

Amy— Happy Holiday!

Attached per your request, are the NH statutes referred to last week regarding grandfathered extraction operations which in NH are largely regulated at the local level, under zoning. That said, all operations are subject to statutory operational and reclamation requirements regardless of their grandfathered status.

Under these statutes, an existing, potentially grandfathered operation is defined as one from which “earth materials of sufficient weight or volume to be commercially useful has been removed during the two-year period before August 24, 1979.” Such operations were required to file a report with the local regulator no later than two years after the August 4, 1989 effective date, to include:

- The location of the excavation and date that it first began,
- Description of the limits of “permissible expansion” (within contiguous perimeter on same tract in common ownership, in same town, in conformance with 1989 zoning re any restrictions),
- Estimate of the area that had been excavated to date, at the time of the report, and
- Estimate of the amount of commercially viable earth materials remaining on the parcel.

The statutes also define “abandonment” in this context – to include operations in which:

- “no earth material of sufficient weight or volume to be commercially useful has been removed from the excavation site during any two-year period before, on, or after August 4, 1989 (with a provision for extension) or
- the site is in use but does not conform to statutory reclamation requirements, or
- the operator has neither filed a report or secured a permit for the operation.

I’m not familiar with VT’s current registration requirements, so I don’t know how these might compare...I’ve also attached related guidance -- a handbook for NH municipalities that I’ve used in the past in working on NH zoning bylaws.

Best,  
Sharon

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