

**Vermont Natural Resources Council
Kim Greenwood, Water Program Director and Staff Scientist
Comments on H.586, Section 11
January 16, 2014**

Current stream definitions:

Act 250

10 V.S.A. Chapter 151 Sub-Chapter 1: General Provisions § 6001. Definitions

(18) "Stream" means a current of water which is above an elevation of 1,500 feet above sea level or which flows at any time at a rate of less than 1.5 cubic feet per second.

(A water that flows about 1.5 cfs is considered to be a river)

Stream Alteration Rule adopted 12/24/2013

(42):

"Stream" means the full length and width, including the bed and banks, of any watercourse, including rivers, streams, creeks, brooks, and branches, which experience perennial flow. "Stream" does not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

(36)

"Perennial Stream" means a watercourse or portion, segment, or reach of a watercourse, generally exceeding 0.5 square miles in watershed size, in which surface flows are not frequently or consistently interrupted during normal seasonal low flow periods. Perennial streams that begin flowing subsurface during low flow periods, due to natural geologic conditions, remain defined as perennial. All other streams, or stream segments of significant length, shall be termed intermittent. A perennial stream shall not include the standing waters in wetlands, lakes, and ponds.

ANR Guidance for Agency Act 250 and Section 248 Comments Regarding Riparian Buffers

Stream: The full length and width, including the bed and banks, of any watercourse, including, but not limited to, bodies named creek, brook, river, branch, and kill. A stream has a channel that periodically or continuously contains moving water, has a defined bed, and has banks that serve to confine water at low to moderate flows. Streams include intermittent streams that have a defined channel and evidence of sediment transport, even if such streams does not have surface water flow

throughout the year and/or throughout the channel. For the purpose of this guidance, constructed drainage ways including water bars, swales, and roadside ditches, are not considered streams.

VNRC suggestion:

Consider a functional definition that includes consideration of upstream and downstream hydraulic characteristics: if it's a stream above and a stream below, then the ditch in between should also be considered a stream for jurisdictional purposes. Also consider discharge location: consider a ditch that discharges directly to a stream as a hydraulically connected feature that requires stabilization and buffer protection.

What matters most is how the system functions with regards to the hydrology and hydraulic connections, not simply that it meets a specific definition.

Add a sentence to any of these definitions that includes consideration of the system as a whole and how it functions to move water and sediment.