



Maura Healey, Governor
Kimberley Driscoll, Lieutenant Governor
Monica Tibbitts-Nutt, Secretary & CEO



NOTICE OF PUBLIC COMMENT PERIOD AND HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, § 2-3, that the Massachusetts Department of Transportation, (“MassDOT”) will hold a hybrid public hearing on **Friday January 10, 2025 at 10:00 a.m.** and accept written public comment until **5:00 p.m. on January 10, 2025**, the same day, concerning the following regulatory action:

- Establish 700 CMR 19.00 – Aggregate Source Licensing for the Production of Cement Concrete

Section 3 (1) of Massachusetts General Laws Chapter 6C, authorizes MassDOT to adopt regulations for the governance of its affairs and the conduct of its business. The proposed regulatory action is required by M.G.L. c. 6C, § 79, established by Chapter 56 of the Acts of 2023, requiring the Highway Division to establish by regulation a program licensing “[a]ny person seeking to mine, expand, excavate or otherwise operate a quarry, sand and gravel operation or any other aggregate source for the purpose of producing concrete aggregate for sale or use in foundations, structural elements or infrastructure, including, but not limited to, roadways and bridges.”

The statute requires the Highway Division to adopt regulations establishing standards and specifications for license requirements including maintaining an operations plan, conducting testing, and submitting a geological source report signed by a “licensed professional geologist.”

MassDOT will hold this hearing:

Remotely at: <https://us02web.zoom.us/j/86730889928>

In person at: 10 Park Plaza
MassDOT Board Room, 2nd Floor
Boston, Massachusetts 02116

Individuals who notify MassDOT of their intent to testify during the hearing will be afforded an earlier opportunity to speak. Speakers are strongly encouraged to notify MassDOT of their intention to testify at the hearing by emailing the address below with the subject line “Regulation Hearing Comment - Aggregate Source Licensing for the Production of Cement Concrete.” Written comments must be submitted by email or postal mail to the following address:

Email: Christopher.MF.Smith@dot.state.ma.us

Postal Mail: Christopher Smith
Senior Lead Counsel
MassDOT
10 Park Plaza, Suite 3510
Boston, Massachusetts 02116

A copy of the above-listed regulations may be obtained by request to the above address or email address.

MassDOT may adopt a revised version of the proposed action taking into account relevant comments received and any other practical alternatives that come to its attention.

For accommodation or language assistance requests, please contact MassDOT's Chief Diversity & Civil Rights Officer by phone at (857) 368-8580, TTD/TTY at (857) 266 0603, fax (857) 368 0602 or by email to MassDOT.CivilRights@dot.state.ma.us. Requests should be made as soon as possible, ideally at least five business days before the public hearing.

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: Establish 700 CMR 19.00 – Aggregate Source Licensing for the Production of Cement Concrete

Estimate of the Number of Small Businesses Impacted by the Regulation:

MassDOT estimates 150 concrete aggregate manufacturers may be impacted by the regulations, based on the number of quarries that extract concrete aggregate for MassDOT projects. It is indeterminable at this time how many of these are small businesses.

Select Yes or No and Briefly Explain

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to obtain a license. Such a small business will have to annually engage a geologist, conduct testing, prepare a Geological Source Report and Operations Plan, and apply for a license.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to maintain a record of the aggregate used in individual concrete batches for not less than 30 years, as required by statute.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Will small businesses have to provide additional administrative oversight?

		<p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to ensure administrative oversight of the extraction site, testing conducted, compliance with the operations plan, and record keeping of individual concrete batches.</p>
<p>Yes <input checked="" type="checkbox"/></p>	<p>No <input type="checkbox"/></p>	<p>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>It is possible that Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth may require the hiring of additional employees to comply with the regulations due to the testing and reporting requirements and license application.</p>
<p>Yes <input checked="" type="checkbox"/></p>	<p>No <input type="checkbox"/></p>	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to engage a testing lab and “licensed professional geologist” in order to prepare the required Geological Source Report. In addition, is possible that Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth may require the hiring of additional employees to comply with the regulations due to the testing and reporting requirements and license application.</p>

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to engage a testing lab and “licensed professional geologist” in order to prepare the required Geological Source Report.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Are performance standards more appropriate than design or operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)</p> <p>The statute specifically requires that businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to obtain a license. Such a small business will have to annually engage a geologist, conduct testing, prepare a Geological Source Report and Operations Plan, and apply for a license.</p>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Do any other regulations duplicate or conflict with the proposed regulation?</p> <p>We are not aware of other duplicative or conflicting regulations. There is room, however, for improved collaboration with Office of Public Safety and inspection to identify additional protections.</p>

Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?</p> <p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will be required to renew their license each year, which will include additional testing and the submission of an operations plan and geological source report.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth will have to keep abreast of the new standards contained in the regulations, including the standards for testing, site geology, and maximum allowable contamination of sulfur, pyrrhotite, and framboidal pyrite. Businesses may need to provide or engage educational services to train its staff to fulfill the regulatory requirements.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</p> <p>The statute imposes new restrictions and requirements on the Concrete Aggregate industry, including licensing and testing requirements. The statute imposes new restrictions and requirements on the Concrete Aggregate industry, including licensing and testing requirements. These requirements are unique to Massachusetts. At this time MassDOT is unable to determine whether the regulations will deter the formation of small businesses in Massachusetts.</p>

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</p> <p>The statute imposes new restrictions and requirements on the Concrete Aggregate industry, including licensing and testing requirements. These requirements are unique to Massachusetts. At this time MassDOT is unable to determine whether the regulations will encourage the formation of small businesses in Massachusetts.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>The regulations provide two testing exceptions, which allow businesses to mitigate the cost of annual testing. The first exception applies to those in a geological region as identified by the U.S. Geological Survey that has a significantly insignificant risk of containing pyrrhotite and pyrite. The second exception applies to those quarrying minerals from the same extraction site as previously tested for.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p> <p>The regulations provide two testing exceptions, which allow businesses to conduct testing less frequently than on an annual basis. The first exception applies to those in a geological region as identified by the U.S. Geological Survey that has a significantly insignificant risk of containing pyrrhotite and pyrite. The second exception applies to those quarrying minerals from the same extraction site as previously tested for.</p>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<p>Did the agency consolidate or simplify compliance or reporting requirements for small businesses?</p>

		<p>Small businesses that are concrete aggregate manufacturers that sell aggregate to be used in the production of cement concrete that is used or sold in the Commonwealth may avail themselves of a “testing exception,” either based on the geology of their geographic location or based on continued extraction from the same area tested for under a previous year’s license. These exceptions should reduce the cost of compliance by simplifying testing requirements.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p>Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?</p> <p>The statute specifically requires MassDOT to promulgate regulations for licensing and testing requirements. The regulations include standards to address the statutory objectives to ultimately achieve the performance standard of eliminating crumbling concrete.</p>
<p>Yes <input type="checkbox"/></p>	<p>No <input checked="" type="checkbox"/></p>	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>The statute specifically requires MassDOT to promulgate regulations for licensing and testing requirements. MassDOT attempted to mitigate impacts on small businesses by creating testing exceptions referenced above.</p>