

Vermont Housing & Conservation Board
BUFFER STRIP GUIDELINES FOR FARMLAND

These guidelines apply to farmland projects brought to the Board under the VHCB Farmland Policy or the VHCB Local Policy. They do not necessarily apply to projects that come to the Board under the Natural Area or Public Outdoor Recreation Policies. However, the Board may wish to refer to these guidelines in determining the appropriate conservation mechanism for such projects.

Definition- Buffers are corridors of land between a readily defined natural feature, such as the top bank of a waterway, and land uses, such as agriculture, that disturb naturally occurring vegetation. Within a buffer zone, various management practices may be necessary to maintain or improve environmental quality, wildlife habitat, or other resource values. A buffer easement may require a landowner to **refrain from certain** practices within the zone, to allow others to carry out **management practices**, or to leave the area undisturbed.

Buffer Provisions in VHCB Farm Easements- The Board may accept buffer provisions in VHCB farm easements if an eligible applicant with professional fish and wildlife expertise on staff is co-holding the easement, and if the criteria below are met.

Separate Buffer Easements- In most cases the Board prefers that buffer provisions be contained in free-standing easements, separate from the standard VHCB farm easement, and co-held by an eligible applicant with professional fish and wildlife expertise on staff. The criteria below must be met if VHCB is to co-hold.

Criteria for Determining when the Board May Accept Buffer Provisions or Co-hold a Separate Buffer Easement- The Board may accept buffer provisions in a VHCB farm easement or co-hold a separate buffer easement on farmland when current or potential land uses on the farm property could harm habitat and natural processes that are considered to be especially significant, that is, where:

- (1) the property contains, or is adjacent to, areas with species and/or natural communities of conservation concern as documented by an "A" or "B" ranking by the Vermont Nongame and Natural Heritage Program (definition attached); or,
- (2) the property is adjacent to waters that because of their natural habitat values have been determined to be Outstanding Resource Waters by the Vermont Water Resources Board pursuant to 10 VSA 1424(a); or,
- (3) the property is adjacent to a Class One Wetland as determined by the Vermont Water Resources Board pursuant to 10 VSA 905(9); or,
- (4) the property provides, or will provide, critical habitat for fish and/or wildlife species as determined by the Commissioner of Fish and Wildlife. The determination shall be in writing and is subject to the concurrence of the VHCB. The Commissioner's determination must demonstrate a species' relationship to, and dependence upon, the existing or proposed buffer strip being

considered. For these purposes, “critical habitat” means fish and/or wildlife habitat that is necessary, at any stage in the life cycle, to the survival of fish or wildlife populations using the site under consideration. Examples of such habitats include, but are not limited to, spawning areas, summer holding pools, concentrated nesting, breeding, or feeding sites, Class 2 wetlands exhibiting unusually important fish and/or wildlife habitat functions, and migratory corridors.

Notwithstanding the above criteria, the Board may consider co-holding a buffer easement on farmland only when (1) it is evident that the applicant organization represented to the landowner that the buffer easement was voluntary and not a condition of funding for any VHCB application, and (2) the Department of Fish and Wildlife or another qualified conservation organization approved by VHCB is willing to be a co-holder and to assume **appropriate** stewardship responsibilities for monitoring and enforcement.

Projects that Are Not VHCB-Funded- For projects that are primarily to protect farmland, but that are donations or are funded completely by non-VHCB sources, the Board may agree to co-hold an easement with buffer provisions or a separate free-standing buffer easement, using the same criteria above, and provided that there is an acceptable co-holder with habitat expertise.

Content of VHCB Co-held Buffer Easements- Buffer easements co-held by VHCB shall require that management of a clearly defined portion of the Protected Property (the buffer zone) be in compliance with a buffer management plan. The easement may describe broad resource goals, such as wildlife habitat improvement, but shall not prescribe specific practices to be implemented within the buffer zone. These shall be spelled out in the management plan to be developed cooperatively by the landowner and a fish and wildlife professional employed by the state or federal government or by a qualified conservation organization. **It is also recommended that an agricultural professional be involved in developing the management plan.** The Board expects that the cost of developing **and implementing** such plans shall be borne by the cooperating wildlife organization, not by the landowner. Copies of the plan and any updates thereto shall be forwarded to VHCB staff, and copies shall also be provided to other easement co-holders upon request. Failure to develop an acceptable plan, or failure to manage the buffer zone in compliance with the plan's implementation schedule shall be considered an easement violation. The management plan may be amended with the consent of the landowner and the cooperating wildlife organization(s).

Definitions of “A” and “B” Rankings Under the Nongame and Natural Heritage Program

(As of December 3, 1996)

An “A” rank of an Element Occurrence is an excellent occurrence of a species or natural community when compared with other occurrences in the state. An “A” rank denotes among the best example currently or previously known in the state. There are instances where no “A” ranked examples currently exist. A “B” rank is a good occurrence. Below are definitions for the jargon used above.

An Element is a specific species of plant or animal or a natural community. For examples, dwarf wedge mussel, alpine tundra community, and barbed bulrush are all Elements. An Element Occurrence is an occurrence (or population) of an Element at a site. For example, the alpine tundra community on top of Mount Mansfield is an Element Occurrence.

The Element Occurrence Rank represents a comparative evaluation summarizing several factors including: quality, condition, viability, and defensibility. So a large population of a rare species that is in good condition and has long-term prospects for continued existence would receive a high rank. However, a large population of a rare species surrounded by a subdivision with little prospect for long-term existence may receive a low rank.

The Element Occurrence Rank is based upon ranking specification guidelines for the Element or by comparing it with other populations in the state using general ranking criteria. In general we only assign Element Occurrence Ranks to rare plants and animals and significant natural communities because these are the Elements that we are interested in for conservation purposes. Furthermore, it helps in prioritizing among the various occurrences of the element for purposes of protection.

Vermont Housing & Conservation Board
BUFFER STRIPS ON VHCB FARM PROJECTS
Information for Applicant Organizations

The Board recognizes the important public benefits of buffers and appreciates existing governmental and private programs that encourage farmers and other landowners to establish them. As discussed in the "management" paragraph of the Farmland Conservation Priorities section of the Board's Policy Position on Funding Conservation of Agricultural Land, the Board may elevate applications, relative to others being considered, when the applicant demonstrates that a landowner has appropriately maintained buffers in the vicinity of identifiable natural areas. When standard conservation easements are drafted for such projects, the Purposes section of the easement may include a description of resource values and the presence of any buffer strips.

The Board also recognizes the problems associated with buffer easements and with including buffer provisions in regular conservation easements. These include the difficulty of defining buffer boundaries; the inflexibility of perpetual easements; the potential conflict between conservation goals when the easement language interferes with normal agricultural practices that are otherwise allowed by law; the special stewardship and enforcement responsibilities created by such provisions; and the possible economic effect on farmers.

Because of the difficulties with buffer easements, the Board prefers that applicant organizations pursue fee simple ownership of significant natural areas. When fee simple ownership is not appropriate or feasible, the Board may co-hold a separate free-standing buffer easement on farmland, or may accept buffer provisions in VHCB farm easements, as long as there is a co-holder that has professional wildlife habitat expertise. If the Board is to co-hold, certain resource-based criteria must also be met. These criteria are described in "VHCB Buffer Strip Guidelines for Farmland," copies of which are available at VHCB.