

## MEMORANDUM

To: Arlington Conservation Commission  
From: Nathaniel Stevens  
Date: September 30, 2020  
Re: 1167R Mass Ave RDA – “Stream” definition in 310 CMR 10.04

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In 310 CMR 10.04 [\[PDF\]](#), a “stream” is defined as:

“a body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an Area Subject to Protection under the Act. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream except for that portion upgradient of all bogs, swamps, wet meadows, and marshes”.

**MACC’s Conservation Handbook, section 16.24.2.1** says “Some intermittent streams may be important in bringing stormwater flows into wetland areas, but this function is not recognized under the Act. Although entire hillsides may be drained by “upgradient intermittent streams,” these channels are not under the jurisdiction of the commission unless bordered by wetlands. This was a political decision under the 1983 *regulations* and does not relate to the importance of these streams, especially for flood control.”

### **Preface to 1983 Wetland Regulations (310 CMR 10.00) states:**

#### E. Definition of "Stream"

During the public comment period the environmental community repeatedly expressed concern that under the proposed regulations intermittent streams throughout the Commonwealth would no longer be subject to jurisdiction. This has never been the Department's intention, and the definition has consequently been clarified to indicate that intermittent streams are included within the definition, except those portions that are upgradient of all wetlands. (See 310 CMR 10.04, definition of stream.) This provides a clear, practical cut-off point for distinguishing between true streams and small drainage channels which flow in direct response to precipitation.

#### F. Identification and Regulation of Land Subject to Flooding