

CHAPTERS 110.R1 through 110.R7

Chapters 110.R1 through 110.R7 are special regulations particular to certain Massachusetts programs relating to:

- **Licensing Concrete Testing Laboratories - 110.R1**
- **Licensing Concrete Field Testing Technicians - 110.R2**
- **Approving Manufactured Buildings - 110.R3**
- **Registering Native Lumber Producers - 110.R4**
- **Licensing Construction Supervisors - 110.R5**
- **110.R6 is a reserved chapter**
- **Certifying Building Code Enforcement Officials - 110.R5**

These regulations are unique to Massachusetts.

110.R5: LICENSING OF CONSTRUCTION SUPERVISORS

(Note: 780 CMR 110.R5 is unique to Massachusetts)

110.R5.1 General

110.R5.1.1 Scope. The provisions of 780 CMR 110.R5 shall govern the licensing of construction supervisors.

110.R5.1.2 Definitions. Unless otherwise expressly stated in 780 CMR the following terms shall, for the purpose of 780 CMR 110.R5, have the meaning indicated in 780 CMR 110.R5.1.2.

BBS. State Board of Building Regulations and Standards.

CSL. A construction supervisor license. See also construction supervisor.

CONSTRUCTION SUPERVISOR. A person of good moral character who is deemed qualified by the BBS to directly supervise persons engaged in the scope of work shown in Table 110.R5.1. Such term shall also apply to persons supervising themselves.

Code	Designation	Note 1	Table 110.R5.1 Construction Supervisor License (CSL) Scope of Work
none ^a	CSL ^a	a, b, c, d	Construction, reconstruction, alteration, repair, removal, or demolition
none	CSL I&2 Family Dwellings	b	Construction, reconstruction, alteration, repair, removal, or demolition
IA	CSL Masonry ^b	a, b, c, d	Construction, reconstruction, alteration, repair, removal, or demolition of masonry structures that require a permit. Not applicable for construction of masonry buildings
RF	CSL Roof Covering ^a	a, b, c	Construction, reconstruction, alteration, repair, or removal of roof covering, including repair and replacement of 25% of sheathing and 25% of sistering roof rafters
WS	CSL Window and Siding ^b	a, b, c	Construction, reconstruction, alteration, repair, or removal of doors, windows and siding including repair and replacement of damaged window or door framing < 4' wide and up to 25% of sheathing
SF	CSL Solid Fuel-Burning Appliance ^b	a, b, c	Installation of solid fuel burning appliances but does not allow work on any structural elements, including sheathing, with the exception of that required for the installation of either the inlet or exhaust elements
DM	CSL Demolition ^b	a, b, c, d	Demolition only.
IC	CSL Insulation ^b	a, b, c	Installation of insulation including repair and replacement of sheathing and siding necessary to access wall cavities
b. Specialty License		a. formerly known as "00, Unrestricted" CSL	
Note 1: Building Types and Structures			
a	Buildings of any use group which contain less than 35,000 cubic feet (991m ³) of enclosed space.		
b	One- and two-family dwellings or any accessory building thereto, irrespective of size.		
c	Building or structures for agricultural use.		
d	Retaining walls less than ten feet in height at all points along the wall as measured from the base of the footing to the top of the wall.		

HEARINGS OFFICER. The hearings officer is the person selected by the Division of Professional Licensure and approved by the chair of the BBS to carry out the disposition of complaints against licensed construction supervisors.

HOMEOWNER. Person(s) who owns a parcel of land on which he or she resides or intends to reside, on which there is, or is intended to be, a one- or two-family dwelling, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner.

110.R5: continued

LICENSED DESIGNEE. Any individual designated by the license holder to be present, in the absence of said license holder, during any of the periods stated in 780 CMR 110.R5.2.12. Such designee shall also hold a construction supervisor's license in the appropriate category (or better), but his or her name or license number need not be contained on the building permit application.

RECOGNITION. The approval by the BBRs of an application and related documents by one desirous of being licensed as a construction supervisor.

110.R5.1.3 Scope. 780 CMR 110.R5 shall govern the testing and licensing of individuals who are found to possess the requisite qualifications to be licensed as a construction supervisor and to have charge or control of construction, reconstruction, alteration, repair, removal or demolition of certain buildings or structures or parts thereof, as identified.

110.R5.1.3.1 Individuals supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR, shall be licensed in accordance with 780 CMR 110.R5. Individuals engaged in the supervision of the field erection of manufactured buildings in accordance with 780 CMR 110.R3, shall be licensed as construction supervisors.

Exception: Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR 110.R5, provided that if a homeowner engages a person(s) for hire to do such work, then such homeowner shall act as supervisor. This exception shall not apply to the field erection of manufactured buildings constructed pursuant to 780 CMR 110.R3.

NOTE: Any licensed construction supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR and manufacturer's recommendations, as applicable, whether or not the licensed contractor secured the permit for said work.

110.R5.1.3.2 Exemptions. A construction supervisor's license is not required for:

1. construction of swimming pools, the erection of signs, the erection of tents;
2. projects which are subject to construction control pursuant to 780 CMR 1.00: *Scope and Administration*;
3. agricultural buildings which are not open to the public or otherwise made available for public use;
4. registered design professionals, provided such comply with the construction supervisor oversight requirements set forth in 780 CMR 110.R5 generally and 780 CMR 110.R5.2.12, as applicable;
5. Massachusetts certified building officials, provided such certification is current and they comply with the oversight requirements of 780 CMR 110.R5 generally and 780 CMR 110.R5.2.12, as applicable; or
6. the practice of any trade licensed by agencies of the Commonwealth, provided that any such work is within the scope of said license including, but not limited to wiring, plumbing gas fitting, fire protection systems, pipefitting, HVAC and refrigeration equipment. See M.G.L. c. 112, § 81R.

110.R5.1.3.3 Municipal Requirements. No municipality shall be prohibited from requiring a license for those individuals engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition in those categories of building and structures for which 780 CMR 110.R5 does not require a license.

110.R5.1.4 Administration and Enforcement. The BBRs shall administer and enforce the provisions of 780 CMR 110.R5. The BBRs or those designated by it shall administer examinations, under 780 CMR 110.R5, of persons desirous of being registered as qualified to receive a license as a construction supervisor.

110.R5: continued

110.R5.2: Registration and Licensing

110.R5.2.1 Qualifications. A construction supervisor license candidate shall demonstrate that he or she has had at least three years of experience in their field. This experience shall have been completed within the ten-year period prior to the date of application. Successful completion of certain educational programs may satisfy one to two years of required experience. In addition, all applicants are required to successfully pass an examination in order to receive a license. For a list of the pre-exam qualifications, access the examination application noted in 780 CMR 110.R5.2.2.

Exception: An individual holding a current certification in accordance with the requirements of 780 CMR 110.R7 shall be allowed to submit an application for an unrestricted construction supervisor license without the need for examination.

110.R5.2.1.1 Evaluation of Exam Scores. The authorized testing agent of the BBRS shall determine a successful exam score. BBRS may evaluate multiple unsuccessful exam scores of an applicant if the applicant has:

- a. received and utilized testing accommodation through the authorized testing agent;
- b. taken the exam at least three times in the past five years and not received a successful score on any one exam;
- c. received an exam score 5% greater than the successful exam score authorized by the testing agent using a weighted average of the highest scores from each section of any two of the three exams; and
- d. provided a letter of recommendation from any two of the following individuals:
 - i. a building official;
 - ii. a registered design professional; and/or
 - iii. a construction supervisor licensee.

If the requirements of 780 CMR 110.R5.2 are met then the exam applicant has successfully passed an examination in accordance with 780 CMR 110.R5.

110.R5.2.2 Examinations. Examinations shall be held only by appointment. All exam applications shall be filed in accordance with the construction supervisor license examination application found at <http://www.mass.gov/ocabr/government/oca-agencies/dpl-lp/opsi/>.

110.R5.2.3 License Approval. A majority vote of the members of the BBRS shall be required to grant a license.

110.R5.2.4 Expiration. Licenses issued pursuant to 780 CMR 110.R5 shall expire three years from the date of issuance, which shall be noted on said license and may be renewed. A renewal of an original license shall be for periods of two years and a renewal license shall expire two years from the date of issuance, which shall be noted on said license and may be renewed. A renewal license shall not be issued unless application therefore is made within one year of the date of expiration of the most recently issued license. If a licensee fails to renew his or her license within one year of the expiration date; such license may thereafter be renewed within two years of its expiration date upon the payment of a fee in accordance with 780 CMR.

Exceptions: For applications meeting any of these four exception requirements, where applicable, the license shall be renewed for a minimum of one year to a maximum of three years.

1. **Medical Reactivation.** Applicants who seek license reactivation and a waiver of the retesting and/or continuing education requirements shall:
 - a. notify the Office in writing *via* email or US mail, within four years of expiration date of the license;
 - b. have evidence of personal illness defined as one of the internationally recognized causes of mortality or one of the recognized mental health related illnesses, or illness or death of a parent, sibling, spouse, or child in a four-year window from date of the Office's written notification;
 - c. not have DOR tax, child support, Home Improvement Contractor or Construction Supervisor complaint, or civil fine issues with the Office; and

110.R5: continued

- d. submit the following:
 - i. an application form from the Office;
 - ii. a form letter from the Office stating how illness or death contributed to loss of focus on personal or business affairs;
 - iii. medical evidence of illness or death; and
 - iv. a fee.
- 2. **Military Reactivation.** Applicants who seek license reactivation and a waiver of the retesting and/or continuing education requirements shall:
 - a. notify the Office in writing *via* email or US Mail, within four years of expiration date of the license;
 - b. have evidence of personal military service or of military service of spouse;
 - c. not have DOR tax, child support, Home Improvement Contractor or Construction Supervisor complaint, or civil fine issues with the Office; and
 - d. submit the following:
 - i. an application form from the Office;
 - ii. evidence of honorable military service within the expiration period; and
 - iii. a fee.
- 3. **Valor Act.** If a license holder is on active duty with the armed forces of the United States, as defined in M.G.L. c. 4, § 7, clause 43, the certificate shall remain valid until the license holder is released from active duty and for a period of not less than 90 days following that release. For this exception to apply, the license holder shall be given an Honorable Discharge, a General Discharge, or an Under Other than Honorable Conditions ("UOTHC") Discharge, as noted on their discharge and separation papers.

The BBRs may accept education, training, or service completed by an individual as a member of the armed forces, as defined in M.G.L. c. 4, § 7, clause 43, or the United States military reserves as an alternative or in addition to submission of required documentation pursuant to continuing education requirements. The applicant shall submit a license renewal application along with a Verification of Military Experience and Training form and any other supporting documentation. The education, training, or service submitted to the BBRs shall have been completed within 24 months of submission.

- 4. **Age Reactivation.** Applicants who seek license reactivation and a waiver of the retesting requirement shall:
 - a. notify the Office in writing *via* email or US Mail a desire to reactivate the license and be 62 years of age or older on the date of notification from the Office;
 - b. not have DOR tax, child support, Home Improvement Contractor or Construction Supervisor complaint, or civil fine issues with the Office; and
 - c. submit the following:
 - i. a renewal application from the Office;
 - ii. certificates of continuing education from expiration date of the license to date of notification from the Office; and
 - iii. a fee.

Note: The continuing education waiver shall be utilized only once per licensee.

110.R5.2.5 Expired License. The practice of construction supervision is prohibited with an expired license.

110.R5.2.6 Procedure for Obtaining a License.

110.R5.2.6.1 Application. License applicants meeting the qualifications of 780 CMR 110.R5.2.1 may submit an examination application in accordance with 780 CMR 110.R5.2.2 to the authorized testing agent of BBRs.

110.R5.2.6.2 Forms. It shall be the responsibility of the applicant to assure that the required forms are received by the testing agency. All forms shall be accompanied by the required license fee.

110.R5.2.6.3 Records. The BBRs shall keep a copy of the application and a computer file listing all licensed construction supervisors.

110.R5: continued

110.R5.2.6.4 Examination Date. Upon receipt of a fully completed application, an examination date shall be set by the authorized testing agency and the applicant so notified.

110.R5.2.7 False Statements. Any false statement on the application or references shall be sufficient reason to refuse to issue a license, or to suspend or revoke a license if issued.

110.R5.2.8 Cause for Suspension or Revocation. The following shall be grounds for reprimand, suspension, or revocation of a license:

1. the applicant made a false statement to the BBRS;
2. a licensee made a false statement to the BBRS;
3. any violation of 780 CMR;
4. work was performed without a building permit;
5. failure to fully cooperate with a BBRS investigation into a complaint;
6. failure to turn over a suspended or revoked license to the BBRS;
7. failure to abide by a mandate or order of the BBRS;
8. failure to properly supervise a project or be present at a work site as required by 780 CMR 110.R5;
9. failure to meet the requirements of 780 CMR 110.R5.4;
10. revocation of the CSL holder's Home Improvement Contractor Registration by the Office of Consumer Affairs and Business Regulations (HIC revocations that are not personal to the CSL holder shall not be grounds for discipline);
11. violations of state or federal law relevant to CSL work, including violations of the Occupational Safety and Health Act or Occupational Safety and Health Administration regulations, as formally decided by the courts or relevant state or federal agency; and
12. conduct showing a lack of good moral character.

110.R5.2.9 Procedure for Suspension or Revocation of License.

110.R5.2.9.1 Complaints. All complaints relative to a license shall be in writing on a form provided by the BBRS. Any person, including a building official, staff of the Massachusetts Office of Consumer Affairs and Business Regulation, or the BBRS itself, may file a complaint. All complaints shall be received by the BBRS within three years of the date the parties entered into an agreement to perform work requiring licensure pursuant to 780 CMR 110.R5.

110.R5.2.9.1.1 Basis of Complaint. Work related to a specific building permit that is deemed to not comply with 780 CMR or a consistent pattern of abuse relating to contractual arrangements between license holder and client shall be the basis of such complaint. Any work requiring a building permit which is performed without such permit shall be considered cause for suspension or revocation.

110.R5.2.9.1.2 Review and Investigation of Complaints. The BBRS or its designee shall review every complaint filed. If the reviewer determined that the complaint alleges plausible potential violations of 780 CMR by the licensee, a hearing shall be convened. The BBRS may, if it elects, investigate a complaint prior to scheduling a hearing. Failure of a complainant to cooperate in the investigation shall be grounds for dismissal of a complaint.

Upon receipt of a complaint, the BBRS or its designee shall send a letter acknowledging receipt to the complainant, the licensee being complained of, and the appropriate municipal building official. A copy of the complaint and all attachments shall be mailed to the license holder with the acknowledgment letter.

110.R5.2.9.2 Reserved.

110.R5.2.9.3 Notice of Hearing. If the hearings officer or the BBRS determined that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the license holder. Mailing of the notice to the address on record with BBRS shall be deemed satisfactory notice to the license holder. The notice of hearing shall contain:

1. the name of the complainant.

110.R5: continued

2. The date, time and place of said hearing.
3. The location of the incident giving rise to the complaint.
4. Notice that either party may view the BBRs's complaint file by appointment.

110.R5.2.9.4 Hearings. Hearings convened pursuant to 780 CMR 110.R5 shall be conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules*. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The hearings officer may question any witness and include any records kept by the BBRs as exhibits. The hearings officer may conclude the hearing at any time and issue a decision based on the evidence presented. If a licensee does not appear for the hearing, the hearings officer may conduct a hearing in their absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was provided notice as required by 780 CMR 110.R5.2.9.3.

110.R5.2.9.5 Decisions and Discipline of License Holders. The hearings officer shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The hearings officer may suspend a license for a fixed period of time, revoke a license permanently, or reprimand the licensee. In conjunction with these disciplinary measures, the hearings officer may order the license holder to retake the CSL examination. Any license that is suspended or revoked shall be forwarded to the BBRs immediately. A person whose license is revoked may apply in writing to the BBRs for reinstatement no sooner than two years from the date of the revocation.

110.R5.2.10 Discretionary Appeal. Any person aggrieved by a decision of the hearings officer may, in writing, request review of said decision by the BBRs. The filing of such a petition shall not serve to stay any disciplinary action taken by the hearings officer.

The BBRs may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second hearing on the same complaint(s). After review, the BBRs may deny the petition, grant the petition but affirm the decision of the hearings officer, or grant the petition and remand the matter to the hearings officer for further proceedings as directed. An order of remand may include instructions that the hearing officer's decision imposing a reprimand, period of suspension, or revocation be increased, decreased, waived, or rescinded, and any other penalty substituted including, but not limited to, decreasing or increasing a period of suspension, rescinding a suspension and issuing a reprimand, or rescinding a suspension and ordering revocation. The filing of an appeal with the BBRs shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as the BBRs issues its order on review.

110.R5.2.10.1 Appeal to a Court. Any person aggrieved by a decision of the hearings officer or the BBRs may appeal such decision in conformance with M.G.L. c. 30A, § 14.

110.R5.2.11 Change of Address. The license holder shall have the responsibility of reporting any change of address and/or change of circumstance to the BBRs. The information on file at the BBRs shall be deemed accurate unless changed by the license holder.

110.R5.2.12 On-site Presence of Supervisor. A licensed construction supervisor or a licensed designee as defined shall be present on the site at some point to approve construction, reconstruction, alterations, removal or demolition involving the following work:

Note: Any licensed construction supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR whether or not the licensed contractor secured the permit for said work.

1. Foundation:
 - a. Preparation of bearing material;
 - b. Location of foundation;
 - c. Placement of forms and reinforcing materials (if applicable);

110.R5: continued

- d. Placing of concrete (or setting of other foundation materials);
- e. Setting weather protection methods (if required);
- f. Installation of waterproofing and/or damp proofing materials; and
- g. Placement of backfill.

Note: If groundwater is encountered in excavating for foundation placement, the licensed construction supervisor shall report its presence to the building official and shall submit a report detailing methods of remediation.

2. Structural frame:
 - a. Installation of joists, trusses and other structural members and sheathing materials to verify size, species and grade, spacing and attachment/fastening methods. The licensed construction supervisor shall ensure that any cutting or notching of structural members is performed in accordance with requirements of 780 CMR.
 - b. Setting of masonry or other structural systems (if used).
3. Energy conservation: Installation of insulation materials, vapor and air infiltration barriers.
4. Fire protection: Installation of smoke, heat and carbon monoxide ("CO") detectors and/or systems.
5. Special construction including, but not limited to:
 - a. Chimneys.
 - b. Retaining walls over four feet in height above grade.

The building official may require a licensed construction supervisor or his or her licensed designee to be present on the building site at other points during the construction, reconstruction, alterations, removal or demolition work as he or she deems appropriate.

110.R5.2.13 Lost/Stolen Licenses. License holders are required to keep the license in their possession at all times during the course of construction work at any and all building sites. If said license is lost, stolen or mutilated, it shall be the responsibility of the license holder to notify the BBRS.

110.R5.2.14 Requirement to Show License. A building official may require the license holder to produce the license at any time on a job site.

110.R5.2.15 Responsibility of Each License Holder.

110.R5.2.15.1 Responsibility for Work. The license holder shall be fully and completely responsible for all work for which he or she is supervising. He or she shall be responsible for seeing that all work is done pursuant to 780 CMR and the drawings as approved by the building official.

110.R5.2.15.2 Responsibility to Supervise Work. The license holder shall be responsible to supervise the construction, reconstruction, installation, alteration, repair, removal or demolition for the category of license held involving any activity regulated by any provision of 780 CMR and all other applicable Laws of the Commonwealth even though he or she, the license holder, is not the permit holder but only a subcontractor or contractor to the permit holder.

110.R5.2.15.3 Notification of Violations. The license holder shall immediately notify the building official in writing of the discovery of any violations which are covered by the building permit.

110.R5.2.15.4 Willful Violation. Any licensee who shall willfully violate 780 CMR shall be subject to revocation or suspension of license by the hearings officer.

110.R5.2.16 Permit Applications. All building permit applications shall contain the name, signature and license number and the category of license so held of the construction supervisor who is to supervise those persons engaged in the work as defined in the building permit. In the event that such licensee is no longer supervising said persons, the work shall immediately cease until a successor license holder is substituted on the records of the building department.

110.R5: continued

110.R5.3: Administration

110.R5.3.1 Identification. The BBRS shall issue a card or a certificate or other form of license identification.

110.R5.3.2 Records of Licensees. The BBRS shall maintain a computer listing (<http://www.mass.gov/ocabr/government/oca-agencies/dpl-lp/opsi/>) which will be available to the public at the office of the BBRS containing all licenses issued by the BBRS.

110.R5.3.3 Examination. The BBRS shall determine whether an examination shall be required, or shall be oral or written and shall determine the content of the examination, if applicable.

Exception: An individual holding a current certification in accordance with the requirements of 780 CMR 110.R7 shall be allowed to submit an application for the construction supervisor license without the need for examination.

110.R5.3.4 Subject to Rules, Regulations and Procedures. All persons licensed shall be subject to 780 CMR 110.R5, as well as other rules, regulations, and procedures promulgated by the BBRS.

110.R5.3.5 Fees. Any and all fees charged for licenses, examinations, renewals, and registrations shall be determined by the Commonwealth and enforced by the BBRS. Fees shall be established from time to time as necessary, and shall be paid in accordance with 801 CMR 4.02: *Fees for Licenses, Permits, and Services to Be Charged by State Agencies.*

110.R5.3.5.1 Building Official Fees. The BBRS shall grant a construction supervisor license without examination to an individual holding a current certification in accordance with the requirements of 780 CMR 110.R7. An individual seeking such license shall file an application to the BBRS and pay all appropriate license fees.

110.R5.4 Continuing Education

110.R5.4.1 Standards. The BBRS may by rule adopt standards for continuing education requirements and course and instructor approval. The standards shall include requirements for continuing education as applicable to buildings and building codes and referenced standards.

110.R5.4.2 Hours. A qualifying licensee shall provide proof of completion of required hours of continuing education per two-year license cycle in the appropriate category in which the licensee is licensed. Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

- 1. Construction Supervisors License 12 Hours
- 2. Construction Supervisors License (One- and Two-family Dwellings) ten Hours
- 3. Construction Supervisors Specialty License six Hours

Exception: Building officials who are certified and in good standing in accordance with 780 CMR 110.R7 are exempt from 780 CMR 110.R5.4.

110.R5.4.3 Education Topics. Construction Supervisor License holders are required to complete the appropriate minimum number of continuing education hours each two-year renewal cycle as described in 780 CMR 110.R5.4.2. The following hour(s) of continuing education topics are required for 12 and ten hour trainings as identified in 780 CMR R5.4.2:

- 1. Code Review four hours

Note: Code review courses shall include specific concentration to requirements of the license category. For instance, One- and Two-family license courses shall focus, but not be limited to, residential code requirements.

- 2. Workplace Safety one hour
- 3. Business Practices/Workers' Compensation one hour
- 4. Energy (except Demolition Specialty License) one hour
- 5. Lead Safe Practices (only first renewal cycle) one hour

The remainder of credit hours are to be completed by approved electives.

110.R5: continued

Specialty CSL holders are required to complete the appropriate number of continuing education each two-year renewal cycle as described in 780 CMR 110.R5.4.2. The following hour(s) of continuing education topics are required for six-hour trainings as identified in 780 CMR R5.4.3:

- | | |
|----------------|-----------|
| 1. Code Review | two hours |
|----------------|-----------|

Note: Code review courses shall include a specific concentration to requirements of the license category. For instance, Residential Roof Covering license courses shall focus, but not be limited to: roof covering, underlayment and similar code requirements.

- | | |
|---|----------|
| 2. Workplace Safety | one hour |
| 3. Business Practices/Workers' Compensation | one hour |
| 4. Energy (except Demolition Specialty License) | one hour |
| 5. Lead Safe Practices (only first renewal cycle) | one hour |

Qualified licensees may acquire up to a maximum of six hours of continuing education via on-line training. Remaining hours shall be acquired through in-person, classroom training.

Those offering on-line courses in accordance with 780 CMR 110.R5.4.1 shall take measures to ensure a meaningful learning experience for the licensee including, at a minimum:

1. At the start of each on-line training, a licensee shall be required to affirm to the statement: "Under the pains and penalties of perjury, I attest that, as the licensed construction supervisor requiring continuing education credit, I will personally view all portions of this on-line educational session and will personally answer all questions required of this training."
2. A licensee shall be required to answer a minimum of five questions relating to the material covered each 30-minute period (or more frequently if determined appropriate on-line education provider).
3. A candidate shall answer all questions correctly at the end of each session.
4. If the licensee answers all questions correctly, he or she may advance to the next section.
5. If the licensee answers a question or questions incorrectly, he or she shall be so notified and directed back to the portion of the presentation from which the question is derived.
6. The licensee shall be afforded an opportunity to, again, review the section and answer a similar question(s) as appropriate.
7. Once the licensee answers all questions correctly, he or she shall be allowed to advance to the next portion of the training.
8. In no case shall a licensee be allowed to advance through a section without successfully answering questions relevant to material covered.
9. At the conclusion of a complete on-line training session, a licensee shall be required to successfully complete a final examination comprised of 20 questions, answering at least 16 correctly, and shall again affirm to the statement: "Under the pains and penalties of perjury, I attest that, as the licensed construction supervisor requiring continuing education credit, I have personally viewed all portions and answered all questions required of this training."

Additionally, providers of on-line educational sessions shall take measures to ensure a meaningful learning experience for the licensee by:

10. Allowing the student to log-out of the session (and back in) without penalty.
11. Providing closed-captioning assistance.
12. Revising on-line training subject matter to reflect changes in code requirements each renewal period.
13. Issuing certificates to students reflecting successful completion of the on-line training, including successful completion of training review questions as herein described.

110.R5.4.4 Accessibility. To the extent possible, the BBRS shall ensure that continuing education courses are offered throughout the state and are accessible to all licensees.

110.R5: continued

110.R5.4.5 Renewal of Approval. The BBRS is authorized to establish a procedure for renewal of course approval.

110.R5.4.6 Content. Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries. Courses may include relevant materials that are included in licensing exams subject to the limitations imposed in 780 CMR 110.R5.4.6, item 1. The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

Course examinations will not be required for continuing education courses unless they are required by the instructor.

Unless determined by the coordinator, textbooks are not required to be used for continuing education courses. The coordinator shall provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers and email address of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students shall be of readable quality and contain accurate and current information.

Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the BBRS. Each continuing education course shall be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

Continuing education credit in an approved course shall be awarded to presenting instructors on the basis of one credit for each hour of preparation for the initial presentation, which may not exceed three hours total credit for each approved course. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the Current licensing cycle.

The following courses will not be approved for credit:

1. courses designed solely to prepare students for a license examination in a discipline other than CSL;
2. courses in mechanical office skills including typing, speed reading, or other machines or equipment. Computer or business skills courses are allowed, if appropriate and related to the regulated industry of the licensee;
3. courses in motivation, psychology, or any other course not related to the building industry; and
4. courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

110.R5.4.7 Course Approval. Courses shall be approved by the BBRS in advance and will be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The BBRS shall make the final determination as to the approval and assignment of credit hours for courses. Courses shall be at least one hour in length.

Approval shall not be granted for time spent on meals or other unrelated activities. Breaks shall not be accumulated in order to dismiss the class early. Classes shall not be offered to any one student for longer than six hours in one day, excluding meal breaks.

Application for course approval shall be submitted 120 days before the course offering.

Approval is granted for a subsequent offering of identical continuing education courses without requiring a new application if the course is offered within the approved 24-month cycle. The BBRS shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval. Courses shall be updated subject to periodic review by the BBRS to ensure currency with technological changes in 780 CMR.

110.R5.4.8 Course Coordinator. Each course of study shall have at least one coordinator, which is a person who is registered with the BBRS, who is responsible for supervising the program and ensuring compliance with all relevant law. Each coordinator shall oversee no more than 12 courses of study.

110.R5: continued

110.R5.4.9 Responsibilities of a Course Coordinator:

1. ensuring compliance with all laws and rules relating to continuing educational offerings governed by the BBRs;
2. ensuring that instructors are qualified to teach the course offering as defined in 780 CMR 110.R5.4.10;
3. maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records shall be made available to the BBRs upon request. In the event that a coordinator ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the BBRs. The coordinator shall notify the BBRs of the name and address of that custodian. Under no circumstances shall the BBRs act as custodian of the records;
4. supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;
5. providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates shall be completed in their entirety. Course completion certificates shall contain the following statement: "If you have any comments about this course offering, please mail them to the Board of Building Regulations and Standards attn: Education Coordinator." The current address of the Office shall be included. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate;
6. investigating complaints related to course offerings or instructors. A copy of the written, signed complaint shall be sent to the BBRs within ten working days of course completion. An acknowledgment will be sent upon receipt of complaint *via* email;
7. to be available to instructors and students throughout course offerings and provide to the students and instructor the mailing address, telephone number and email address at which the coordinator can be reached;
8. participate in workshops or instructional programs as reasonably required by the BBRs;
9. furnishing the BBRs, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations shall be completed by students at the time the course is offered and evaluations shall be reviewed by coordinators within five days after the course offering; and
10. notifying the BBRs in writing within ten days of any change in the information in an application for approval on file with the BBRs.

110.R5.4.10 Instructors. Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. Coordinators are responsible to ensure that an instructor is qualified to teach the course offering.

1. Continuing education instructors shall have one of the following:
 - a. a four-year degree (bachelor's or equivalent) in any discipline plus two years of practical experience within the previous five years in the subject area being taught;
 - b. a four-year college degree (bachelor's) or graduate degree in the subject area being taught;
 - c. a CSL holder or certified building official with at least three years experience in the subject area being taught; provided the instructor demonstrates proficiency in the subject matter;
 - d. five years' practical experience within the previous ten years in the subject area being taught.

Note: A contractor whose construction license is currently suspended or revoked shall not teach or serve as a continuing education course instructor.

2. Approved instructors are responsible for:
 - a. compliance with all laws and rules relating to continuing education;

110.R5: continued

- b. providing students with current and accurate information;
- c. maintaining an atmosphere conducive to learning in the classroom;
- d. verifying attendance of students, submission of completed course evaluations and certifying course completion;
- e. providing assistance to students and responding to questions relating to course materials; and
- f. attending the workshops or instructional programs that are required by the BBRs.

110.R5.4.11 Prohibited Practices for Coordinators and Instructors. In connection with an approved continuing education course, coordinators and instructors shall not:

1. recommend or promote the services or practices of a particular business;
2. encourage or recruit individuals to engage the services of, or become associated with, a particular business;
3. require students to participate in other programs or services offered by the instructor or coordinator;
4. attempt, either directly or indirectly, to discover questions or answers on an examination for a license;
5. disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;
6. misrepresent any information submitted to the BBRs;
7. fail to cover, or ensure coverage of, major points, issues, and concepts contained in the course outline approved by the BBRs during the approved instruction; or
8. issue inaccurate course completion certificates.

Coordinators shall notify the BBRs within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the coordinator or an instructor teaching an approved course. The notification shall be grounds for the BBRs to withdraw the approval of the coordinator and to disallow the use of the instructor.

110.R5.4.12 Fees. Fees for an approved course of study and related materials shall be clearly identified to students. In the event that a course is canceled for any reason, all fees shall be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course or cancels the registration in a course, coordinator policies regarding refunds shall govern.

110.R5.4.13 Facilities. Each course of study shall be conducted in a classroom or other appropriate facility that is accessible and adequate to comfortably accommodate the instructors and the number of students enrolled.

110.R5.4.14 Supplementary Materials. An adequate supply of supplementary materials to be used or distributed in connection with an approved course shall be available at the time and place of the course offering in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced shall be of readable quality.

110.R5.4.15 Advertisement. 780 CMR 110.R.4.15 governs the advertising of continuing education courses.

1. Advertising shall be truthful and not deceptive or misleading. Courses shall not be advertised in any manner as approved unless approval has been granted in writing by the BBRs.
2. No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering shall be circulated or distributed in the Commonwealth unless the following statement is prominently displayed: "This course has been approved by the Massachusetts Board of Building Regulations and Standards for [approved number of hours] hours of continuing [relevant industry] education."
3. Advertising of approved courses shall be clearly distinguishable from the advertisement of other non-approved courses and services.

110.R5: continued

4. The number of hours for which a course has been approved shall be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it shall be clear that credit is not earned for the entire course.

5. Advertising shall comply with regulations for advertisement of private occupational schools, 230 CMR 15.06: *Advertisements and Representations*, and all advertising including, but not limited to false advertising, is governed by 940 CMR 31.04: *False or Misleading Statements or Representations*, violations of which are enforceable under the provisions of M.G.L. c. 93A, the Consumer Protection Act.

110.R5.4.16 Notice to Students. At the beginning of each approved offering, the following notice shall be handed out in printed form or shall be read to students: "This educational offering is recognized by the Massachusetts Board of Building Regulations and Standards as satisfying [approved number of hours] hours of continuing [relevant industry] education."

110.R5.4.17 Audits. The BBRS reserves the right to audit subject offerings with or without notice to the coordinator.

110.R5.4.18 Falsification of Reports. The BBRS may penalize anyone found to have falsified an education report through imposition of: limitations or conditions on, suspension or revocation of a license, course coordinator approval or instructor approval, or a fine up to \$1,000.00, or both. The BBRS reserves the right to audit a licensee's continuing education records.

110.R5.4.19 Waivers and Extensions. If a licensee provides documentation to the BBRS that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, military service or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one two-year cycle. The licensee shall make up delinquent credit hours and pay appropriate fees.

The BBRS may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the BBRS of the existence of the condition and that the condition does preclude attendance at continuing education courses.

110.R5.4.20 Reporting Requirements. Required continuing education shall be reported in a manner prescribed by the BBRS. Licensees are responsible for maintaining copies of course completion certificates.

110.R5.4.21 Continuing Education Fees. See 801 CMR 4.02: *Fees for Licenses, Permits, and Services to Be Charged By State Agencies* for the following fees:

1. Course Approval:
 - a. initial course application fee for each continuing education course approval sought;
 - b. initial course approval fee for each hour or fraction of one hour. Initial course approval expires on the last day of the 24th month after the course is approved; and
 - c. renewal of course approval fee for each hour or fraction of one hour. Renewal of course approval expires on the last day of the 24th month after the course is renewed.
2. Course Coordinator:
 - a. initial coordinator approval fee. Coordinator may only oversee 12 courses. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; and
 - b. renewal of coordinator approval fee. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed.

NON-TEXT PAGE