



Vermont's Slate Industry and Act 250

Prepared for

**House Committee on
Natural Resources, Fish &
Wildlife**

March 19, 2019

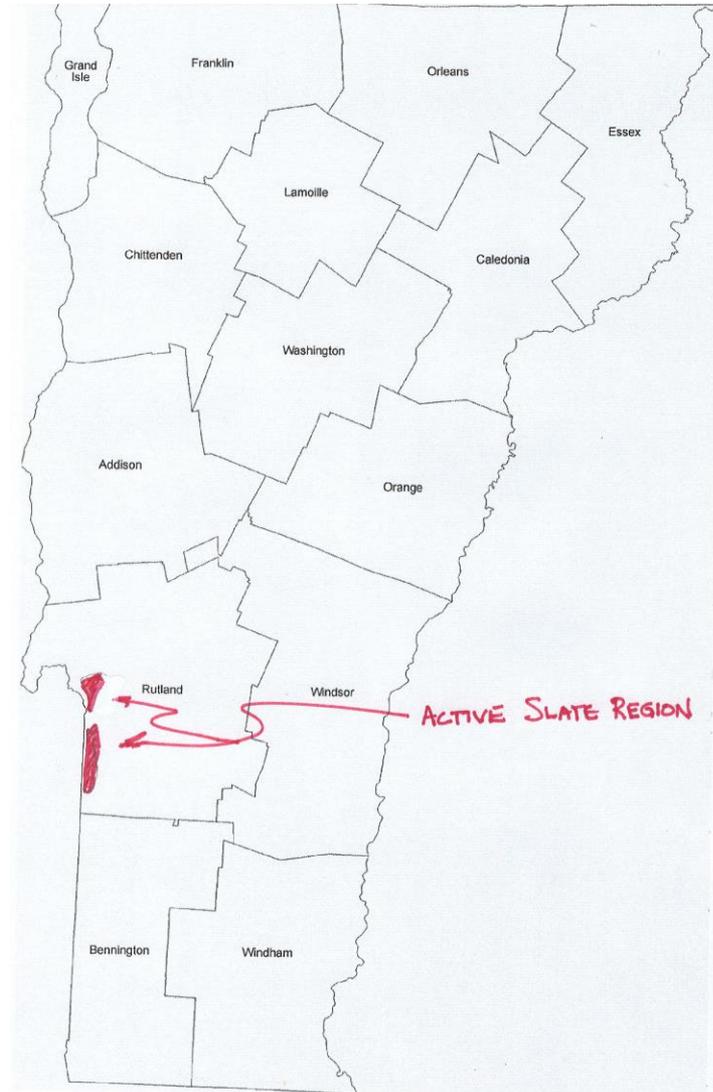
Historic Industry

- This is an historic industry. Vermont Structural Slate Co. was founded in 1859 and incorporated on November 14, 1866 by an act of the Vermont legislature. It has operated continuously since.
- Many people in the Slate Valley have a personal connection to the industry.
- Fair Haven teams are called the “Slaters”.



Geographically Small and Defined

- The active slate quarry region is approximately 1.5 miles x 12 miles...1.9% of Rutland County, 0.18% of the State of Vermont.
- The deposit defines the location of our quarries; no risk of slate quarries emerging elsewhere...self contained.



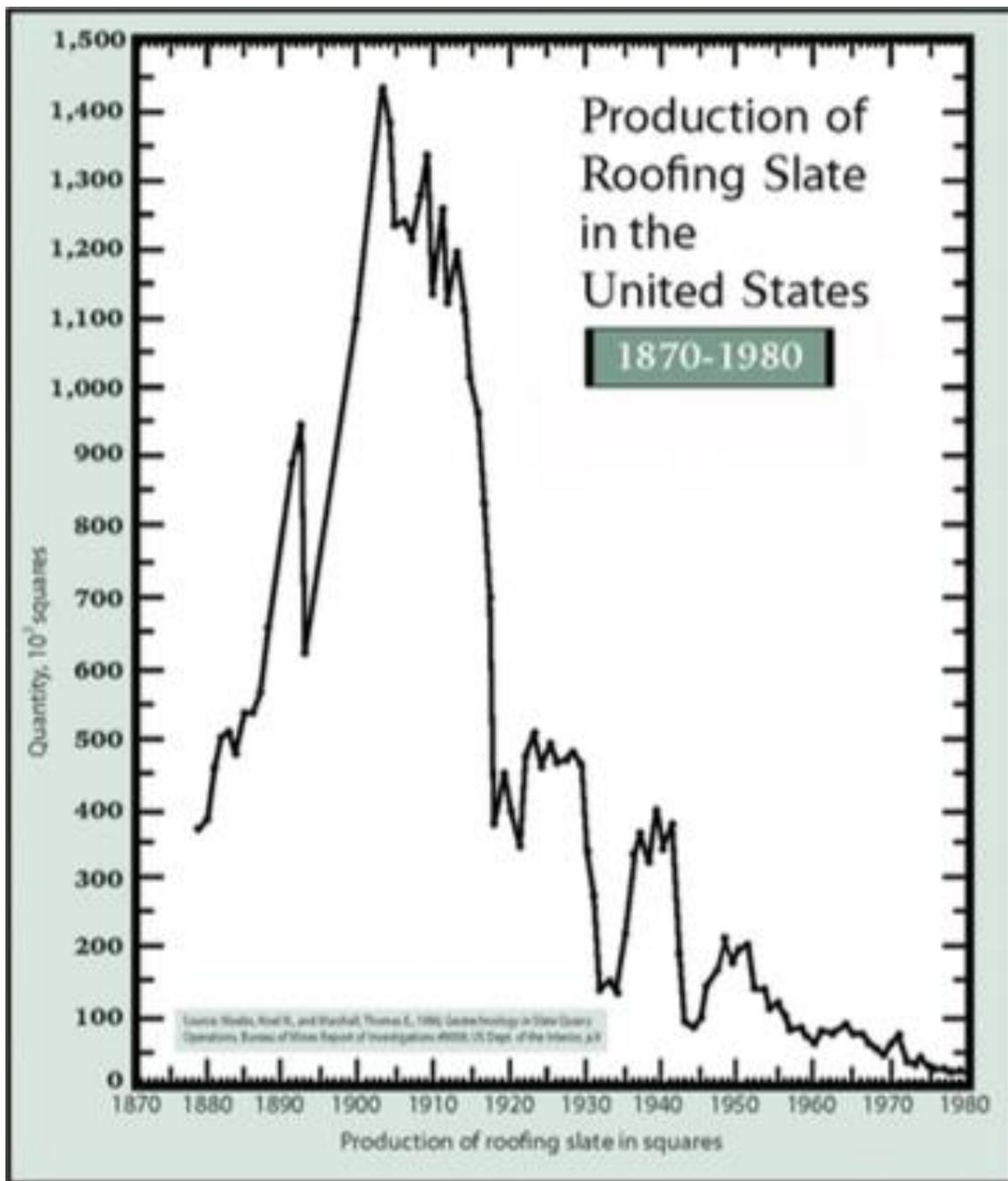
National Slate Industry Today

- The industry has long faced competitive pressures from cheaper, imitation products and foreign imports. In the last 30 years, this pressure has grown dramatically.
- The use of asphalt shingles starting in the 1920s crippled the slate industry. Prior to the dominance of asphalt shingles, over 5,000 people worked in the Vermont quarries alone. Now there are approximately 300.
- Soon most of the nation's historic slate-producing regions will be closed:

Vermont	20 companies operating now (38 in year 2000)
Virginia	2 companies operating now
Eastern PA	1 very small company operating now
Maine	all companies closed
Peach Bottom, PA	all companies closed

Vermont Slate Industry Today

- Vermont's Slate Valley is the most important slate-producing region in the country. The only other slate-producing regions left in the country are: Virginia, with 2 small companies (1 owned by a Vermont Company) and Eastern Pennsylvania with 1 very small company.
- The Vermont slate industry consists of about 20 small companies. Unlike Vermont's granite and marble quarries, which are owned by large, foreign, publicly traded corporations, Vermont slate quarries are family businesses.
- The industry shares similarities with farming in that it is labor and capital intensive, and is greatly affected by weather and natural occurrences.
- Most of us have invested everything we have in these businesses...not because they produce fantastic returns, but because it is our way of life, our heritage.



Vermont Slate Contributions

- **Slate companies provide an estimated 300 jobs in our area. Many other local businesses depend on business from slate companies and their employees.**
- **Almost all our sales are out of state/country, bringing “outside” dollars into our local economy.**
- **Slate companies pay substantial property taxes.**
- **Slate companies support many local organizations, charities and individuals.**

Vermont Slate Products

- **Vermont slates are among the highest quality slates in the world and are unique because of their beautiful colors (most slates worldwide are black).**
- **We produce mostly roofing slate but also flooring, stairs, counter tops, wall cladding, flagstone and specialty items. Slate is also used for aggregate.**
- **We are proud that our slate adorns some prestigious buildings including the Vermont State Office Building in Waterbury, University of Vermont, Rutland County Courthouse, Middlebury College, Shelburne Museum, the Vice President's office, the Smithsonian, Museum of Modern Art (MoMA), the Pentagon, Quincy Market and countless others.**
- **We sell Vermont slate all over the USA and export to many countries as far away as Australia.**

Australia



Peru

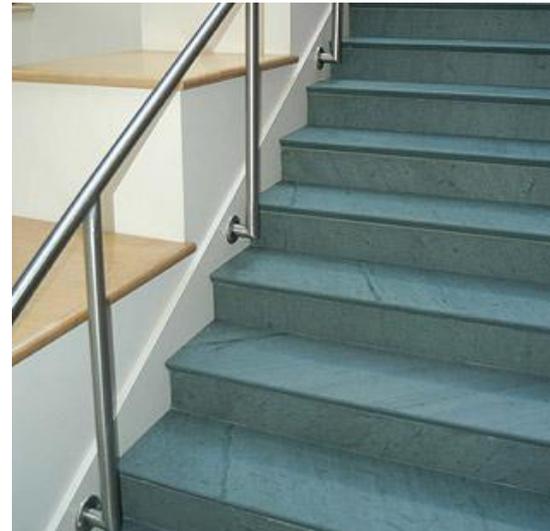


Indianapolis



U.K.





Environmental Considerations

- From an environmental standpoint slate production should be encouraged, not restricted...it's recyclable, natural and beautiful. No chemicals used in production...just rocks and water. Consistent with Vermont's image of high quality, specialty products.
- Low embedded energy...comparatively low processing. The production of roofing slate is significantly less harmful to the environment than other types of roofing in terms of: climate change, fossil fuel depletion and water consumption.
- Vermont slate roofs last 150 years. Asphalt shingles would be replaced 6 times in that period resulting in lots of petroleum product put into landfills.
- Vermont slates are frequently specified by architects because of their "green" qualities, offering Leadership in Energy and Environmental Design (LEED) points for their projects.
- We quarry slowly and it is in our interest to preserve the stone as much as possible. We do not "strip mine" slate.

Act 30 of 1995

- After a thorough 2 year study period, during which there were several visits to quarries by legislators, countless meetings and negotiations...and much compromise...Governor Dean signed Act 30 into law in 1995.
- Act 30 recognizes the importance of quarries held in reserve and grants grandfather status to quarries subject to a registration process which demonstrated a quarry's preexistence to Act 250 (June 1, 1970). It defines "abandonment", "substantial change" and "ancillary operations".
- Historical data was provided in the registrations and quarries which were successfully registered were issued a jurisdictional opinion stating the quarry's preexistence to Act 250.
- Even after Act 30 was passed, slate quarries are not exempt from Act 250.

Act 30 of 1995 (continued)

- **Act 30 does not offer grandfather status to any unregistered quarries. No unregistered quarries have re-opened. From the industry's point of view, an unregistered quarry is not feasible to open and therefore practically valueless to the industry.**
- **Act 30 mandates that a "substantial change" or a non-"ancillary activity" at a registered quarry triggers an Act 250 permit. This situation has occurred several times. For example, when Vermont Structural Slate Co. wanted to build a 14,000 square foot mill at one of its registered operating quarries, it had to obtain an Act 250 permit. Incidentally, that property had 30 abutting landowners and not one of them objected.**
- **It is important to note that actual quarries were registered, not parcels of land. So it is not possible to open a new, unregistered quarry on a parcel of land in which there is a registered quarry without triggering Act 250 review.**

Proposed Changes to Act 250 Relating to Slate Quarries

dr req 19-0040 draft 5.3

- 1. Establish an extraction baseline for determining substantial change**
[ADD] On or before July 1, 2020, owners of preexisting pits and quarries shall submit extraction data to the Board in order to establish a baseline against which substantial changes may be determined.
- 2. Repeal provision allowing inactive quarries to be held in reserve**
[REPEAL] With respect to the extraction of slate from a slate quarry that is included in final slate quarry registration documents, if it were removed from a site prior to June 1, 1970, the site from which slate was actually removed, if lying unused at any time after those operations commenced, shall be deemed to be held in reserve, and shall not be deemed to be abandoned.
- 3. Make quarry owners responsible for registration notices**
[ADD] The registrant must provide notice of the slate quarry's registration to the adjacent landowners.
- 4. Add registered quarries to ANR Natural Resource Atlas**
[ADD] Registered slate quarries shall be added to the Agency of Natural Resources Natural Resource Atlas.

Industry's Position

- **The Vermont slate industry respectfully disagrees with three of the four changes included in the draft bill.**
- **We believe these changes to Act 250 are unnecessary and will place a heavy burden on the slate industry.**
- **Slate quarries are valuable, legacy assets to all Vermonters. Why enact legislation that will make them less far less likely to be viable?**
- **Act 30 has served the State, the public and the industry well.**
- **Act 250 was not conceived to hamstring an historic natural resources industry.**
- **No changes should be made to Act 250 regarding slate quarries.**

Proposed Change #1 in Draft 19-0040

Establish an extraction baseline for determining substantial change

[ADD] On or before July 1, 2020, owners of preexisting pits and quarries shall submit extraction data to the Board in order to establish a baseline against which substantial changes may be determined.

- **Active quarries, by their very nature, grow in size.**
- **Slate quarrying is a slow process. Eureka Quarry has been in continuous production since 1852 and has a footprint of less than 10 acres.**
- **Extraction rates increase and decrease based on market demand.**
- **Determining a reasonable baseline against which future activity would be analyzed would be difficult and would cause undue uncertainty and ambiguity.**
- **Given the slow rate of extraction, the limited amount of mineral resource, the confines of property boundaries and the isolated, registered locations of the quarries, the establishment of baselines and measurements of extraction are unnecessary and unwarranted.**

Proposed Change #2 in Draft 19-0040

Repeal provision allowing inactive quarries to be held in reserve

[REPEAL] *With respect to the extraction of slate from a slate quarry that is included in final slate quarry registration documents, if it were removed from a site prior to June 1, 1970, the site from which slate was actually removed, if lying unused at any time after those operations commenced, shall be deemed to be held in reserve, and shall not be deemed to be abandoned. [Repealed.]*

- It is critical for the industry to be able to re-activate registered, dormant quarries without needing Act 250 permits.
- Quarries held in reserve are vital assets for slate companies as well as the State of Vermont. Companies move in and out of quarries as supply and demand changes. Speed of access to a quarry is critical as the slate from a dormant quarry may be required on short notice.
- Quarries held in reserve were registered and fully documented with District Commission and Town Offices. After Act 30, registered quarries pay higher property taxes...property deemed more valuable.
- Currently, only the operation of the registered quarry is allowed, new buildings or a new quarry would come under Act 250 review.

Proposed Change #2, (continued)

Repeal provision allowing inactive quarries to be held in reserve

- **While the process and cost of obtaining an Act 250 permit may not directly cause slate quarries to close, restrictions in the permit could make operating the quarry unfeasible. Also, parties that oppose quarry operations could make costs and restrictions prohibitive.**
- **Regulatory and legal shocks are difficult for small family businesses to survive...we are not of the scale to have in-house engineers and lawyers.**
- **The industry has been facing difficult times for several years. Repealing the provision that grants grandfather status to quarries held in reserve would vastly diminish the value of the primary financial assets of many businesses, assets that are used as collateral for bank loans.**

Proposed Change #3 in Draft 19-0040

Make quarry owners responsible for registration notices

[ADD] The registrant must provide notice of the slate quarry's registration to the adjacent landowners.

- Quarry owners were obligated to copy all abutting landowners in quarry registration applications.
- Quarry owners were obligated to record quarry registrations in the applicable town offices.
- The Agency of Natural Resources has a database of all quarry registrations.
- This obligation is an unnecessary, redundant burden.

Proposed Change #4 in Draft 19-0040

Add registered quarries to ANR Natural Resource Atlas

[ADD] Registered slate quarries shall be added to the Agency of Natural Resources Natural Resource Atlas.

- We support the addition of registered quarry information to the ANR Natural Resource Atlas.
- While locations and descriptions of registered quarries are on file with the District Commission and Town Offices, putting this data out in a GIS format will improve access to this important information and promote full disclosure during real estate transactions.

Proposed Changes to Act 250 Will Accomplish Little

- **Currently, slate quarries are not exempt from Act 250 and may come under Act 250 jurisdiction. Repealing the grandfathered status of registered quarries will cost slate companies time, value and possibly the ability to stay in business.**
- **Even if the proposed changes to Act 250 were enacted, operating quarries would still blast, dump waste rock, make noise, use trucks, etc.**
- **The vast majority of slate companies have operated for many years with no problems.**
- **There are already mechanisms in place for disciplining a quarry acting irresponsibly. Additionally, an aggrieved party can turn to the judicial system.**
- **The industry is already regulated in many ways...**

Existing Regulations on the Industry

- **Town Zoning Regulations**
- **State of Vermont Regulations**
 - **Act 250 Regulations**
 - **Labor and Industry Regulations**
 - **Multi-sector General Permit (MSGP) Regulations**
 - **Wastewater Regulations**
 - **Direct Discharge Regulations**
 - **Stormwater Regulations**
 - **Drinking Water and Groundwater Regulations**
 - **Indirect Discharge (water) Regulations**
 - **National Pollutant Discharge Elimination System (NPDES) Regulations**
 - **Tank Permit/Spill Prevention Pollution Control (SPPC) Regulations**
 - **Storm Water Prevention Plan (SWPP) Regulations**
 - **Fire Safety Regulations**
 - **Air Discharge Regulations**
 - **Explosives Regulations**
 - **Community Right-to-Know Regulations**
- **Army Corps. of Engineers (wetlands) Regulations**
- **Alcohol, Tobacco & Firearms (ATF) Regulations**
- **Mining Safety and Health (MSHA) Regulations**

Green Mountain Slate Quarry Association

- **A majority of the slate companies has formed the Green Mountain Slate Quarry Association (GMSQA).**
- **The industry has supported many charities, events and individuals in the Slate Valley and has funded educational activities related to the industry.**
- **The industry would like to work with others to find common ground, as it recently did with the Town of Poultney on zoning considerations.**

Slate Industry Suggestions

- To reduce the chances of someone being caught unaware, the industry suggests the following language be added to the zoning bylaws and made easily accessible in the Slate Valley town offices:

“Slate quarries and ancillary facilities/activities are permitted in the Town. A party interested in purchasing land and/or building a structure in the Town should investigate the potential parcel and/or building site for its proximity to existing or potential slate industry activity.”

- A map should be made showing all registered quarries. This should be posted in the Slate Valley town offices and made available online in the ANR and Slate Valley town offices’ websites.
- Real estate agents should be made to disclose the possibility of slate quarry activity in the Slate Valley.
- The State of Vermont could reduce the slate piles by approving slate as a road sub-base material for certain classes of roads.

Reasons for Proposed Changes

From what we have been told, changes have been proposed to Act 250 relating to slate quarries for the following reasons:

- **Neighbors' general opposition to slate quarrying**
- **Neighbors' concerns about blasting**
- **Neighbors' concerns about slate piles**
- **Neighbors' concerns about property devaluation**
- **A general desire to remove any perceived "holes" in Act 250**

General Opposition to Slate Quarrying

- Dissatisfaction with slate quarrying in our region is far from widespread. We are aware of a few neighbors (less than 10) who are vocally opposed to the slate industry.
- It is only fair to consider this opposition relative to the large number of neighbors who have not been vocally opposed to the slate industry.
- We estimate there are at least 1,000 neighbors who abut slate quarries who are not vocally opposed to the slate industry.

Concerns About Blasting

- **Almost all slate companies have been blasting for decades with no issues or complaints.**
- **Property damage from blasting in a slate quarry is extremely rare.**
- **Many slate companies place seismographs in the vicinity of their blasts and these yield negligible values.**

Concerns About Slate Piles

- **They are piles of stones. There are no chemicals or contaminants in these piles.**
- **We give this same stone to towns to use for fill and for lining roads, ditches, banks, etc.**
- **The old cone-shaped piles are symbols of an historic industry. While some find them unattractive, others find them beautiful.**
- **As previously stated, the State of Vermont could reduce the slate piles by approving slate as a road sub-base material for certain classes of roads.**

Concerns About Property Devaluation

- **Blame for possible devaluation of neighboring properties should not be solely attributed to quarries. At the time neighboring properties were purchased, there were either operating or dormant quarries nearby. No new quarries have opened.**
- **One of the purposes of registering quarries was to make publicly available the existence of a slate quarry and the possibility of it re-opening. If asked, any quarry owner would have told a prospective purchaser of the possibility of a quarry re-opening.**
- **Properties near slate quarries were purchased at discounted values because there were quarries nearby. Quarry activity was already priced into the market. It's possible some were willing to take a chance on them re-opening in exchange for a discounted price.**

Concerns About Property Devaluation

At the time this neighbor purchased his property, the large quarry on the right was operating and it has operated continuously since.



Concerns About Property Devaluation

- **What about the devaluation of quarry land? Forcing registered quarries to obtain Act 250 permits renders the quarries practically valueless to the industry.**
- **This could result in companies closing which would have negative effects on local towns and businesses as well as the State of Vermont.**
- **What about the families who have worked in these quarries for generations and have invested their entire savings in these businesses?**
- **What about the next generations of young, working Vermonters wanting to work where they grew up?**

Desire to remove any “holes” in Act 250

- **We realize some do not like the provisions of Act 30 of 1995.**
- **Act 30 was signed into law after the legislature and Governor Dean came to realize that dormant quarries were not abandoned and were critical assets to the industry. Act 250 was never meant to hamstring a historic natural stone industry.**
- **As stated, the industry is not exempt from Act 250. There are many conditions which require a registered slate quarry to obtain an Act 250 permit.**
- **Any philosophical desire to remove perceived “holes” in Act 250, or to wrest control of the slate industry, should not stand here. This is too important.**

The Future

- **The Vermont slate industry has played an important economic and social role in the welfare of Western Rutland Country for the past 170 years. It provides 300 jobs and brings in millions of dollars annually to the State of Vermont.**
- **The State of Vermont needs a solid, diverse economy to propel it through the next 50 years. We should all be working to help this historic Vermont industry be in a position to contribute to the State's well being in the future.**
- **There are ghost towns in Maine and Pennsylvania where slate quarries once thrived and served as the economic engines of the towns. I have visited these towns...it is a sad and depressing experience. It is not difficult to imagine towns in the Slate Valley suffering a similar fate.**
- **The Town of Poultney has lost Green Mountain College and its only bank...and there are rumors of the only grocery store closing. In this town of 3,400, a very high number of houses are for sale and are delinquent in property taxes.**
- **Slate companies are deeply invested in the Slate Valley. We want to run our businesses and be good neighbors.**

In Conclusion, We Ask You To...

- **Keep the status quo of Act 30**
- **Preserve viable access to important mineral resources**
- **Provide certainty and prosperity for Western Rutland County**
- **Not require extraction baselines**
remove lines 16,17,18 on page 28 of 19-0040 draft 5.2 1/23/2019
- **Not repeal the provision allowing inactive quarries to be held in reserve**
Leave item (j), lines 20,21 on page 27 and lines 1,2,3 of page 28 of 19-0040 draft 5.2 1/23/2019