

Tewksbury Conservation Commission

Regulation on Timeframes to Submit Evidence to Overcome Perennial Stream Status

Regulation Text:

- The Tewksbury Conservation Commission adopts the definition of Riverfront Area as is defined in 310 CMR 10.58(2) with the following exception:
 - Notwithstanding 310 CMR 10.58(2)(a)(1)(a) through (c), the Tewksbury Conservation Commission shall find that any stream is intermittent based upon a documented field observation that the stream is not flowing. A documented field observation shall be made by a competent source and shall be based upon an observation made at least once per day, over four days in any consecutive 12-month period, during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions. Said documented field observations shall be made within three (3) years of the Conservation Commission's date of receipt regarding any application or submittal warranting the Conservation Commission's review of a stream's status as intermittent or perennial.
 - All field observations shall be submitted to the Tewksbury Conservation Commission with a statement signed under the penalties of perjury attesting to the authenticity and veracity of the field notes, photographs, and/or video and other credible evidence. Department staff, Conservation Commissioners, and Conservation Commission staff are competent sources. The Tewksbury Conservation Commission may consider evidence from other sources that are determined to be competent.

This regulation shall supersede the language found at 310 CMR 10.58(2)(a)(1)(d).

Commentary:

The intent of the above regulation is to apply a specific timeframe in which field observations can be submitted to the Tewksbury Conservation Commission to prove that an otherwise presumed perennial stream, as per criteria laid out in 310 CMR 10.58(2)(a)(1)(a) through (c), is intermittent. Public hearings were held on February 7, 2024, and February 21, 2024, during Tewksbury Conservation Commission meetings to discuss this matter.