.23 (7) (ab) 4. of the statutes is created to read:

2

62.23 (7) (ab) 4. "Quarry operations" has the meaning given in s. 66.0414 (2)

3

(d).

4

SECTION 17. 62.23 (7) (hd) of the statutes is created to read:

5

62.23 (7) (hd) *Nonconforming quarry sites*. Notwithstanding par. (h), an

6

ordinance enacted under this section may not prohibit the continued operation of a

7

quarry at a nonconforming quarry site. For purposes of this paragraph, the

8

continued operation of a quarry includes conducting quarry operations in an area of

9

a nonconforming quarry site in which quarry operations have not previously been

10

conducted.

11

SECTION 18. 66.0414 of the statutes is created to read:

12

**66.0414 Quarries extracting certain nonmetallic minerals. (1)**

13

CONSTRUCTION. (a) Nothing in this section may be construed to affect the authority

14

of a political subdivision to regulate land use for a purpose other than quarry

15

operations.

16

(b) Nothing in this section may be construed to exempt a quarry from a

17

regulation of general applicability placed by a political subdivision that applies to

18

other property in the political subdivision that is not a quarry unless the regulation

19

is inconsistent with this section.

20

(2) DEFINITIONS. In this section:

21

(a) "Permit" means a form of approval granted by a political subdivision for the

22

operation of a quarry.

23

(b) "Political subdivision" means a city, village, town, or county.

24

(c) "Quarry" means the surface area from which nonmetallic minerals,

25

including soil, clay, sand, gravel, and construction aggregate, that are used primarily

INSA  
INS B

insulators  
567,12

9766r

9766w

9777m

66.04135 ✓

66.04135

66.04135

1 for a public works project or a private construction or transportation project are  
2 extracted and processed.

3 (d) "Quarry operations" means the extraction and processing of minerals at a  
4 quarry and all related activities, including blasting, vehicle and equipment access  
5 to the quarry, and loading and hauling of material to and from the quarry.

6 (3) LIMITATIONS ON LOCAL REGULATION. (a) *Permits*. 1. Consistent with the  
7 requirements and limitations in this subsection, except as provided in subd. 2., a  
8 political subdivision may require a quarry operator to obtain a zoning or nonzoning  
9 permit to conduct quarry operations. Any such zoning or nonzoning permit  
10 requirement shall be subject to the applicable provisions of ss. 59.69 (5e), 60.61 (4e),  
11 and 62.23 (7) (de).

12 2. A political subdivision may not require a quarry operator to obtain a zoning  
13 or nonzoning permit to conduct quarry operations unless prior to the establishment  
14 of quarry operations the political subdivision enacts an ordinance that requires the  
15 permit. A political subdivision may not require a quarry operator to obtain a  
16 nonzoning permit to conduct quarry operations if the quarry operation operates  
17 under a previously issued zoning permit.

18 (b) *Applicability of local limit*. If a political subdivision enacts a nonzoning  
19 ordinance regulating the operation of a quarry that was not in effect when quarry  
20 operations began at a quarry, the limit does not apply to that quarry or to land that  
21 is contiguous, as defined in s. 59.69 (10) (ab) 1., to the land on which the quarry is  
22 located, is under the common ownership, leasehold, or control of the person who  
23 owns, leases, or controls the land on which the quarry is located, and is located in the  
24 same political subdivision.

INS  
C

1 (c) *Blasting*. 1. In this paragraph, “affected area” means an area within a  
2 certain radius of a blasting site that may be affected by a blasting operation, as  
3 determined using a formula established by the department of safety and professional  
4 services by rule that takes into account a scaled-distance factor and the weight of  
5 explosives to be used.

6 2. Except as provided under subs. 3. and 4., a political subdivision may not  
7 limit blasting at a quarry.

8 3. A political subdivision may require the operator of a quarry to do any of the  
9 following:

10 a. Before beginning a blasting operation at the quarry, provide notice of the  
11 blasting operation to each political subdivision in which any part of the quarry is  
12 located and to owners of dwellings or other structures within the affected area.

13 b. Before beginning a blasting operation at the quarry, cause a 3rd party to  
14 conduct a building survey of any dwellings or other structures within the affected  
15 area.

16 c. Before beginning a blasting operation at the quarry, cause a 3rd party to  
17 conduct a survey of and test any wells within the affected area.

18 d. Provide evidence of insurance to each political subdivision in which any part  
19 of the quarry is located.

20 e. Provide copies of blasting logs to each political subdivision in which any part  
21 of the quarry is located.

22 f. Provide maps of the affected area to each political subdivision in which any  
23 part of the quarry is located.

24 g. Provide copies of any reports submitted to the department of safety and  
25 professional services relating to blasting at the quarry.



**SECTION 18**

1           4. A political subdivision may suspend a permit for a violation of the  
2 requirements under s. 101.15 relating to blasting and rules promulgated by the  
3 department of safety and professional services under s. 101.15 (2) (e) relating to  
4 blasting only if the department of safety and professional services determines that  
5 a violation of the requirements or rules has occurred and only for the duration of the  
6 violation as determined by the department of safety and professional services.

7           (d) *Water quality or quantity.* 1. Except as provided under subds. 2. to 5., a  
8 political subdivision may not do any of the following with respect to the operation of  
9 a quarry:

10           a. Establish or enforce a water quality standard.

11           b. Issue permits, including permits for discharges to the waters of the state, or  
12 any other form of approval related to water quality or quantity.

13           c. Impose any restriction related to water quality or quantity.

14           d. Impose any requirements related to monitoring of water quality or quantity.

15           2. A political subdivision may take actions related to water quality that are  
16 specifically required or authorized by state law.

17           3. A political subdivision may require the operator of a quarry to conduct and  
18 provide water quality and quantity baseline testing and ongoing quality testing, to  
19 occur not more frequently than annually, of all wells within 1,000 feet of the  
20 perimeter of a quarry site when a new high capacity well is added to an existing  
21 quarry site or a new quarry site is established. A testing requirement under this  
22 subdivision may not impose any standard that is more stringent than the standards  
23 for groundwater quality required by rules promulgated by the department of natural  
24 resources. The political subdivision may request a report of well testing results  
25 within 30 days of the completion of testing, and the quarry operator shall provide the

1 results within that time. Any person offered the opportunity to have a well tested  
2 under this subdivision but who knowingly refuses testing waives any claim against  
3 a quarry operator related to the condition of the well if, within 90 days of the offer,  
4 the quarry operator records with the register of deeds for the county in which the well  
5 is located a written and sworn certification that the person refused the offer.

6 4. A political subdivision that imposes a requirement to conduct any ongoing  
7 water quality or quantity testing of wells adjacent to an existing quarry prior to the  
8 effective date of this subdivision .... [LRB inserts date], may continue to do so.

9 5. In addition to the ability to enforce properly adopted local regulations as  
10 allowed by this section, a political subdivision may suspend a permit authorizing the  
11 operation of a quarry for a violation of state law or rules promulgated by the  
12 department of natural resources relating to water quality or quantity only if the  
13 department of natural resources determines that a violation of state law or rules has  
14 occurred and only for the duration of the violation, as determined by the department  
15 of natural resources.

16 (e) *Air quality.* 1. Notwithstanding s. 285.73, and except as provided under  
17 subs. 2. to 4., a political subdivision may not do any of the following with respect to  
18 the operation of a quarry:

19 a. Establish or enforce an ambient air quality standard, standard of  
20 performance for new stationary sources, or other emission limitation related to air  
21 quality.

22 b. Issue permits or any other form of approval related to air quality.

23 c. Impose any restriction related to air quality.

24 d. Impose any requirement related to monitoring air quality.

1           2. A political subdivision may require the operator of a quarry to use best  
2 management practices to limit off-site fugitive dust and may enforce properly  
3 adopted fugitive dust regulations.

4           3. A political subdivision may take actions related to air quality that are  
5 specifically required or authorized by state law.

6           4. In addition to the ability to enforce properly adopted local regulations as  
7 allowed by this section, a political subdivision may suspend a permit authorizing the  
8 operation of a quarry for a violation of state law or rules promulgated by the  
9 department of natural resources relating to air quality only if the department of  
10 natural resources determines that a violation of state law or rules has occurred and  
11 only for the duration of the violation, as determined by the department of natural  
12 resources.

13           (f) *Quarry permit requirements.* 1. A political subdivision may not add a  
14 condition to a permit during the duration of the permit unless the permit holder  
15 consents.

16           2. If a political subdivision requires a quarry to comply with another political  
17 subdivision's ordinance as a condition for obtaining a permit, the political  
18 subdivision that grants the permit may not require the quarry operator to comply  
19 with a provision of the other political subdivision's ordinance that is enacted after the  
20 permit is granted and while the permit is in effect.

21           3. a. A town may not require, as a condition for granting a permit to a quarry  
22 operator, that the quarry operator satisfy a condition that a county requires in order  
23 to grant a permit that is imposed by a county ordinance enacted after the county  
24 grants a permit to the quarry operator.

1 b. A county may not require, as a condition for granting a permit to a quarry  
2 operator, that the quarry operator satisfy a condition that a town requires in order  
3 to grant a permit that is imposed by a town ordinance enacted after the town grants  
4 a permit to the quarry operator.

5 " SECTION 19. 101.02 (7y) of the statutes is created to read:

6 101.02 (7y) (a) In this subsection, "quarry" has the meaning given in s. 66.0414

7 (2) (c).

8 (b) Notwithstanding sub. (7) (a), and except as provided in this subsection and  
9 s. 66.0414 (3) (c), no city, village, town, or county may make or enforce a local order  
10 that limits blasting at a quarry.

11 (c) A city, village, town, or county may petition the department for an order  
12 granting the city, village, town, or county the authority to impose additional  
13 restrictions and requirements related to blasting on the operator of a quarry. If a city,  
14 village, town, or county submits a petition under this paragraph because of concerns  
15 regarding the potential impact of blasting on a qualified historic building, as defined  
16 in s. 101.121 (2) (c), the department may require the operator of the quarry to pay  
17 the costs of an impact study related to the qualified historic building.

18 (d) If the department issues an order under this subsection, the order may  
19 grant the city, village, town, or county the authority to impose restrictions and  
20 requirements related to blasting at the quarry that are more restrictive than the  
21 requirements under s. 101.15 related to blasting and rules promulgated by the  
22 department under s. 101.15 (2) (e) related to blasting.

23 (e) The department may not charge a fee to a city, village, town, or county in  
24 connection with a petition submitted under par. (c).

25

(END)

insafety  
688,5

66.04135

1103m

66.0414

66.04135

**2019-2020 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0320/?ins

.....

1           INS A

2

3            If quarry operations at a nonconforming quarry site are discontinued for a  
4 period of 12 months, any future use of the land, buildings, premises, or structures  
5 shall conform to the ordinance.

6

7           INS B

8

9            Nothing in this section shall be construed as modifying or limiting an operator's  
10 reclamation obligations under a reclamation permit.

11

12           INS C

13

14           and is shown to have been intended for quarry operations prior to the effective  
15 date of the nonzoning ordinance



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBb0320/P1 P2  
EVM/ZDW/KRP:ahc

RMR

LFB:.....Bonderud - Local regulation of nonmetallic mining at quarry operations

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY BILL 56**

6/10/19

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 563, line 4: after that line insert:

3 **"SECTION 760c.** 59.69 (10) (ab) of the statutes is renumbered 59.69 (10) (ab)  
4 (intro.) and amended to read:

5 59.69 (10) (ab) (intro.) In this subsection "~~nonconforming use~~":

6 **3. "Nonconforming use"** means a use of land, a dwelling, or a building that  
7 existed lawfully before the current zoning ordinance was enacted or amended, but  
8 that does not conform with the use restrictions in the current ordinance.

9 **SECTION 760g.** 59.69 (10) (ab) 1. of the statutes is created to read:

1           59.69 (10) (ab) 1. “Contiguous” means sharing a common boundary or being  
2 separated only by a waterway, section line, public road, private road, transportation  
3 right-of-way, or utility right-of-way.

4           **SECTION 760k.** 59.69 (10) (ab) 1m. of the statutes is created to read:

5           59.69 (10) (ab) 1m. “Contiguous parcel” means any parcel of land, up to a  
6 cumulative limit of 80 acres, that, as of January 1, 2001, is contiguous to and is  
7 located in the same political subdivision as land on which a quarry existed lawfully  
8 before the quarry became a nonconforming use, is under the common ownership,  
9 leasehold, or control of the person who owns, leases, or controls the land on which the  
10 quarry is located, and is shown to have been intended for quarry operations prior to  
11 the effective date of the ordinance that rendered the use nonconforming. For  
12 purposes of this subdivision, if the contiguous parcel of land was commonly owned,  
13 leased, or controlled on January 1, 2001, there is a presumption that the contiguous  
14 parcel of land was intended for quarry operations prior to the effective date of the  
15 ordinance that rendered the use nonconforming.

16           **SECTION 760p.** 59.69 (10) (ab) 2. of the statutes is created to read:

17           59.69 (10) (ab) 2. “Nonconforming quarry site” means land on which a quarry  
18 existed lawfully before the quarry became a nonconforming use, including any  
19 contiguous parcel. The nonconforming status of any contiguous parcel shall be  
20 subject to the requirement that, on a 5 year rolling average, 75 percent of the quarry  
21 materials extracted from the contiguous parcel shall be used for  
22 infrastructure-related projects, as determined by the quarry operator. If this 75  
23 percent requirement is not met as to any contiguous parcel, the nonconforming  
24 status of the contiguous parcel may be suspended. This definition does not preclude

1 a determination that a particular parcel of land is nonconforming under subd. 3. or  
2 common law.

3 **SECTION 760t.** 59.69 (10) (ab) 4. of the statutes is created to read:

4 59.69 (10) (ab) 4. "Quarry" has the meaning given in s. 66.04135 (2) (c).

5 **SECTION 760w.** 59.69 (10) (ab) 5. of the statutes is created to read:

6 59.69 (10) (ab) 5. "Quarry operations" has the meaning given in s. 66.04135 (2)  
7 (d).

8 **SECTION 760y.** 59.69 (10) (ap) of the statutes is created to read:

9 59.69 (10) (ap) Notwithstanding par. (am), an ordinance enacted under this  
10 section may not prohibit the continued operation of a quarry at a nonconforming  
11 quarry site. For purposes of this paragraph, the continued operation of a quarry  
12 includes conducting quarry operations in an area of a nonconforming quarry site in  
13 which quarry operations have not previously been conducted. If quarry operations  
14 at a nonconforming quarry site are discontinued for a period of 12 months, any future  
15 use of the land, buildings, premises, or structures shall conform to the ordinance.  
16 Nothing in this section shall be construed as modifying or limiting an operator's  
17 reclamation obligations under a reclamation permit."

18 **2.** Page 563, line 5: after that line insert:

19 "SECTION 761c. 60.61 (5) (ab) of the statutes is renumbered 60.61 (5) (ab)  
20 (intro.) and amended to read:

21 60.61 (5) (ab) (intro.) In this subsection "~~nonconforming use~~":

22 2. "Nonconforming use" means a use of land, a dwelling, or a building that  
23 existed lawfully before the current zoning ordinance was enacted or amended, but  
24 that does not conform with the use restrictions in the current ordinance.



1           **SECTION 761e.** 60.61 (5) (ab) 1. of the statutes is created to read:

2           60.61 (5) (ab) 1. “Nonconforming quarry site” has the meaning given in s. 59.69  
3 (10) (ab) 2.

4           **SECTION 761g.** 60.61 (5) (ab) 3. of the statutes is created to read:

5           60.61 (5) (ab) 3. “Quarry” has the meaning given in s. 66.04135 (2) (c).

6           **SECTION 761k.** 60.61 (5) (ab) 4. of the statutes is created to read:

7           60.61 (5) (ab) 4. “Quarry operations” has the meaning given in s. 66.04135 (2)  
8 (d).

9           **SECTION 761p.** 60.61 (5) (as) of the statutes is created to read:

10          60.61 (5) (as) Notwithstanding par. (am), an ordinance enacted under this  
11 section may not prohibit the continued operation of a quarry at a nonconforming  
12 quarry site. For purposes of this paragraph, the continued operation of a quarry  
13 includes conducting quarry operations in an area of a nonconforming quarry site in  
14 which quarry operations have not previously been conducted. Nothing in this section  
15 shall be construed as modifying or limiting an operator’s reclamation obligations  
16 under a reclamation permit.”.

17          **3.** Page 564, line 12: after that line insert:

18          “**SECTION 766c.** 62.23 (7) (ab) of the statutes is renumbered 62.23 (7) (ab)  
19 (intro.) and amended to read:

20          62.23 (7) (ab) *Definition Definitions.* (intro.) In this subsection  
21 “nonconforming use”:

22          2. “Nonconforming use” means a use of land, a dwelling, or a building that  
23 existed lawfully before the current zoning ordinance was enacted or amended, but  
24 that does not conform with the use restrictions in the current ordinance.

1           **SECTION 766g.** 62.23 (7) (ab) 1. of the statutes is created to read:

2           62.23 (7) (ab) 1. “Nonconforming quarry site” has the meaning given in s. 59.69  
3 (10) (ab) 2.

4           **SECTION 766n.** 62.23 (7) (ab) 3. of the statutes is created to read:

5           62.23 (7) (ab) 3. “Quarry” has the meaning given in s. 66.04135 (2) (c).

6           **SECTION 766r.** 62.23 (7) (ab) 4. of the statutes is created to read:

7           62.23 (7) (ab) 4. “Quarry operations” has the meaning given in s. 66.04135 (2)  
8 (d).

9           **SECTION 766w.** 62.23 (7) (hd) of the statutes is created to read:

10           62.23 (7) (hd) *Nonconforming quarry sites.* Notwithstanding par. (h), an  
11 ordinance enacted under this section may not prohibit the continued operation of a  
12 quarry at a nonconforming quarry site. For purposes of this paragraph, the  
13 continued operation of a quarry includes conducting quarry operations in an area of  
14 a nonconforming quarry site in which quarry operations have not previously been  
15 conducted. Nothing in this section shall be construed as modifying or limiting an  
16 operator’s reclamation obligations under a reclamation permit.”.

17           **4.** Page 567, line 12: after that line insert:

18           “**SECTION 777m.** 66.04135 of the statutes is created to read:

19           **66.04135 Quarries extracting certain nonmetallic minerals. (1)**

20           **CONSTRUCTION.** (a) Nothing in this section may be construed to affect the authority  
21 of a political subdivision to regulate land use for a purpose other than quarry  
22 operations.

23           (b) Nothing in this section may be construed to exempt a quarry from a  
24 regulation of general applicability placed by a political subdivision that applies to

1 other property in the political subdivision that is not a quarry unless the regulation  
2 is inconsistent with this section.

3 **(2) DEFINITIONS.** In this section:

4 (a) "Permit" means a form of approval granted by a political subdivision for the  
5 operation of a quarry.

6 (b) "Political subdivision" means a city, village, town, or county.

7 (c) "Quarry" means the surface area from which nonmetallic minerals,  
8 including soil, clay, sand, gravel, and construction aggregate, that are used primarily  
9 for a public works project or a private construction or transportation project are  
10 extracted and processed.

11 (d) "Quarry operations" means the extraction and processing of minerals at a  
12 quarry and all related activities, including blasting, vehicle and equipment access  
13 to the quarry, and loading and hauling of material to and from the quarry.

14 **(3) LIMITATIONS ON LOCAL REGULATION.** (a) *Permits.* 1. Consistent with the  
15 requirements and limitations in this subsection, except as provided in subd. 2., a  
16 political subdivision may require a quarry operator to obtain a zoning or nonzoning  
17 permit to conduct quarry operations.

18 2. A political subdivision may not require a quarry operator to obtain a zoning  
19 or nonzoning permit to conduct quarry operations unless prior to the establishment  
20 of quarry operations the political subdivision enacts an ordinance that requires the  
21 permit. A political subdivision may not require a quarry operator to obtain a  
22 nonzoning permit to conduct quarry operations if the quarry operation operates  
23 under a previously issued zoning permit.

24 (b) *Applicability of local limit.* If a political subdivision enacts a nonzoning  
25 ordinance regulating the operation of a quarry that was not in effect when quarry

1 operations began at a quarry, the limit does not apply to that quarry or to land that  
2 is contiguous, as defined in s. 59.69 (10) (ab) 1., to the land on which the quarry is  
3 located, is under the common ownership, leasehold, or control of the person who  
4 owns, leases, or controls the land on which the quarry is located, and is located in the  
5 same political subdivision and is shown to have been intended for quarry operations  
6 prior to the effective date of the nonzoning ordinance.

7 (c) *Blasting*. 1. In this paragraph, “affected area” means an area within a  
8 certain radius of a blasting site that may be affected by a blasting operation, as  
9 determined using a formula established by the department of safety and professional  
10 services by rule that takes into account a scaled-distance factor and the weight of  
11 explosives to be used.

12 2. Except as provided under subs. 3. and 4., a political subdivision may not  
13 limit blasting at a quarry.

14 3. A political subdivision may require the operator of a quarry to do any of the  
15 following:

16 a. Before beginning a blasting operation at the quarry, provide notice of the  
17 blasting operation to each political subdivision in which any part of the quarry is  
18 located and to owners of dwellings or other structures within the affected area.

19 b. Before beginning a blasting operation at the quarry, cause a 3rd party to  
20 conduct a building survey of any dwellings or other structures within the affected  
21 area.

22 c. Before beginning a blasting operation at the quarry, cause a 3rd party to  
23 conduct a survey of and test any wells within the affected area.

24 d. Provide evidence of insurance to each political subdivision in which any part  
25 of the quarry is located.

1 e. Provide copies of blasting logs to each political subdivision in which any part  
2 of the quarry is located.

3 f. Provide maps of the affected area to each political subdivision in which any  
4 part of the quarry is located.

5 g. Provide copies of any reports submitted to the department of safety and  
6 professional services relating to blasting at the quarry.

7 4. A political subdivision may suspend a permit for a violation of the  
8 requirements under s. 101.15 relating to blasting and rules promulgated by the  
9 department of safety and professional services under s. 101.15 (2) (e) relating to  
10 blasting only if the department of safety and professional services determines that  
11 a violation of the requirements or rules has occurred and only for the duration of the  
12 violation as determined by the department of safety and professional services.

13 (d) *Water quality or quantity.* 1. Except as provided under subds. 2. to 5., a  
14 political subdivision may not do any of the following with respect to the operation of  
15 a quarry:

16 a. Establish or enforce a water quality standard.

17 b. Issue permits, including permits for discharges to the waters of the state, or  
18 any other form of approval related to water quality or quantity.

19 c. Impose any restriction related to water quality or quantity.

20 d. Impose any requirements related to monitoring of water quality or quantity.

21 2. A political subdivision may take actions related to water quality that are  
22 specifically required or authorized by state law.

23 3. A political subdivision may require the operator of a quarry to conduct and  
24 provide water quality and quantity baseline testing and ongoing quality testing, to  
25 occur not more frequently than annually, of all wells within 1,000 feet of the

1 perimeter of a quarry site when a new high capacity well is added to an existing  
2 quarry site or a new quarry site is established. A testing requirement under this  
3 subdivision may not impose any standard that is more stringent than the standards  
4 for groundwater quality required by rules promulgated by the department of natural  
5 resources. The political subdivision may request a report of well testing results  
6 within 30 days of the completion of testing, and the quarry operator shall provide the  
7 results within that time. Any person offered the opportunity to have a well tested  
8 under this subdivision but who knowingly refuses testing waives any claim against  
9 a quarry operator related to the condition of the well if, within 90 days of the offer,  
10 the quarry operator records with the register of deeds for the county in which the well  
11 is located a written and sworn certification that the person refused the offer.

12 4. A political subdivision that imposes a requirement to conduct any ongoing  
13 water quality or quantity testing of wells adjacent to an existing quarry prior to the  
14 effective date of this subdivision .... [LRB inserts date], may continue to do so.

15 5. In addition to the ability to enforce properly adopted local regulations as  
16 allowed by this section, a political subdivision may suspend a permit authorizing the  
17 operation of a quarry for a violation of state law or rules promulgated by the  
18 department of natural resources relating to water quality or quantity only if the  
19 department of natural resources determines that a violation of state law or rules has  
20 occurred and only for the duration of the violation, as determined by the department  
21 of natural resources.

22 (e) *Air quality.* 1. Notwithstanding s. 285.73, and except as provided under  
23 subds. 2. to 4., a political subdivision may not do any of the following with respect to  
24 the operation of a quarry:

1           a. Establish or enforce an ambient air quality standard, standard of  
2 performance for new stationary sources, or other emission limitation related to air  
3 quality.

4           b. Issue permits or any other form of approval related to air quality.

5           c. Impose any restriction related to air quality.

6           d. Impose any requirement related to monitoring air quality.

7           2. A political subdivision may require the operator of a quarry to use best  
8 management practices to limit off-site fugitive dust and may enforce properly  
9 adopted fugitive dust regulations.

10          3. A political subdivision may take actions related to air quality that are  
11 specifically required or authorized by state law.

12          4. In addition to the ability to enforce properly adopted local regulations as  
13 allowed by this section, a political subdivision may suspend a permit authorizing the  
14 operation of a quarry for a violation of state law or rules promulgated by the  
15 department of natural resources relating to air quality only if the department of  
16 natural resources determines that a violation of state law or rules has occurred and  
17 only for the duration of the violation, as determined by the department of natural  
18 resources.

19          (f) *Quarry permit requirements.* 1. A political subdivision may not add a  
20 condition to a permit during the duration of the permit unless the permit holder  
21 consents.

22          2. If a political subdivision requires a quarry to comply with another political  
23 subdivision's ordinance as a condition for obtaining a permit, the political  
24 subdivision that grants the permit may not require the quarry operator to comply

1 with a provision of the other political subdivision's ordinance that is enacted after the  
2 permit is granted and while the permit is in effect.

3 3. a. A town may not require, as a condition for granting a permit to a quarry  
4 operator, that the quarry operator satisfy a condition that a county requires in order  
5 to grant a permit that is imposed by a county ordinance enacted after the county  
6 grants a permit to the quarry operator.

7 b. A county may not require, as a condition for granting a permit to a quarry  
8 operator, that the quarry operator satisfy a condition that a town requires in order  
9 to grant a permit that is imposed by a town ordinance enacted after the town grants  
10 a permit to the quarry operator.”.

11 **5.** Page 688, line 5: after that line insert:

12 **“SECTION 1103m.** 101.02 (7y) of the statutes is created to read:

13 101.02 (7y) (a) In this subsection, “quarry” has the meaning given in s.  
14 66.04135 (2) (c).

15 (b) Notwithstanding sub. (7) (a), and except as provided in this subsection and  
16 s. 66.04135 (3) (c), no city, village, town, or county may make or enforce a local order  
17 that limits blasting at a quarry.

18 (c) A city, village, town, or county may petition the department for an order  
19 granting the city, village, town, or county the authority to impose additional  
20 restrictions and requirements related to blasting on the operator of a quarry. If a city,  
21 village, town, or county submits a petition under this paragraph because of concerns  
22 regarding the potential impact of blasting on a qualified historic building, as defined  
23 in s. 101.121 (2) (c), the department may require the operator of the quarry to pay  
24 the costs of an impact study related to the qualified historic building.



1 (d) If the department issues an order under this subsection, the order may  
2 grant the city, village, town, or county the authority to impose restrictions and  
3 requirements related to blasting at the quarry that are more restrictive than the  
4 requirements under s. 101.15 related to blasting and rules promulgated by the  
5 department under s. 101.15 (2) (e) related to blasting.

6 (e) The department may not charge a fee to a city, village, town, or county in  
7 connection with a petition submitted under par. (c).”.

8 (END)

## Mueller, Eric

---

**From:** Bonderud, Kendra  
**Sent:** Monday, June 10, 2019 9:04 AM  
**To:** Mueller, Eric  
**Cc:** Ferguson, Paul  
**Subject:** drafting change request

Eric,

Please make the following changes in LRBb0320/P1 related to local regulation of quarry operations:

1. Page 3, delete line 13, "If quarry operations" and all of lines 14 and 15. This sentence was not included in the JFC motion.
2. Page 7, lines 5 and 6, delete "and is shown to have been intended for quarry operations prior to the effective date of the nonzoning ordinance." This language was not included in the JFC motion.

Thank you.

**Kendra Bonderud**  
*Legislative Fiscal Analyst*  
*Wisconsin Legislative Fiscal Bureau*  
*(608) 266-3847*  
*Kendra.Bonderud@legis.wisconsin.gov*



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBb0320/P2  
EVM/ZDW/KRP:ahc

LFB:.....Bonderud - Local regulation of nonmetallic mining at quarry operations

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY BILL 56**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 563, line 4: after that line insert:

3 **"SECTION 760c.** 59.69 (10) (ab) of the statutes is renumbered 59.69 (10) (ab)  
4 (intro.) and amended to read:

5 59.69 (10) (ab) (intro.) In this subsection "~~nonconforming use~~";

6 **3.** "Nonconforming use" means a use of land, a dwelling, or a building that  
7 existed lawfully before the current zoning ordinance was enacted or amended, but  
8 that does not conform with the use restrictions in the current ordinance.

9 **SECTION 760g.** 59.69 (10) (ab) 1. of the statutes is created to read:

1           59.69 (10) (ab) 1. “Contiguous” means sharing a common boundary or being  
2 separated only by a waterway, section line, public road, private road, transportation  
3 right-of-way, or utility right-of-way.

4           **SECTION 760k.** 59.69 (10) (ab) 1m. of the statutes is created to read:

5           59.69 (10) (ab) 1m. “Contiguous parcel” means any parcel of land, up to a  
6 cumulative limit of 80 acres, that, as of January 1, 2001, is contiguous to and is  
7 located in the same political subdivision as land on which a quarry existed lawfully  
8 before the quarry became a nonconforming use, is under the common ownership,  
9 leasehold, or control of the person who owns, leases, or controls the land on which the  
10 quarry is located, and is shown to have been intended for quarry operations prior to  
11 the effective date of the ordinance that rendered the use nonconforming. For  
12 purposes of this subdivision, if the contiguous parcel of land was commonly owned,  
13 leased, or controlled on January 1, 2001, there is a presumption that the contiguous  
14 parcel of land was intended for quarry operations prior to the effective date of the  
15 ordinance that rendered the use nonconforming.

16           **SECTION 760p.** 59.69 (10) (ab) 2. of the statutes is created to read:

17           59.69 (10) (ab) 2. “Nonconforming quarry site” means land on which a quarry  
18 existed lawfully before the quarry became a nonconforming use, including any  
19 contiguous parcel. The nonconforming status of any contiguous parcel shall be  
20 subject to the requirement that, on a 5 year rolling average, 75 percent of the quarry  
21 materials extracted from the contiguous parcel shall be used for  
22 infrastructure-related projects, as determined by the quarry operator. If this 75  
23 percent requirement is not met as to any contiguous parcel, the nonconforming  
24 status of the contiguous parcel may be suspended. This definition does not preclude

1 a determination that a particular parcel of land is nonconforming under subd. 3. or  
2 common law.

3 **SECTION 760t.** 59.69 (10) (ab) 4. of the statutes is created to read:

4 59.69 (10) (ab) 4. “Quarry” has the meaning given in s. 66.04135 (2) (c).

5 **SECTION 760w.** 59.69 (10) (ab) 5. of the statutes is created to read:

6 59.69 (10) (ab) 5. “Quarry operations” has the meaning given in s. 66.04135 (2)  
7 (d).

8 **SECTION 760y.** 59.69 (10) (ap) of the statutes is created to read:

9 59.69 (10) (ap) Notwithstanding par. (am), an ordinance enacted under this  
10 section may not prohibit the continued operation of a quarry at a nonconforming  
11 quarry site. For purposes of this paragraph, the continued operation of a quarry  
12 includes conducting quarry operations in an area of a nonconforming quarry site in  
13 which quarry operations have not previously been conducted. Nothing in this section  
14 shall be construed as modifying or limiting an operator’s reclamation obligations  
15 under a reclamation permit.”.

16 **2.** Page 563, line 5: after that line insert:

17 “**SECTION 761c.** 60.61 (5) (ab) of the statutes is renumbered 60.61 (5) (ab)  
18 (intro.) and amended to read:

19 60.61 (5) (ab) (intro.) In this subsection “~~nonconforming use~~”;

20 **2.** “Nonconforming use” means a use of land, a dwelling, or a building that  
21 existed lawfully before the current zoning ordinance was enacted or amended, but  
22 that does not conform with the use restrictions in the current ordinance.

23 **SECTION 761e.** 60.61 (5) (ab) 1. of the statutes is created to read:

1           60.61 (5) (ab) 1. “Nonconforming quarry site” has the meaning given in s. 59.69  
2 (10) (ab) 2.

3           **SECTION 761g.** 60.61 (5) (ab) 3. of the statutes is created to read:

4           60.61 (5) (ab) 3. “Quarry” has the meaning given in s. 66.04135 (2) (c).

5           **SECTION 761k.** 60.61 (5) (ab) 4. of the statutes is created to read:

6           60.61 (5) (ab) 4. “Quarry operations” has the meaning given in s. 66.04135 (2)  
7 (d).

8           **SECTION 761p.** 60.61 (5) (as) of the statutes is created to read:

9           60.61 (5) (as) Notwithstanding par. (am), an ordinance enacted under this  
10 section may not prohibit the continued operation of a quarry at a nonconforming  
11 quarry site. For purposes of this paragraph, the continued operation of a quarry  
12 includes conducting quarry operations in an area of a nonconforming quarry site in  
13 which quarry operations have not previously been conducted. Nothing in this section  
14 shall be construed as modifying or limiting an operator’s reclamation obligations  
15 under a reclamation permit.”.

16           **3.** Page 564, line 12: after that line insert:

17           “**SECTION 766c.** 62.23 (7) (ab) of the statutes is renumbered 62.23 (7) (ab)  
18 (intro.) and amended to read:

19           62.23 (7) (ab) *Definition Definitions.* (intro.) In this subsection  
20 “~~nonconforming use~~”;

21           2. “Nonconforming use” means a use of land, a dwelling, or a building that  
22 existed lawfully before the current zoning ordinance was enacted or amended, but  
23 that does not conform with the use restrictions in the current ordinance.

24           **SECTION 766g.** 62.23 (7) (ab) 1. of the statutes is created to read:

1           62.23 (7) (ab) 1. “Nonconforming quarry site” has the meaning given in s. 59.69  
2 (10) (ab) 2.

3           **SECTION 766n.** 62.23 (7) (ab) 3. of the statutes is created to read:

4           62.23 (7) (ab) 3. “Quarry” has the meaning given in s. 66.04135 (2) (c).

5           **SECTION 766r.** 62.23 (7) (ab) 4. of the statutes is created to read:

6           62.23 (7) (ab) 4. “Quarry operations” has the meaning given in s. 66.04135 (2)  
7 (d).

8           **SECTION 766w.** 62.23 (7) (hd) of the statutes is created to read:

9           62.23 (7) (hd) *Nonconforming quarry sites.* Notwithstanding par. (h), an  
10 ordinance enacted under this section may not prohibit the continued operation of a  
11 quarry at a nonconforming quarry site. For purposes of this paragraph, the  
12 continued operation of a quarry includes conducting quarry operations in an area of  
13 a nonconforming quarry site in which quarry operations have not previously been  
14 conducted. Nothing in this section shall be construed as modifying or limiting an  
15 operator’s reclamation obligations under a reclamation permit.”.

16           **4.** Page 567, line 12: after that line insert:

17           “**SECTION 777m.** 66.04135 of the statutes is created to read:

18           **66.04135 Quarries extracting certain nonmetallic minerals. (1)**  
19 **CONSTRUCTION.** (a) Nothing in this section may be construed to affect the authority  
20 of a political subdivision to regulate land use for a purpose other than quarry  
21 operations.

22           (b) Nothing in this section may be construed to exempt a quarry from a  
23 regulation of general applicability placed by a political subdivision that applies to

1 other property in the political subdivision that is not a quarry unless the regulation  
2 is inconsistent with this section.

3 **(2) DEFINITIONS.** In this section:

4 (a) "Permit" means a form of approval granted by a political subdivision for the  
5 operation of a quarry.

6 (b) "Political subdivision" means a city, village, town, or county.

7 (c) "Quarry" means the surface area from which nonmetallic minerals,  
8 including soil, clay, sand, gravel, and construction aggregate, that are used primarily  
9 for a public works project or a private construction or transportation project are  
10 extracted and processed.

11 (d) "Quarry operations" means the extraction and processing of minerals at a  
12 quarry and all related activities, including blasting, vehicle and equipment access  
13 to the quarry, and loading and hauling of material to and from the quarry.

14 **(3) LIMITATIONS ON LOCAL REGULATION.** (a) *Permits.* 1. Consistent with the  
15 requirements and limitations in this subsection, except as provided in subd. 2., a  
16 political subdivision may require a quarry operator to obtain a zoning or nonzoning  
17 permit to conduct quarry operations.

18 2. A political subdivision may not require a quarry operator to obtain a zoning  
19 or nonzoning permit to conduct quarry operations unless prior to the establishment  
20 of quarry operations the political subdivision enacts an ordinance that requires the  
21 permit. A political subdivision may not require a quarry operator to obtain a  
22 nonzoning permit to conduct quarry operations if the quarry operation operates  
23 under a previously issued zoning permit.

24 (b) *Applicability of local limit.* If a political subdivision enacts a nonzoning  
25 ordinance regulating the operation of a quarry that was not in effect when quarry



1 operations began at a quarry, the limit does not apply to that quarry or to land that  
2 is contiguous, as defined in s. 59.69 (10) (ab) 1., to the land on which the quarry is  
3 located, is under the common ownership, leasehold, or control of the person who  
4 owns, leases, or controls the land on which the quarry is located, and is located in the  
5 same political subdivision.

6 (c) *Blasting*. 1. In this paragraph, “affected area” means an area within a  
7 certain radius of a blasting site that may be affected by a blasting operation, as  
8 determined using a formula established by the department of safety and professional  
9 services by rule that takes into account a scaled-distance factor and the weight of  
10 explosives to be used.

11 2. Except as provided under subs. 3. and 4., a political subdivision may not  
12 limit blasting at a quarry.

13 3. A political subdivision may require the operator of a quarry to do any of the  
14 following:

15 a. Before beginning a blasting operation at the quarry, provide notice of the  
16 blasting operation to each political subdivision in which any part of the quarry is  
17 located and to owners of dwellings or other structures within the affected area.

18 b. Before beginning a blasting operation at the quarry, cause a 3rd party to  
19 conduct a building survey of any dwellings or other structures within the affected  
20 area.

21 c. Before beginning a blasting operation at the quarry, cause a 3rd party to  
22 conduct a survey of and test any wells within the affected area.

23 d. Provide evidence of insurance to each political subdivision in which any part  
24 of the quarry is located.

1 e. Provide copies of blasting logs to each political subdivision in which any part  
2 of the quarry is located.

3 f. Provide maps of the affected area to each political subdivision in which any  
4 part of the quarry is located.

5 g. Provide copies of any reports submitted to the department of safety and  
6 professional services relating to blasting at the quarry.

7 4. A political subdivision may suspend a permit for a violation of the  
8 requirements under s. 101.15 relating to blasting and rules promulgated by the  
9 department of safety and professional services under s. 101.15 (2) (e) relating to  
10 blasting only if the department of safety and professional services determines that  
11 a violation of the requirements or rules has occurred and only for the duration of the  
12 violation as determined by the department of safety and professional services.

13 (d) *Water quality or quantity.* 1. Except as provided under subds. 2. to 5., a  
14 political subdivision may not do any of the following with respect to the operation of  
15 a quarry:

16 a. Establish or enforce a water quality standard.

17 b. Issue permits, including permits for discharges to the waters of the state, or  
18 any other form of approval related to water quality or quantity.

19 c. Impose any restriction related to water quality or quantity.

20 d. Impose any requirements related to monitoring of water quality or quantity.

21 2. A political subdivision may take actions related to water quality that are  
22 specifically required or authorized by state law.

23 3. A political subdivision may require the operator of a quarry to conduct and  
24 provide water quality and quantity baseline testing and ongoing quality testing, to  
25 occur not more frequently than annually, of all wells within 1,000 feet of the

1 perimeter of a quarry site when a new high capacity well is added to an existing  
2 quarry site or a new quarry site is established. A testing requirement under this  
3 subdivision may not impose any standard that is more stringent than the standards  
4 for groundwater quality required by rules promulgated by the department of natural  
5 resources. The political subdivision may request a report of well testing results  
6 within 30 days of the completion of testing, and the quarry operator shall provide the  
7 results within that time. Any person offered the opportunity to have a well tested  
8 under this subdivision but who knowingly refuses testing waives any claim against  
9 a quarry operator related to the condition of the well if, within 90 days of the offer,  
10 the quarry operator records with the register of deeds for the county in which the well  
11 is located a written and sworn certification that the person refused the offer.

12 4. A political subdivision that imposes a requirement to conduct any ongoing  
13 water quality or quantity testing of wells adjacent to an existing quarry prior to the  
14 effective date of this subdivision .... [LRB inserts date], may continue to do so.

15 5. In addition to the ability to enforce properly adopted local regulations as  
16 allowed by this section, a political subdivision may suspend a permit authorizing the  
17 operation of a quarry for a violation of state law or rules promulgated by the  
18 department of natural resources relating to water quality or quantity only if the  
19 department of natural resources determines that a violation of state law or rules has  
20 occurred and only for the duration of the violation, as determined by the department  
21 of natural resources.

22 (e) *Air quality.* 1. Notwithstanding s. 285.73, and except as provided under  
23 subs. 2. to 4., a political subdivision may not do any of the following with respect to  
24 the operation of a quarry:

1           a. Establish or enforce an ambient air quality standard, standard of  
2 performance for new stationary sources, or other emission limitation related to air  
3 quality.

4           b. Issue permits or any other form of approval related to air quality.

5           c. Impose any restriction related to air quality.

6           d. Impose any requirement related to monitoring air quality.

7           2. A political subdivision may require the operator of a quarry to use best  
8 management practices to limit off-site fugitive dust and may enforce properly  
9 adopted fugitive dust regulations.

10          3. A political subdivision may take actions related to air quality that are  
11 specifically required or authorized by state law.

12          4. In addition to the ability to enforce properly adopted local regulations as  
13 allowed by this section, a political subdivision may suspend a permit authorizing the  
14 operation of a quarry for a violation of state law or rules promulgated by the  
15 department of natural resources relating to air quality only if the department of  
16 natural resources determines that a violation of state law or rules has occurred and  
17 only for the duration of the violation, as determined by the department of natural  
18 resources.

19          (f) *Quarry permit requirements.* 1. A political subdivision may not add a  
20 condition to a permit during the duration of the permit unless the permit holder  
21 consents.

22          2. If a political subdivision requires a quarry to comply with another political  
23 subdivision's ordinance as a condition for obtaining a permit, the political  
24 subdivision that grants the permit may not require the quarry operator to comply

1 with a provision of the other political subdivision's ordinance that is enacted after the  
2 permit is granted and while the permit is in effect.

3 3. a. A town may not require, as a condition for granting a permit to a quarry  
4 operator, that the quarry operator satisfy a condition that a county requires in order  
5 to grant a permit that is imposed by a county ordinance enacted after the county  
6 grants a permit to the quarry operator.

7 b. A county may not require, as a condition for granting a permit to a quarry  
8 operator, that the quarry operator satisfy a condition that a town requires in order  
9 to grant a permit that is imposed by a town ordinance enacted after the town grants  
10 a permit to the quarry operator.”.

11 **5.** Page 688, line 5: after that line insert:

12 “**SECTION 1103m.** 101.02 (7y) of the statutes is created to read:

13 101.02 (7y) (a) In this subsection, “quarry” has the meaning given in s.  
14 66.04135 (2) (c).

15 (b) Notwithstanding sub. (7) (a), and except as provided in this subsection and  
16 s. 66.04135 (3) (c), no city, village, town, or county may make or enforce a local order  
17 that limits blasting at a quarry.

18 (c) A city, village, town, or county may petition the department for an order  
19 granting the city, village, town, or county the authority to impose additional  
20 restrictions and requirements related to blasting on the operator of a quarry. If a city,  
21 village, town, or county submits a petition under this paragraph because of concerns  
22 regarding the potential impact of blasting on a qualified historic building, as defined  
23 in s. 101.121 (2) (c), the department may require the operator of the quarry to pay  
24 the costs of an impact study related to the qualified historic building.

