

Vermont Housing & Conservation Board Guidelines on Funding Farmland Retirement Projects

The following document is intended to guide the Vermont Housing & Conservation Board (VHCB) in its funding decisions for farm retirement projects. The goal of VHCB's Farmland Retirement Program is to fund a buyout of farmland whose continued operation is detrimental to water quality. This program aligns with VHCB's goal of protecting important natural areas, including surface waters, which is a critical part of our work. VHCB's statute, as amended by the Legislature in 2012, includes the protection of surface waters as part of VHCB's mission. These Guidelines recognize the importance of protecting Vermont's waters and provide the policy framework for funding projects in which this is a primary focus.

While water quality protection is a key priority for VHCB, the protection of working farmland with the highest quality agricultural soils also remains critically important. VHCB's Agricultural Program continues to prioritize the protection of working farms in an effort to promote a strong agricultural economy, and to ensure that farmland remains accessible and affordable to the next generation of farmers. While the Farmland Retirement Program is another "tool in our toolbox," protecting working farmland, and enhancing water quality in that process, continues to be the mainstay of our agricultural conservation work. Farmland retirement funds will be used strategically, in situations where farming threatens water quality in ways that are physically or financially infeasible to remedy. As set forth below, these Guidelines establish the framework for funding VHCB farm retirement projects, which have a primary goal of maximizing water quality benefits.

Eligible Applicants

Applicants may include nonprofit conservation organizations with 501(c)(3) status, qualified state agencies, or municipalities.

Eligible Projects

To qualify for funding, projects must result in land being removed from agricultural production. The project must demonstrate how farming is detrimental to water quality. Projects which remove the entire agricultural land base from use, or a portion of it, are eligible for funding. VHCB may fund both fee acquisitions or the acquisition of a conservation easement on the subject property. Some common scenarios may include the following:

- The acquisition of **all** of the agricultural land on a property (whole farm retirement).
- The acquisition of a **portion** of the agricultural land on a property (partial retirement).
- The acquisition of a conservation easement on a **portion** of a farm under private ownership, with some of the land remaining in agricultural use (partial retirement).

Eligible Costs

Eligible costs include the acquisition cost of the easement or land, as well as associated project costs. There is no cap for what VHCBC may consider contributing towards acquisition costs, but applicants should be aware that typically \$500,000 - \$700,000 is available annually for the program, which limits the amount of funding available per project.

VHCBC may fund up to \$20,000 in associated costs per project, which may include appraisals, boundary surveys, legal fees, staff time, and stewardship contribution. Due to funding restrictions, VHCBC is unable to cover direct costs associated with remediation and restoration including the removal of structures, the planting of trees and other vegetation, and other similar remediation and restoration activities.

Minimum Eligibility Criteria

To be eligible for VHCBC farm retirement funding, the project must:

1. Remove land from agricultural production in situations where farming is having a direct negative impact on water quality, with the goals of protecting surface water and/or improving water quality.
2. Demonstrate a high degree of readiness. Before applying, applicants should have secured project partners, developed a comprehensive project plan and budget, and undertaken preliminary due diligence to help ensure the success of the project.

Secondary Criteria

In addition to meeting the minimum eligibility criteria above, VHCBC encourages projects which also target the following:

1. Habitat Restoration:

Projects may include the restoration or enhancement of ecological functions and/or significant natural communities, including but not limited to floodplain forests, hardwood and softwood swamps, marshes and wet meadows, shrub swamps, and grasslands. VHCBC encourages proposals which target rare natural communities (S1, S2 ranking) and those that feature natural communities that have historically been reduced in abundance because of agricultural conversion.

2. Enhancement of Resources for Wildlife:

Projects may include the enhancement of resources for wildlife, such as producing and managing forage and cover for resident and migratory wildlife species. This can include activities such as restoring grasslands for nesting birds, plantings to support pollinator species, and the management of cultivated foraging areas. Land management practices must

demonstrate measures to mitigate adverse impacts to water and soil quality to VHCB's satisfaction.

3. Climate Resiliency:

VHCB encourages projects that integrate measures to mitigate climate change, including those that conserve natural features, and involve management practices that contribute to climate resilience and large scale ecological function. Examples may include projects that target state-significant terrestrial and aquatic natural communities, increase flood resiliency, promote wildlife connectivity, conserve large unfragmented forest blocks (especially those that include or promote old growth forest), and protect lands adjacent to or with significant ecological relevance to existing conserved land.

4. Public Access:

On land that is acquired by a public entity or a nonprofit organization, VHCB expects there to be some level of public access, but with the right for the owner to restrict or limit public access to protect natural habitats or in the interest of protecting public health or safety.

On conservation easement projects where the underlying land is owned by a private individual, public access is not a requirement. However, VHCB expects applicants to explore whether (or not) public access is possible. In cases where public access is not a good fit, applicants must demonstrate clearly why it is not compatible with their project.

5. Supports VHCB's Dual Goal Mission:

Because the Board is charged with achieving the dual goals of creating affordable housing and protecting the State's natural areas, VHCB will consider projects which include an affordable housing component. These dual goals do not necessarily have to be on the same site (e.g., an affordable housing project could take place on an adjacent non-conserved parcel).

Other Considerations

1. Previously conserved farmland and Act 250 Funds:

If the project is on conserved land, applicants should consult with VHCB staff to determine whether Act 250 funds were utilized to conserve the land.

Use of Act 250 funds traditionally requires the land to remain in agricultural production, which could make the land ineligible for the farm retirement program. VHCB is seeking an interpretation from the Natural Resources Board on this issue to confirm.

2. Prior VHCB Investments in the land:

If significant VHCB investments were made to conserve the land and keep it in agricultural production, through the purchase of development rights and/or a retroactive Option to Purchase at Agricultural Value (retro-OPAV), VHCB will need to carefully consider whether to direct farmland retirement funds to the project. In these

cases, VHCB will also consult with the easement co-holder, as they have a legal interest in the property. Applicants in this situation should contact VHCB staff to discuss their project before applying.

Funding Priorities

The following are funding priorities, not mandatory criteria. VHCB may prioritize funding projects with the following attributes:

1. Location:

VHCB may prioritize funding projects that are in watersheds or along waterways that are heavily impacted by agricultural runoff. Projects that abut or are proximal to existing conserved lands, including state-owned lands such as Wildlife Management Areas, may also be given priority.

2. Leverage:

VHCB seeks to maximize the use of its limited funds by leveraging other resources for a project. Applicants should attempt to secure leverage for all farm retirement projects. While there is no minimum match requirement, projects that bring greater leverage may be reviewed more favorably.

Project Configuration

VHCB may fund projects which remove the entire farm from production or a portion of it. Below is a summary of common scenarios and what VHCB would require in terms of legal interests for each:

1. The State acquires fee simple title to the land to be removed from agriculture.

VHCB's expectation is there will be a conservation easement on the land which will be co-held by a nonprofit conservation organization and VHCB. However, if the State and VHCB cannot identify a conservation organization to co-hold the easement with VHCB, then VHCB will consider sole holding a conservation easement. If VHCB determines that it cannot steward a sole held conservation easement, then VHCB may allow the use of a conservation agreement in place of a conservation easement. A conservation agreement is a contractual agreement between VHCB and the State which outlines the restricted and permitted uses for the property.

2. A nonprofit conservation organization acquires fee simple title to the land to be removed from agriculture.

VHCB's expectation is there will be a conservation easement on the land which will be co-held by a different nonprofit conservation organization (not the same nonprofit that owns the land) and VHCB. However, if the organization cannot identify a second conservation organization to co-hold the easement with VHCB, then VHCB may consider sole holding a conservation easement.

- 3. A nonprofit conservation organization or a State agency holds an easement on a portion of a property that is in private ownership, which will remove that area from agricultural production.**

In most cases we expect that VHCB would be listed as a co-holder of the easement. There could be extraordinary circumstances where this would not be the case, and in those instances, a different legal mechanism, such as a grant of executory interest from the State agency or a nonprofit organization to VHCB might be utilized to protect VHCB's interest.