



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

Winter Conditions

This regulation is promulgated by the Fairhaven Conservation Commission pursuant to Chapter 192, §7 of the code of the Town of Fairhaven.

I. Policy:

The Commission recognizes that deep snow conditions or frozen soil conditions can render it difficult or impossible to determine wetland boundaries based upon vegetation or other indicators of hydrology.

The same conditions can make it difficult or impossible to conduct field verification of delineation or of compliance.

It is the policy of this Commission to presume that delineation, including verification of previous delineations, performed after November 15 and before March 31 shall be presumed to be insufficient.

It is the policy of this Commission to presume that delineations, including verification of previous delineations or of compliance with an order, performed under conditions of deep snow cover or deep frozen soil shall be presumed to be insufficient.

This policy shall apply to all submissions, including notices of intent, requests for a determination of applicability, and requests for a certificate of compliance.

II. Delineations under Adverse Conditions:

A. When a submission to the Commission includes a delineation performed after November 15 and before March 31, it shall be presumed that the delineation was performed under adverse conditions.

B. Unless the Commission determines that delineation performed after November 15 and before March 31 was accurate, the submission shall be denied for insufficient information based on the presumption of adverse conditions.

C. It shall be the burden of the applicant to prove by direct evidence of conditions existing at the time of a delineation performed after November 15 and before March 31 that the conditions were not so adverse as to render the delineation inaccurate or impossible to perform.

III. Verification under Adverse Conditions:

A. When a submission to the Commission results in the need for the Commission's verification of a delineation, or of compliance with an order, to be performed after

November 15 and before March 31, it shall be presumed that the verification cannot be performed due to adverse conditions.

- B. Unless the Commission determines that the verification can be performed after November 15 and before March 31, the submission shall be denied for insufficient information based on the presumption of adverse conditions.
- C. It shall be the burden of the applicant to prove by direct evidence of conditions currently existing that conditions are not so adverse as to prevent performance of an accurate verification.

IV. Extension of Time:

An applicant may agree to an extension of time to submit a new delineation, or to allow for verification by the Commission to be performed when conditions are not adverse, in order to avoid a denial for incomplete information.