



THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: 780 CMR 51.00

CHAPTER TITLE: Administraion for one and two family dwellings

AGENCY: State Board of Building Regulations and Standards

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*
This regulation governs applicability, duties, fees, permits, licenses and other administrative issues.

REGULATORY AUTHORITY: C. 802 of Acts of 1972, as amended and MGL C. 143 Sections 93-100

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Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

DHCD and MMA, 7/10/09.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: August 11, 2009 Public Hearing

FISCAL EFFECT - Estimate the fiscal effect of the public and private sectors.

For the first and second year: _____

For the first five years: Cost for licensing will be more than offset by reduced building safety risks..

No fiscal effect: _____

SMALL BUSINESS IMPACT - State the impact of this regulation on small business. Include a description of reporting, record keeping and other compliance requirements as well as the appropriateness of performance versus design standards and whether this regulation duplicates or conflicts with any other regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Cost for licensing will be more than offset by reduced building safety risks or failures.

CODE OF MASSACHUSETTS REGULATIONS INDEX - List key subjects that are relevant to this regulation:
Eliminates licensing exemption thus requiring anyone installing rooftop solar collectors to have a construction supervisor license to ensure a basic knowledge of the impacts of adding such equipment to a structure.

PROMULGATION - State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:

780 CMR 5108.3.5.2.

ATTESTATION - The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency. ATTEST:

SIGNATURE: *William Francis Galvin* DATE: 10/21/09

Publication - To be completed by the Regulations Division

MASSACHUSETTS REGISTER NUMBER: 1143 DATE: 11/13/09

EFFECTIVE DATE: 11/13/09

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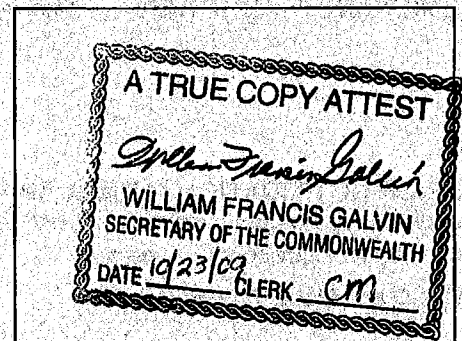


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5107.3 Review by the Commissioner of Public Safety. The Commissioner of the Commonwealth of Massachusetts, Department of Public Safety shall establish districts which shall be supervised by a state inspector of the Division of Inspections. The Commissioner may review, on his own initiative, or on the application of any state inspector, any action or refusal or failure of action by any building official, the result of which does not comply with the uniform implementation of 780 CMR 51.00 through 99.00; and may reverse, modify or annul, in whole or in part, such action except with respect to the specialized codes, provided that an order or action of the Commissioner shall not reverse, modify, annul or contravene any order, action, determination, interpretation or any decision by the BBRS or the State Building Code Appeals Board.

5107.4 Reports. The state inspector shall file with the BBRS reports of his periodic reviews and recommendations for improvements of building inspection practices. The format and due dates for these reports shall be determined by the BBRS.

780 CMR 5108 RULES AND REGULATIONS

5108.1 Rule-making Authority. Under authority granted by St. 1984, c. 348, as amended, the BBRS is empowered in the interest of public safety, health and general welfare, to adopt and promulgate rules and regulations, and to interpret and implement the provisions of 780 CMR 51.00 through 99.00 to secure the intent thereof.

5108.2 Amendments and Promulgation of Rules. In accordance with the provisions of M.G.L. c. 143, § 97, any person may propose amendments to 780 CMR 51.00 through 99.00. Public hearings shall be held as specified in said law, and at such other times and places as the BBRS may determine, to consider petitions for such amendments. Amendments adopted by the BBRS shall be binding and have the full force and effect in all cities and towns.

5108.3 Activities Requiring Licenses, Registration or Certification. See Special Regulations 780 CMR 110.R1 through R7, as applicable, for the special regulation relating to such license, registration and/or certification.

5108.3.1 Testing Laboratories. When a testing laboratory, branch laboratory and/or project laboratory is engaged to test concrete and/or concrete materials for use in detached one- and two-family dwellings, said laboratory shall be licensed by the BBRS in accordance with 780 CMR 51.00 through 99.00 and Special Regulation 780 CMR 110.R1: *Concrete Testing Laboratories Licensing*.

5108.3.2 Field Technicians. When a person is engaged in the activities of field testing of

concrete for use in detached one- or two-family dwellings and/or controlled materials, such person shall be licensed by the BBRS in accordance with Special Regulation 780 CMR 110.R2: *Concrete Testing Personnel Licensing*.

5108.3.3 Manufactured Buildings. No individual, organization or firm shall be engaged in the construction of manufactured buildings for use in the Commonwealth of Massachusetts or shall act as a third-party inspection agency (TPIA) or a dealer of said manufactured buildings unless approved to construct same or act in such capacity by the BBRS in accordance with Special Regulation 780 CMR 110.R3: *Manufactured Buildings, Building Components and Mobile Homes*.

5108.3.4 Native Lumber. No individual, organization or firm shall engage in the production of native lumber for use in detached one- or two-family dwellings within the Commonwealth of Massachusetts unless registered by the BBRS in accordance with 780 CMR 51.00 through 99.00 and Special Regulation 780 CMR 110.R4, The Rules and Regulations Controlling the Use of Native Lumber.

5108.3.5 Licensing of Construction Supervisors.

5108.3.5.1 Except for those structures governed by Construction Control as identified in the Commonwealth of Massachusetts Base Building Code (780 CMR 1.00, 780 CMR 116.00), no individual shall be engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR 51.00 through 99.00, unless said individual is licensed in accordance with 780 CMR 110.R5: *Construction Supervisors*.

No person shall be engaged in the supervision of the field erection of a manufactured building unless such person is licensed in accordance with Special Regulation 780 CMR 110.R5: *Construction Supervisors*.

Exception: Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR 5108.3.5, provided that if a homeowner engages a person(s) for hire to do such work, that such homeowner shall act as supervisor. This exception shall not apply to the field erection of manufactured buildings constructed pursuant to 780 CMR 51.00 through 99.00 and Special Regulation 780 CMR 110.R3. For the purposes of 780 CMR 5108.3.5, a "homeowner" is defined as follows: Person(s) who owns a parcel of land on

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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.

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 51.00 through 99.00, Special Regulation 780 CMR 110.R5 and all referenced standards and/or manufacturer's recommendations, whether or not the licensed contractor secured the permit for said work.

5108.3.5.2 Exemptions from Construction Supervisor License Requirement. A construction supervisor's license is not required for:

1. The erection of signs, the erection of tents, construction of swimming pools, insulating of the building thermal envelope and the insulating of other systems or portions thereof, required by 780 CMR;
2. Projects which are subject to "construction control" (*see* 780 CMR 2.00 for definition of "Construction control");
3. Agricultural buildings which are not open to the public or otherwise made available for public use;
4. Massachusetts-registered engineers and Massachusetts-registered architects (collectively referred to in 780 CMR 51.00 as "registered design professionals"), provided such engineers and/or architects comply with the Construction Supervisor oversight requirements set forth in Special Regulation 780 CMR 110.R5 generally and 780 CMR 5116.0, as applicable; and
5. 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.

5108.3.5.3 Municipal Construction Licensing. 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 buildings and structures for which the BBRS does not require a license, provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing requirements.

5108.3.6 Registration of Home Improvement Contractors. In accordance with the provisions of M.G.L. c. 142A, no home improvement contractor, or organization or firm shall be involved in the improvement of any existing owner-occupied one- to four-family residential building unless said home improvement contractor has registered with the BBRS in accordance with Special Regulation 780 CMR 110.R6: *Registration and Enforcement of Home Improvement Contractor Program.*

5108.3.7 Certification of Inspectors of Buildings, Building Commissioners and Local Inspectors. Except as allowed for conditional appointees, no individual shall perform the duties of municipal inspectors of buildings, building commissioners or local inspectors unless certified by the BBRS as set forth in Special Regulation 780 CMR 110.R7.

5108.4 Enforcement. Whoever violates the provisions of 780 CMR 5108 or any rules and regulations promulgated hereunder, or who falsifies or counterfeits a license, registration or certification issued by the BBRS, or who fraudulently issues or accepts such a license, registration or certification shall be punished as provided in 780 CMR 5118 or shall be subject to any other penalty provided for by law.

780 CMR 5109 APPROVAL

5109.1 Approved Materials and Equipment. All materials, equipment and devices subject to approval by the building official shall be constructed and installed in accordance with such approval.

5109.2 Used Materials and Equipment. Used materials, equipment and devices which meet the minimum requirements of 780 CMR 51.00 through 99.00 for new materials, equipment and devices shall be permitted; however, the building official may require satisfactory proof that such materials, equipment and devices have been reconditioned, tested, and/or placed in good and proper working condition prior to approval.

5109.3 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of 780 CMR 51.00 through 99.00, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of 780 CMR 51.00 through 99.00 impractical and the modification is in compliance with the intent and purpose of 780 CMR 51.00 through 99.00 and that such modification does not lessen health, life, fire safety or structural requirements. The details of actions granting modifications shall be recorded and entered in the files of the building department. A building official may seek assistance from the District State Building Inspector for action under 780 CMR 5109. The