

700 CMR 19.00: AGGREGATE SOURCE LICENSING FOR THE PRODUCTION OF CEMENT CONCRETE

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19.01: Scope, Effect, and Authority

- (1) Scope. 700 CMR 19.00 establishes licensing requirements and regulates activity, procedures, and penalties for any aggregate manufacturer, as defined herein, that produces concrete aggregate for the purpose of manufacturing aggregate for the production of cement concrete, as defined herein, that such company, entity, or person knows or reasonably should know will be sold or used in the Commonwealth of Massachusetts.
- (2) Effect. The headings of 700 CMR 19.00 are provided for ease of reference only and should not be used to construe its provisions. A judicial determination that a provision of 700 CMR 19.00 is unenforceable does not affect another provision of 700 CMR 19.00 unless the provisions are integrally related and cannot be severed.
- (3) Authority. Massachusetts Department of Transportation (MassDOT) promulgates these regulations in accordance with MGL c. 6C § 79.

19.02: Definitions

For the purposes of these regulations, the following words shall have the following meanings unless the context clearly requires otherwise:

- (1) Aggregate or Concrete Aggregate: Granular materials, including fine aggregate (natural sand or manufactured sand from quarried rock) and coarse aggregate (natural gravel or manufactured stone from crushed quarried or ledge rock), that may be used individually or are combined for the purpose of cement concrete production.
- (2) Aggregate Manufacturer: A company, entity, or person seeking to mine, expand, excavate or otherwise operate a quarry, sand and gravel operation or any other aggregate source for the purpose of manufacturing concrete aggregate, as defined herein, for the production of cement concrete, as defined herein, that such company, entity, or person knows or reasonably should know will be sold or used in the Commonwealth of Massachusetts in concrete foundations, structural elements or infrastructure, including, but not limited to, roadways and bridges.
- (3) Cast-in-place Concrete: Concrete that is delivered in a plastic state to the construction site, poured directly into the structure's formwork, stripped from formwork in its final position, and cured onsite.
- (4) Cement Concrete: A composite of constituent materials, including hydraulic cement, supplementary cementitious materials, aggregate, mixing water, and chemical admixtures, that hardens through the chemical process of hydration. For the purposes of these regulations, cement concrete does not include prepackaged concrete products or concrete

products fabricated at a Precast Concrete Institute (PCI) and / or National Precast Concrete Association (NPCA) precast facility.

- (5) Certified professional geologist: A professional geologist certified by the American Institute of Professional Geologists.
- (6) Contractor: All contracted parties who are involved with building an individual project, including the Prime (General) Contractor, Subcontractors, and all Producers, Fabricators, and Manufacturers who provide construction materials for the project.
- (7) Director: MassDOT Director of Research and Materials or their designee.
- (8) Licensed professional geologist: A professional geologist certified by: (i) examination through the National Association of State Boards of Geology; or (ii) a state's licensing authority that follows the national standards of the National Association of State Boards of Geology's licensing program or its equivalent.
- (9) Person: refers to an individual, firm, co-partnership, association, corporation, or other legal entity who operates or seeks to operate as an aggregate manufacturer, as defined herein.
- (10) Precast Concrete Products: A construction material created by mixing aggregate, water and other supplementary materials and pouring the mixture into a pre-shaped mold and cured in a controlled environment.
- (11) Prepackaged Concrete Products: Manufactured, preblended, and preformulated packaged-products comprised of precise proportions of dry constituent materials that produce concrete when mixed with the manufacturer's recommended dosage of water.
- (12) State Geologist: State Geologist for the Commonwealth of Massachusetts

#### 19.03: Licensing

- (1) Applicability. All Aggregate Manufacturers, as defined herein, must annually submit to MassDOT and the State Geologist an application for a license to conduct such activity. No Aggregate Manufacturer shall sell Concrete Aggregate for production of cement concrete that such Aggregate Manufacturer knows or reasonably should know will be sold or used in the commonwealth without first obtaining said license.
- (2) License Application. Applications shall be in a form and manner determined by MassDOT. Each application for a license shall be completed in its entirety, and include the licensing fee, Operations Plan (Quality System Manual), and Geological Source Report (GSR), per the requirements identified herein. Applications shall be submitted annually, per the requirements identified herein. Aggregate manufacturers undergoing a change of ownership or company name change shall update their application accordingly and expeditiously, no later than 30 days after the change has occurred.

#### 19.04: Operations Plan

- (1) An applicant for a license under 700 CMR 19.03 shall submit an Operations Plan with their application.
- (2) MassDOT shall develop and publish on its website the form and minimum requirements to be included in the Operations Plan.
- (3) The Operations Plan shall be prepared by the quarry.
- (4) The Operations Plan (Quality System Manual) shall describe in sufficient detail the following minimum requirements in the following order.
  - (a) Aggregate quality control procedures and
  - (b) Aggregate manufacturing in the mine and the processing plant, covering each of the following steps:

- i. Extraction
- ii. Processing
- iii. Stockpiling
- iv. Blending
- v. Sales / Delivery
- vi. Plant Flow Diagram
- vii. Current Contact Information

- (5) If there is a significant change to the operations plan during the license year, a new Operations Plan shall be prepared and submitted to MassDOT prior to implementing the change.

19.05: Sampling, Testing, and Examination for Total Sulfur, Pyrrhotite, and Framboidal Pyrite

All applicants and licenses shall conduct sampling, testing, and examination for total sulfur, pyrrhotite, and framboidal pyrite in accordance with the requirements and standards identified in this 700 CMR 19.05. Sampling, testing, and examination results and analysis shall be reported in the GSR report in accordance with 700 CMR 19.06.

- (1) Sampling, testing, and examination shall be conducted by a certified professional geologist, licensed professional geologist or an equivalent acceptable to the State Geologist.
- (2) Sampling, testing, and examination results provided in GSR report under 700 CMR 19.06 shall be from samples obtained by the lead geologist or designated party assigned by the lead geologist. Testing and examination shall be conducted on representative samples from the Manufacturer's active mining location(s).
- (a) Sampling. Aggregate shall be sampled from the stockpile(s), in accordance with ASTM D75 Standard Practice for Sampling Aggregates or AASHTO R 90 Standard Practice for Sampling Aggregate Products. Aggregate samples shall be a composite of all onsite aggregate stockpiles of the same source, recombined, and sampled randomly from the combined sample. Aggregate stockpile samples shall be protected from the environment and sealed. The geology of the aggregate stockpile samples shall be analyzed and be of the same geology of previously examined cores identified in 700 CMR 19.06(2)(b). If the geology differs, samples from the previously sampled and stored cores shall be obtained for the testing and examination identified in 700 CMR 19.05(2)(b).
- (b) Testing and Examination. Testing and examination shall be conducted by laboratories that are independent from and not affiliated with Aggregate Manufacturers. Independent laboratories utilized for testing shall be recognized by the National Cooperation for Laboratory Accreditation (NACLA) in Construction Materials Engineering and Testing (CMET), AASHTO Resource, or an equal program approved by MassDOT and the State Geologist. Independent laboratory results shall be determined by the preparer and documented on a report form meeting the standard methods identified in Table 1. The GSR shall include a description of each test performed and a summary of the results.

Level 1 total sulfur content testing and Level 2 petrographic examination (when required) shall be conducted on a composite sample of all onsite aggregate stockpiles of the same source (and previously sampled and stored cores when requested by the State Geologist) and reported annually, per the requirements identified herein. Level 2 petrographic examination shall be conducted when the Level 1 total sulfur content test result is greater than or equal to 0.1% and less than 1.0%, as identified in Table 1. If the manufacturer blends aggregate from multiple sources or areas with geological differences, then each source or area blended into the aggregate shall be tested and examined separately.

Testing requirements are determined from current research and available information. As research evolves, testing requirements will be adjusted to reflect the most recent and proven research at any given time. MassDOT, in consultation with the State Geologist, reserves the right to request further information when deemed necessary.

Table 1: Total Sulfur Content, Pyrrhotite, and Framboidal Pyrite Testing Requirements

Method	Quality Characteristic		Limits
Level 1 Total Sulfur Content Testing			
ASTM D4239 <sup>[1]</sup>	Total Sulfur Content (%)	Acceptable: Permitted for use in Concrete	< 0.1
		Additional: Level 2 Petrographic Examination for Pyrrhotite and Framboidal Pyrite Content Required	0.1 to < 1.0
		Rejectable: Prohibited from use in Concrete	≥ 1.0
Level 2 Petrographic Examination (if required)			
ASTM C295	Pyrrhotite and/or Framboidal Pyrite	Acceptable: Permitted for use in Concrete	No Presence
		Rejectable: Prohibited from use in Concrete	Presence
[1] ASTM D4239 Standard Test Method for Sulfur in the Analysis Sample of Coal and Coke Using High-Temperature Tube Furnace Combustion shall be modified for the testing of aggregate accordingly.			

- (3) Testing Exceptions.
- (a) Statistically Insignificant Risk Exception. Subject to the regional and site geology analysis contained in the GSR, as required in 700 CMR 19.06(2)(a) and (2)(b), an applicant or licensee may, in lieu of the testing requirements provided in 700 CMR 19.05(2), obtain an opinion signed by a certified professional geologist, licensed professional geologist or an equivalent acceptable to the State Geologist, that there is a statistically insignificant risk that the area of operation for a given year contains iron sulfide deposits (pyrrhotite and framboidal pyrite). This testing exception shall be contingent on completion of the regional and site geology analysis as described in 700 CMR 19.06(2)(a) and (b). The regional and site geology analysis shall be included in the Geological Source Report (GSR) submitted with the license application.
- (b) Continuous Extraction Site Operations Exception. Subject to the regional and site geology analysis contained in the GSR, as required in 700 CMR 19.06(2)(a) and (2)(b), an applicant or licensee may, in lieu of the testing requirements provided in 700 CMR 19.05(2), may certify that they will continue to source aggregate from the same extraction site for which a previous year’s GSR was submitted and will not expand operations beyond the maximum radius of 250 feet beyond the farthest drill hole or exposed quarry faces used for identifying geology, as provided in 700 CMR 19.06(2)(b)(xx). This exception of testing shall be contingent on completion of the regional and site geology analysis as described in 700 CMR 19.06(2)(a) and (b). The regional and site geology analysis shall be included in the Geological Source Report (GSR) submitted with the license application. If, during the relevant license year, an aggregate manufacturer operates a new or expanded extraction site, this exception shall no longer apply and a new GSR must be submitted in accordance with 700 CMR 19.06.

19.06: Geological Source Report (GSR)

An applicant for a license under 700 CMR 19.00 shall submit a Geological Source Report (GSR) with their application. The GSR shall be prepared by a certified professional geologist, licensed professional geologist or an equivalent acceptable to the State Geologist. The GSR shall include any relevant information as determined by the certified, licensed, or qualified (accepted by the State Geologist) professional geologist completing the report, however, it shall also contain the minimum requirements identified in this 700 CMR 19.06. The GSR shall be valid for a period of one year from the date of preparation. The GSR shall be submitted annually with the license application and fee. If there is a change to the contents of the GSR during the license year, including, without limitation, operations in a new or expanded extraction site, a new GSR shall be prepared and submitted to MassDOT within 60 days of the change.

The GSR shall include a review and summary of existing geologic information and data, results of field

assessment and exploration, and field and laboratory testing of rock and soil to characterize the site conditions as pertinent to the possible presence of sulfidic minerals in the bedrock or overburden at the site. The report shall contain pertinent geological information, analysis, and interpretation regarding geologic materials, processes, and history to allow evaluation of determining if materials would produce suitable aggregates for concrete and shall be conducted not more than 60 days prior to the date of the GSR. This includes testing results for face aggregates for sulfur content and presence of framboidal pyrite and pyrrhotite; a description of the characteristics of the aggregate to be excavated at the site location; a description of the material aggregates to be produced at the site location.

Any geological coordinates listed in this report shall use World Geodetic System (WGS84) formatting. All geological coordinates shall include at a minimum 6 decimal digits right of the decimal point. Descriptions shall be written in a manner understandable to the client and the reviewer.

(1) GSR Cover Page. At a minimum, the GSR cover page shall report the following items.

(a) Prepared By. The following items shall be reported on the GSR cover page:

- i. The full name(s) of the certified, licensed, or qualified (acceptable to the State Geologist) professional geologist(s) preparing the GSR;
- ii. The name of the certifying or licensing governing body of the professional geologist(s) preparing the GSR; and
- iii. The address of the person(s) or entity(ies) preparing the GSR.

(b) Prepared For. The following items shall be reported on the GSR cover page

- i. The company name and address requesting the GSR;
- ii. The name and location of the site where the survey was conducted; and
- iii. The Mine Safety and Health Administration (MSHA) ID number or an explanation of why an MSHA ID number is unavailable.

(c) Date Document Prepared. The GSR cover page shall identify the month, day, and year when the report was finalized shall be reported.

(d) Summary Test Results and Conclusions. The GSR cover page shall:

- i. Identify test methods conducted, corresponding results, and criteria;
- ii. Summarize findings of tests completed;
- iii. Include a statement about compliance with Chapter 6C of the General Laws, Section 79, and MassDOT regulations 700 CMR 19.00); and
- iv. The test result parameters required in the report are subject to evolving research. Requirements may change at any time deemed by MassDOT and the State Geologist.

(2) GSR Contents. At a minimum, the GSR shall report the following items.

(a) Regional Geology. The GSR shall include the following with respect to the regional geology of the extraction site:

- i. A summary of the regional geology, including a clear, concise, and readable general description of relevant regional geologic history in the area;
- ii. Relevant references of previous geologic work conducted in the region shall be included;
- iii. The extent to which sulfide minerals are present in the regional bedrock;
- iv. A location map shall be included to show regional context.
- v. A clear color photograph of the relevant surficial or bedrock geologic map that encompasses the site, including a map legend and short description of the mapped rock units.

(b) Site Geology. The GSR shall include the following with respect to the geology of the extraction site:

- i. A summary of the site geology, including a clear, concise, and readable general description of the site;
- ii. A report describing sample date(s), location, size of area investigated, and general

- site setting;
- iii. A detailed description of site geology, soil and rock descriptions and classifications, including where sand and gravel are being quarried or where rock was sourced for crushed rock, and other pertinent information;
- iv. A geologic cross section of site that shows stratigraphic relationships
- v. Logs of subsurface explorations, rock cores, and sampled material data shall be reported;
- vi. Figures of soil logs, rock cores, and material samples shall be referenced where applicable
- vii. Detailed site-specific geological description of source material;
- viii. A detailed description of crushed stone geologic units covered in drilled cores, drill cuttings, or exposed quarry faces may be used for identifying site geology and shall be described in detail;
- ix. A report of any sand and gravel operations' mode of deposition (e.g., kame, outwash, delta) and glacial history shall be reported;
- x. A list of material aggregates that are being produced or processed from the site;
- xi. A report of all material sample locations accurately located on an area map;
- xii. A report of all material sample locations, using WGS84 decimal degree formatting;
- xiii. A site map containing site surficial and bedrock geology, as well as a recent map showing topographic elevation data;
- xiv. Engineering geologic maps of the area, prepared at a scale that shows sufficient detail to adequately define the geologic conditions present;
- xv. Photos of the site, operation, pit walls or quarry face, and panoramic views;
- xvi. Any other photographs or images of the site as needed to support written descriptions;
- xvii. A caption for each submitted photograph that includes the date of the photo, the approximate location where the image was captured (either WGS84 coordinates or reference to the site map), and the orientation of the photo. For example: "Photo X: the image was captured on [insert date] from the east end of the main excavation facing north";
- xviii. For all geologic descriptions, detailed lithology of each rock type in the underlying bedrock and relevant bedrock source units for natural sand and gravel deposits, including the color and grain size as appropriate. Distinct lithologies cannot be lumped and must be separated for the report;
- xix. All drill holes or exposed quarry faces used for identifying geology located by survey, including their locations, total depths, collar elevations, and years drilled shall be reported;
- xx. Core holes shall penetrate at least 5 feet below the proposed operating horizon. In stratified or layered rock, drill holes should intersect all strata, or layers, that will be quarried. Holes may be vertical, horizontal, or at any angle to meet this requirement. Core orientation, terminal depth or length, and diameter shall be determined by the quarry operator in consultation with a professional geologist to provide enough material for lithologic identification. Cores shall be protected from the environment and sealed within 24 hours of coring. If, in the opinion of the Aggregate Manufacturer's geologist and State Geologist, the structural and stratigraphic continuity permits, the drill holes may be located up to 1000 feet apart. Operations shall be limited to a maximum radius of 250 feet beyond the farthest drill hole or exposed quarry faces used for identifying geology in any direction. New cores shall be drilled and analyzed whenever the proposed quarrying will extend beyond the area or depth covered by existing cores, i.e. when the operation is to be extended more than 250 feet beyond the farthest drill hole or when strata are to be quarried that have not been intersected previously. The sampled cores used for the site geology determination shall be adequately sealed, identified, and stored at the Aggregate Manufacturer's facility. For natural aggregates (natural sand and gravel), representative field samples shall be obtained and sealed, to conduct the analyses identified in this section. Sampling for natural aggregates shall meet the same geolocating and maximum spacing requirements previously identified herein. Analyses shall be conducted on each sieve size (4 inches to no. 200 sieve).

(c) Testing Results. Results and information produced from the sampling, testing, and examination for total sulfur, pyrrhotite, and framboidal pyrite conducted under 700 CMR 19.05 shall be detailed in the GSR and submitted annually with each license or renewal application, including, without limitation:

- (c) Laboratory test results presented and interpreted by the preparer, including:
  - a. A description of each test performed and an analysis of results; and
  - b. A list of the name of the laboratory that conducted testing.
  - c. The name of the independent laboratory conducting the testing and examination shall be identified on the test report form and in the GSR. Results shall be submitted with each application.
- (d) Such additional information as MassDOT may request in consultation with the State Geologist to ensure adequate testing and analysis.
- (d) Report Limitation. The section shall include a statement regarding the limits of the intended use of the report, including scope and extent, and shall restate any additional needs beyond the stated scope of work.
- (e) Declaration and Signature. All finalized reports must be signed and stamped by the professional geologist who prepared the report. Any supporting documents prepared by sub-consultants shall be signed and dated. The report shall be prepared by a certified professional geologist, licensed professional geologist or an equivalent acceptable to the State Geologist.
- (f) Qualifications of any geologist conducting sampling, testing, or examination or preparing the GSR shall be included as an attachment to the final report. Qualifications shall include years of experience, type of work experience such as geologic mapping, rock identification, petrographic analysis, laboratory experience, and familiarity with ASTM specifications and testing procedures.
- (g) References Cited. Any references cited for use in preparing the Geologic Source Report shall be noted in this section. This includes any literature, maps, records, photographs, images, and other data sources.
- (h) Appendix A Figures. Any figures used for generating the report shall be presented in this section.
- (i) Appendix B Laboratory Test Results. Results of all laboratory tests conducted for this report shall be attached in this section.
- (j) Appendix C Professional Geologist Equivalent Qualifications. Qualifications shall include years of experience, type of work experience such as geologic mapping, rock identification, petrographic analysis, laboratory experience, and familiarity with ASTM specifications and testing procedures.

#### 19.07: License Fee

Each initial and renewal application for a license shall be made in accordance with 700 CMR 19.08 and 19.09 and accompanied by a nonrefundable fee in the amount of \$1,500.

#### 19.08: Application and Fee Submission Dates, License Issue Dates, License Effective Dates

- (1) Application and Fee Submission Dates. MassDOT will begin accepting aggregate license applications and fees, each year between November 1 and December 31.
- (2) License Issue Dates. MassDOT will begin issuing aggregate licenses effective January 1 through October 31 each year.
- (3) License Effective Dates. Aggregate licenses will be in effect from April 1 of the year of issuance to March 31 of the following year.

#### 19.09: Procedure for Processing and Requirements for Application for a License and License Renewal

- (1) All license applications under these regulations shall be submitted through the ePlace Portal or any other system MassDOT may designate for the submission of aggregate licensing applications.

- (2) Upon receipt of a completed application issued by MassDOT, all other required documents and the required fee for a license, the Director shall consider whether the applicant complied with all the requirements set forth herein. The Director may request additional information as determined necessary in the review of the application and make a determination. In the event that the Director requests additional information, the applicant shall submit all such information within 30 days of such request.
- (3) Within a reasonable time after a completed application is filed, the Director or their designee, in consultation with the State Geologist, shall review each license application submitted. The Director shall make a determination in writing on whether to grant or deny the license and any applicable conditions of operation. If the determination is to deny the application for a license, the Director or their designee shall issue a concise statement of the reason for denial.
- (4) Any person aggrieved by the determination of the Director or their designee to deny a license may initiate an adjudicatory proceeding in accordance with the requirements contained herein.
- (5) A license granted in accordance with the requirements herein, shall be valid for up to one year from the date of approval. A license may be renewed after expiration.
- (6) MassDOT in consultation with the State Geologist may request additional testing or information during the review of a license application. Failure of the applicant to submit the results of the additional testing or any other requested information may result in denial of a license.
- (7) MassDOT may modify testing requirements and application criteria at its discretion.

#### 19.10: License Denial or Revocation

- (1) An application for license, new or renewal, may be denied for the following reasons:
  - (a) Submission of an incomplete application.
  - (b) Failure to furnish additional information requested MassDOT under 700 CMR 19.09(5).
  - (c) Submission of falsified data or information.
  - (d) Evidence of substantial operation without a license after the effectiveness of these regulations.
- (2) A license may be revoked for the following reasons:
  - (a) Submission of falsified data or information.
  - (b) Supplying aggregate for concrete from an area of a quarry that is not licensed under this program;
  - (c) Sale of aggregate to a concrete producer from a source or producer other than the licensed quarry for use in the Commonwealth;
  - (d) Non-conformance with submitted Operations Plan;
  - (e) Failure to adhere to the GSR, inspection or other timelines established in the law; or
  - (f) Other evidence of substantial non-compliance with the requirements of these regulations.

#### 19.11: Request for an Appeal Hearing

- (1) Any applicant who is denied a request for a license or whose license has been revoked may make a written request for an appeal hearing. The appeal hearing will be conducted by the Director, the State Geologist, and Materials Evaluation and Research Engineer. The request for hearing must be received by the Director within 30 days after receipt of the notice of denial or notice of revocation. A determination to deny or revoke a license shall be final if the applicant fails to request a hearing within 30 days after receipt of the notice of denial or revocation.
- (2) The request for hearing must be in writing and must identify the applicant requesting the appeal and a detailed description for the basis for the appeal. The hearing is informal, the rules of evidence do not apply, and the decision of the Director, the State Geologist, and



Materials Evaluation and Research Engineer is a final administrative decision subject to judicial review as provided by M.G.L. c. 30A, § 14.

- (3) The applicant will be notified by mail within a reasonable time of the decision following the hearing. Each written hearing decision will contain a statement of the reasons for the decision.
- (4) Failure of the applicant to appear at the date, time, and place specified on the hearing notice automatically results in the denial of the appeal.
- (5) The Director may extend any deadline prescribed herein.

#### 19.12: Recordkeeping

- (1) MassDOT, in consultation with the State Geologist, shall maintain all data collected under this section in accordance with the Statewide Records Retention Schedule issued by Massachusetts Records Conservation Board in accordance with MGL c. 66, § 8 and MGL c. 30, § 42.
- (2) A person owning or operating an aggregate source, subject to licensure pursuant 700 CMR 19.00, shall maintain all records relevant to such licensure and operation, including, but not limited to, a record of sale for all aggregate, for not less than 30 years.
- (3) A person owning or operating a concrete production facility for the purpose of producing concrete for sale or use in foundations, structural elements or infrastructure, including, but not limited to, roadways and bridges, and who is in receipt of aggregate material from a source licensed pursuant to this section, shall maintain a record of the aggregate used in individual concrete batches for not less than 30 years.

#### 19.13: Severability

- (1) If any provision of 700 CMR 19.00 or the application of any provision of a regulation to any person or circumstance is held to be invalid, the validity of the remainder of 700 CMR 19.00 and the applicability of such provision to other persons or circumstances will not be affected.

#### 19.14: Liability

- (1) The fact that a license has been issued pursuant to MGL c. 6C, § 79 or 700 CMR 19.00 shall not be deemed a finding by MassDOT that the GSR, testing results, or any other information submitted by an applicant is true and accurate on its face; nor that MassDOT has in any way passed upon the safety or quality of any aggregate cement concrete product. It shall be unlawful to make, or cause to be made to any representation contrary.
- (2) Nothing in 700 CMR 19.00 shall be construed as limiting the liability of any person who produces, sells, or uses aggregate or cement concrete from an unlicensed source. Licensure shall not be a defense against, or limit of civil penalties ordered by a court of competent jurisdiction.

#### REGULATORY AUTHORITY

700 CMR 19.00: St. 2023, c. 56; GL. c. 6C, § 79.