

780 CMR 110.R1

CONCRETE TESTING LABORATORIES LICENSING

780 CMR 110.R1.1 ADMINISTRATION

**110.R1.1.1 Title** As authorized by M.G.L. c. 143, §§ 93 through 100, and in accordance with **780 CMR 123.0**, establishing the Construction Materials Safety Board, 780 CMR 110.R1 is adopted for Licensing of Concrete Testing Laboratories.

**110.R1.1.2 Definitions** Unless otherwise expressly stated in 780 CMR, the following terms shall, for the purpose of 780 CMR 110.R1, have the meaning indicated in 780 CMR 110.R1.2:

**Accredited Laboratory:** A laboratory which has been licensed in accordance with 780 CMR 110.R1 by the BBRS.

**BBRS:** State Board of Building Regulations and Standards

**Board:** Construction Materials Safety Board (CMSB).

**Branch Laboratories:** A branch of a Testing Laboratory physically removed from the location of the headquarters or main testing facility of the Testing laboratory.

**Laboratories:** Testing laboratory, branch laboratory, and project laboratory.

**Person:** Individual, partnership, corporation, trust, joint venture, etc.

**Pre-Qualifying Agency:** Construction Materials Safety Board (CMSB).

**Project Laboratory:** A temporary on-site facility providing concrete testing services for a specific project under the direction of a testing or branch laboratory licensed by the Commonwealth of Massachusetts.

**Testing Agency:** National Institute of Standards and Technology (NIST), Cement and Concrete Reference Laboratory (CCRL), the Army Corps of Engineers, or other agency designated by the BBRS.

**Testing Laboratory:** A proprietorship, corporation, partnership or agency which conforms to the requirements of ASTM E 329-72 as modified in 780 CMR 110.R1.

**110.R1.1.3 Licensing** All laboratories defined by 780 CMR 110.R1.1.2 as Testing Laboratories, Branch Laboratories and Project Laboratories which are engaged in the testing of concrete and concrete materials for use in buildings and structures subject to control according to the provisions of **780 CMR 116** will be licensed by the BBRS in accordance with 780 CMR 110.R1.

**110.R1.1.4 Application for Licensing** Each laboratory desiring to obtain such license shall make application to the BBRS upon such form and in such manner as the BBRS shall prescribe and shall furnish evidence satisfactory to the BBRS that the laboratory equipment meets the requirements of 780 CMR 110.R1.2 and its management personnel are qualified in accordance with 780 CMR 110.R1.4 and .5. Such application shall also include payment of the licensing fee set forth in 780 CMR 110.R1.1.8.

**110.R1.1.5 Pre-qualifying Agency** The BBRS hereby designates the Construction Materials Safety Board as its Pre-Qualifying Agency, provided, however, that the BBRS may revoke such designation at any time, and may designate any other agency or agencies which it deems qualified, from time to time, to act as its Pre-Qualifying Agency. The Pre-Qualifying Agency shall examine, or cause to be examined, the evaluation performed by the Testing Agency and the personnel on each Concrete Testing Laboratory application and make its recommendation to the BBRS regarding such license.

**110.R1.1.6 Testing Agency** The BBRS hereby designates the Cement and Concrete Reference Laboratory of the National Institute of Standards and the Army Corps of Engineers as the agencies to examine and evaluate all laboratories desiring to be licensed in the practice of concrete testing, provided, however, that the BBRS may revoke such designation at any time, and may designate any other agency or agencies which it deems qualified, from time to time, to act as its Testing Agency.

**110.R1.1.7 Notification of Testing and Testing Results** The Testing Agency shall notify the applicant of the date for evaluation and shall provide the audited laboratory with a report of audit findings.

**Note:** Unless specific permission has been granted by the BBRS, accredited laboratories must have

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the capability to test both concrete and concrete aggregate.

**110.R1.1.7.1 Audit findings response:** The audited laboratory shall request that the testing

**110.R1.1.8 Licensing Fee** The fee for licensing shall be \$150.00 per annum or in accordance with the fee schedule established by the BBRS from time to time.

**110.R1.1.9 Number and Classification** Each laboratory so licensed by the BBRS shall be issued a number and classification.

**110.R1.1.10 Renewals** Commencing January 1, 1978, all licenses issued shall expire on December 31 of the year issued. Within 60 days before the expiration date of any such license, the Administrator of the BBRS shall forward to each laboratory so licensed an application form for renewal. Said renewals shall be returned to the BBRS by December 31. The said Administrator, upon receipt of the completed form and fee, shall renew the license for a period of one year or notify such applicant of the BBRS's refusal with reasons thereof.

**110.R1.1.11 Penalties** Any such person and/or laboratory who fails to comply with the requirements of 780 CMR 110.R1 or who files a false report shall be subject to the penalties and actions as prescribed in **780 CMR 118**.

## **780 CMR 110.R1.2 LABORATORY LICENSING REQUIREMENTS**

**110.R1.2.1 ASTM Testing Requirements** Except as modified in 780 CMR 110.R1, all testing laboratories including branch laboratories shall conform to Sections 5 and 6 of the ASTM E 329-72 standard requirements for testing of concrete and its constituent materials.

**Exception:** The following sections of ASTM E 329-72 shall not apply:

Sections 2.2; 2.3; 2.7; 3.2.7; 3.3; 3.4 C360 of 6.2; 7; 8; 9 and 10.

**110.R1.2.2 ASTM Equipment and Personnel Requirements:** All laboratories subject to 780 CMR 110.R1 shall be approved and licensed in accordance with the ASTM E 329-72 standard for the performance of those functions recommended in standard ASTM E 329-72, for equipment and personnel, as modified in 780 CMR 110.R1.

## **780 CMR 110.R1.3 PRE-QUALIFICATION REQUIREMENTS FOR LABORATORIES**

agency forward a copy of the audit report to the BBRS.

The audited laboratory shall prepare formal responses to each and all audit findings and issue such response report to the BBRS for review. (Also see 780 CMR 110.R1.3

### **110.R1.3.1 Evaluation:**

a. Testing and branch laboratories subject to 780 CMR 110.R1 shall be examined and evaluated, upon notification from the BBRS, by a testing agency designated by the BBRS. The interval between such examination and evaluation shall not exceed three years.

b. Project laboratory equipment which is used in the testing of concrete materials for use in buildings and structures subject to the provisions of 780 CMR shall conform to the requirements of ASTM E 329 as modified by 780 CMR 110.R1.2.

c. Reports of evaluations by the testing agency shall be filed with the BBRS within ten days of receipt of the report by the laboratory, unless a waiver is granted by the laboratory to have the report sent directly to the BBRS by the testing agency.

d. Laboratory deficiencies cited in the report of the testing agency shall be corrected within 30 days of the date of issue of the report and shall be so certified by an affidavit submitted by the laboratory on a form supplied by the BBRS.

**110.R1.3.2 Review of Deficiencies:** Laboratories which fail to meet the requirements of 780 CMR 110.R1.3.1 items c. and d. shall be subject to review and revocation of their license by the BBRS.

**110.R1.3.3 Testing Machines:** Compression testing machines used for testing materials subject to 780 CMR 110.R1 shall be calibrated and verified, with equipment traceable to the National Institute of Standards and Technology (NIST), at least annually or as required by the BBRS, and the results submitted to the BBRS.

## **780 CMR 110.R1.4 PERSONNEL**

The management and supervision of each laboratory subject to 780 CMR 110.R1 shall be in accordance with the following requirements:

**110.R1.4.1 Required:** Each accredited licensed Concrete Testing Laboratory must have an individual approved by the BBRS in each of three distinctly different categories: Director of Testing Services, Supervisory Laboratory Technician and Supervisory Field Technician. An individual may fill more than one position at the particular laboratory if he meets all the qualifications for each position, but he may not fill positions concurrently at a separate (branch or project) laboratory. The project laboratory must have a full-time resident

supervisory laboratory technician qualified in accordance with 780 CMR 110.R1.

**110.R1.4.2 Filing of Qualifications:** Each individual being certified for a position must submit his or her credentials and qualifications under penalty of perjury with signature notarized. Individuals applying for certification in more than one category must file separate applications for each position as described in 780 CMR 110.R1.5. Application for certification shall be filed within 30 days of employment for such duties. It is the responsibility of the Director of Testing Services to notify the BBRS within seven days of any vacancy of any position. Any vacant position shall be filled within 30 days.

## 780 CMR 110.R1.5 QUALIFICATIONS

**110.R1.5.1 Qualifications for Director of Testing Services:** The testing services of each laboratory (main, branch or project) shall be under the direction of a Director of Testing Services who shall be a full-time resident employee of that laboratory and shall be qualified in accordance with any one of the following three sets of requirements:

- a. He or she shall be a Professional Engineer, registered in the Commonwealth of Massachusetts with a least five years of experience in responsible charge of work related to Structural Engineering, Construction Engineering or Construction Materials Testing. He shall be subject to demonstrate his ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72; or,
- b. He or she shall have a Bachelor's Degree in Engineering from an accredited institution and an additional total of three years experience performing tests on concrete and concrete materials which shall include two years as a laboratory technician or supervisor. He or she shall be subject to demonstrate his ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72; or
- c. He or she shall have at least eight years experience including five years experience as a laboratory technician or supervisor and shall be subject to demonstrate his ability to interpret the results of tests of concrete and concrete aggregates as stated in ASTM E 329-72.

**110.R1.5.2 Qualifications for Supervisory Laboratory Technician:** A Supervisory Laboratory Technician shall have at least five years' experience performing tests on construction materials including concrete and concrete aggregates. He or she shall be subject to demonstrate his ability to perform correctly tests of concrete and aggregates as stated in ASTM E 329-72. "Class A" accreditation by the Pre-Qualifying Agency shall be required as qualification for concrete only. (See 780 CMR 110.R2 Concrete Testing Personnel Licensing Rules and Regulations.)

**110.R1.5.3 Qualifications for Supervisory Field Technician:** A Supervisory Field Technician shall have at least five years experience performing tests on construction materials including concrete. He or she shall be subject to demonstrate either by oral or written examination, or both, his ability to perform correctly the tests of concrete as stated in ASTM E 329-72. "Class A" accreditation by the Pre-Qualifying Agency shall be required as qualification for concrete only. (See 780 CMR 110.R2 Concrete Testing Personnel Licensing Rules and Regulations.)

In accordance with 780 CMR 110.12, those structures subject to control as required in 780 CMR 116, affidavits must be submitted with the building permit application that the individuals and testing laboratories responsible for carrying out the duties of 780 CMR 116 have been licensed and registered by the BBRS.

**110.R1.6.1 Affidavit:** In accordance with 780 CMR 110.R1.6, an affidavit shall be furnished to the building department by the licensed laboratory and shall be provided by the licensed laboratory for each building project.

**110.R1.6.2 Notice of Termination:** The building official shall receive written notification of the termination of laboratory functions certifying that the owner has also been so notified. Such termination shall be effective no earlier than three working days from the notification received by the building official.

**110.R1.6.3 Successor Laboratory:** If concrete testing is to be continued for the said project by a successor laboratory, such notice shall be given to the building official and a new project affidavit shall be filed with the building official.

## 780 CMR 110.R1.7 REVOCATION AND SUSPENSION PROCEDURES

**110.R1.7.1 Revocation and Suspension:** The BBRS on its own initiative or upon the recommendation of the Construction Materials Safety Board may suspend or revoke the license of any Testing Laboratory or Project Laboratory found to be in noncompliance with 780 CMR 110.R1, 780 CMR, or the Standards of good practice. Notice of suspension or revocation of such license shall be in writing with the reasons for suspension or revocation clearly set forth therein, and served in accordance with 780 CMR 118.6.

**110.R1.7.2 Notice and Conference:** Prior to suspension, revocation, or refusal to renew the license of an accredited laboratory, written notice of such intent shall be served by the Construction Materials Safety Board of BBRS in accordance with 780 CMR 118.6. Within ten calendar days of receipt of such notice, the affected accredited laboratory may request a conference before a three member panel designated by the Chairman of the Construction Materials Safety Board; said panel will hear facts and make their recommendations to the Construction Materials Safety Board, who in turn shall report such findings to the BBRS for BBRS consideration and action.

## 780 CMR 110.R1.6 PROJECT AFFIDAVIT

**110.R1.7.3 Effect of suspension or revocation:**

Upon suspension or revocation of the license, the accredited laboratory shall immediately cease engaging in the testing of concrete and concrete materials for use in buildings and structures which are subject to the provision of **780 CMR 116** and no action brought before the Board of Appeals as specified in 780 CMR 110.R1.8.1 or in any court of competent jurisdiction shall stay the said suspension or revocation unless said Board of Appeals or court shall issue an order for a stay of the BBRS's suspension or revocation.

**780 CMR 110.R1.8 APPEALS**

**110.R1.8.1 Building Code Appeals Board:**

Any laboratory or individual aggrieved by the suspension or revocation of their license or by an interpretation, order, requirement, direction or failure to act under 780 CMR 110.R1 may appeal to the State Building Code Appeals Board as provided in **780 CMR 122**; however, entry of an appeal from the BBRS's order of revocation or suspension shall not stay such revocation or suspension unless so ordered by the State Building Code Appeals Board in a preliminary hearing conducted expressly for the purpose of a stay in accordance with that part of **780 CMR 122.3.2** dealing with procedure required for a hearing on such stay.