

902 KAR 95:040. Radon Contractor Certification Program.

RELATES TO: KRS 211.9101 - 211.9135

STATUTORY AUTHORITY: KRS 211.9109, 211.9111, 211.9115, 211.9121, 211.9135(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.9135(1) and (2) require the Cabinet for Health and Family Services to be the regulatory agency for the control of radon and radon activities in the Commonwealth of Kentucky, including laboratory analysis, mitigation, and measurements. KRS 211.9135(3) requires the cabinet to promulgate administrative regulations to administer, coordinate, and enforce KRS 211.9101 to 211.9135. This administrative regulation establishes general requirements for the certification of individuals who perform radon measurement, radon mitigation, or laboratory analysis.

Section 1. Definitions. (1) "AARST" means the American Association of Radon Scientists and Technologists.

(2) "ANSI" means the American National Standards Institute.

(3) "ANSI-AARST" means those standard operating procedures or practices developed and maintained by the AARST Consortium on National Radon Standards for radon measurement, mitigation, or laboratory analysis.

(4) "Commercial building" is defined by KRS 211.9101(7).

(5) "EPA" means the Environmental Protection Agency.

(6) "Mitigation system" is defined by KRS 211.9101(21).

(7) "Multi-family housing" means a commercial building with attached family dwellings that:

(a) Are occupied by residents who are primarily permanent in nature;

(b) Are greater than four (4) units or three (3) stories in height; and

(c) Contain an independent heating, ventilation, and air conditioning (HVAC) system.

(8) "NRPP" means the National Radon Proficiency Program.

(9) "NRSB" means the National Radon Safety Board.

(10) "Picocuries per liter" or "pCi/L" means a unit of radioactivity corresponding to one (1) decay every twenty-seven (27) seconds in a volume of one (1) liter, or 0.037 decays per second in every liter of air.

(11) "Residential building" is defined by KRS 211.9101(28).

Section 2. Certification Requirements. (1) A person shall be eligible to be certified as a radon measurement contractor or a radon mitigation contractor if the individual:

(a) Submits to the cabinet:

1. An application on cabinet Form DFS-375, Application for Certification for Radon Contractors and Laboratories;

2. A two (2) inch by two (2) inch passport photo;

3. Verification of completion of an AARST-NRPP or NRSB course and exam;

4. The fees established in Section 3 of this administrative regulation;

5. A quality assurance plan that meets the requirements in Section 4(1) and (2) of this administrative regulation; and

6. Evidence of financial responsibility in accordance with KRS 211.9109(1)(f); and

(b) Adheres to the requirements established in KRS 211.9123 if the individual is a non-resident of Kentucky.

(2) A radon laboratory shall be eligible for certification if the entity:

(a) Employs a minimum of one (1) individual who is a Kentucky certified radon measurement contractor;

(b) Submits to the cabinet:

1. An application on cabinet form DFS-375, Application for Certification for Radon Contractors and Laboratories;

2. The fees established in Section 3 of this administrative regulation; and

3. A quality assurance plan as established in Section 4 of this administrative regulation; and

(c) Adheres to the requirements established in KRS 211.9123 if the entity is a non-resident analytical laboratory that is seeking reciprocity.

(3) A contractor with a dual certification as a radon measurement contractor and a radon mitigation contractor shall:

(a) Maintain a separate license for each discipline; and

(b) Adhere to the limitations in KRS 211.9117(1) and (2).

(4) Only radon measurements performed by a certified radon measurement contractor shall be reported or disclosed to another party.

(5) A certified radon measurement contractor working exclusively for a radon laboratory shall not be required to meet the insurance and quality assurance requirements outlined in subsection (1) of this section.

Section 3. Schedule of Fees. (1) The fees required by subsection (2) of this section shall be:

(a) Nonrefundable; and

(b) Submitted with an application for initial certification or certification renewal.

(2)(a) The fee for initial certification shall be \$250.

(b) The annual renewal fee shall be \$250.

(c) The fee for a duplicate certificate shall be twenty (20) dollars.

(d) The fee for late renewal shall be \$100.

Section 4. Quality Assurance Plan and Standard Operating Procedures. (1) a person certified as a measurement contractor shall submit for cabinet approval a quality control program plan that includes:

(a) A quality statement committing to provide quality work;

(b) A description of the management and structure of the organization;

(c) A listing of personnel and personnel qualifications and training;

(d) A description of types of radon measurements performed and other related services offered;

(e) A description of measurement types and devices the measurement contractor will utilize in conducting measurements;

(f) A list of equipment serial numbers, model numbers, and calibration records used in performing analytical analysis;

(g) A list of manufacturers and test types used while conducting measurement for laboratory analysis;

- (h) A worker protection program that includes the methods utilized to minimize or reduce the amount of radon or radon progeny exposures in the work area;
- (i) Procedures for procuring and storing measurement devices and materials;
- (j) Procedures for maintaining documents and records;
- (k) Procedures for calibrating and testing instruments;
- (l) A corrective action program;
- (m) Examples of forms, reports, and correspondence used in communications;
- (n) A description of the quality assurance measures including the:
 1. Evaluation criteria; and
 2. Frequency of the evaluations;
- (o) A statement of compliance with ANSI-AARST standard operating procedures; and
- (p) The location where records are retained in accordance with KRS 211.9131(3).
- (2) A person certified as a radon mitigation contractor shall submit to the cabinet a quality control program plan that includes:
 - (a) A quality statement committing to provide quality work;
 - (b) A description of the management and structure of the organization;
 - (c) A listing of personnel and personnel qualifications and training;
 - (d) A description of all types of radon mitigation methods performed and other related services offered;
 - (e) A description of diagnostic testing methods utilized in designing mitigation systems;
 - (f) A worker protection program that includes the methods utilized to minimize or reduce the amount of radon or radon progeny exposures in the work area;
- (g) Procedures for maintaining documents and records;
- (h) Procedures for calibrating and testing instruments;
- (i) A corrective action program;
- (k) Examples of forms, reports, and correspondence used in communications;
- (l) A description of the quality assurance measures including the:
 1. Evaluation criteria; and
 2. Frequency of the evaluations; and
- (m) A statement of compliance with ANSI-AARST standard operating procedures.
- (3) A person certified as a radon measurement contractor shall conduct measurements in accordance with the following standard operating procedures and quality assurance protocols:
 - (a) Residential building measurement: ANSI-AARST Protocols for Radon Measurements in Homes (MAH 2005);
 - (b) Multi-family building measurement: ANSI-AARST Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (MAMF-2012); and
 - (c) Quality assurance protocols: EPA Protocols for Radon and Radon Decay Product Measurements in Homes (EPA 402-R-92-003).
- (4) A person certified as a radon mitigation contractor shall conduct mitigations in accordance with the following standards:
 - (a) Residential building active mitigation: ANSI-AARST Active Soil Depressurization Radon Mitigation Standards (ASD RMS) for Low Rise Residential Buildings;
 - (b) Multi-family active mitigation: ANSI-AARST Radon Mitigation Standards for Multifamily Buildings (RMS-MF(PS)-2013); and
 - (c) Residential building passive mitigation: ANSI-AARST Reducing Radon in New Construction of 1&2 Family Dwellings and Townhouses (CCAH-2013).
- (5) All mitigation systems shall:
 - (a) Be designed to reduce a radon concentration in each area within the footprint of the building as low as reasonably achievable (ALARA); and
 - (b) Achieve a radon level below the Environmental Protection Agency's action level of four and zero-tenths (4.0) picocuries per liter for all post mitigation testing.
- (6) Failure to achieve a reduction below the EPA's action level of four and zero-tenths (4.0) picocuries per liter shall require additional radon mitigation and testing until the level is achieved.
- (7) Upon modification to a component of the quality assurance program plan, the radon measurement or mitigation contractor shall resubmit the plan for approval by the cabinet prior to implementation of the modifications.

Section 5. Training and Continuing Education Requirements. (1) Continuing Education.

- (a) Measurement contractors shall acquire eight (8) hours of continuing education credits per year.
- (b) Mitigation contractors shall acquire eight (8) hours of continuing education credits per year.
- (c) A certified person shall be responsible for submitting proof of continuing education in accordance with KRS 211.9109, 211.911, 211.9115, or 211.9127.
- (d) A person dually certified as a radon measurement and mitigation contractor shall acquire sixteen (16) hours of continuing educational credits per year.
- (e) Continuing education units shall be obtained from NRPP or NRSB approved courses.
- (2) Certification Courses.
 - (a) Measurement contractor certification courses shall be a minimum of sixteen (16) hours of supervised instruction.
 - (b) Mitigation contractor certification courses shall be:
 1. A minimum of sixteen (16) hours of supervised instruction; and
 2. Include an additional four (4) hours of hands-on field work at a mitigation site.
 - (c) Measurement and mitigation contractors shall obtain an additional one (1) hour of course content on the requirements of this administrative regulation and KRS 211.9101 through 211.9135.

Section 6. Renewal of Certification. (1) Each annual certification shall expire on June 30.

(2) A person seeking renewal of certification shall:

- (a) Meet the requirements in accordance with Section 2 of this administrative regulation; and

(b) Submit to the cabinet:

1. A renewal application on cabinet Form DFS-375, Application for Certification for Radon Contractors and Laboratories, a minimum of thirty (30) calendar days prior to certification expiration. Form DFS-375 shall be deemed submitted on the date that it is received by the cabinet;

2. The fees established in Section 3 of this administrative regulation;

3. Proof of fulfillment of continuing education requirements as established in Section 5 of this administrative regulation;

4. An updated quality assurance plan that meets the requirements in Section 4 of this administrative regulation; and

5. Evidence of financial responsibility in accordance with KRS 211.9109(1)(f).

(3) Certifications not renewed within thirty (30) days after the renewal date shall pay a late renewal fee as established in Section 3 of this administrative regulation.

(4) Certifications not renewed within ninety (90) days after the renewal date shall lapse and may only be reinstated in accordance with KRS 211.9121(3).

Section 7. Termination of Certification and Inactive Certification. (1) A certified radon measurement contractor or radon mitigation contractor shall be responsible for notifying the cabinet in writing upon electing to terminate certification.

(2) A person previously certified by the cabinet and not engaged in radon measurement or mitigation in the Commonwealth but desiring to maintain certification may request and be granted inactive status.

(a) If inactive status is granted, the person shall:

1. Pay the certification fee established in Section 3 of this administrative regulation; and

2. Be exempt from continuing education requirements.

(b) A certified radon contractor on inactive status may petition the cabinet for renewal of active certification. If a certified radon contractor on inactive status wishes to renew active certification, the petitioner shall meet the requirements of this administrative regulation.

Section 8. Certification Denial, Suspension, or Revocation. Certifications shall be subject to denial, suspension, or revocation in accordance with KRS 211.9125.

Section 9. Reporting Requirements. (1) A person, business entity, or analytical laboratory shall submit a report to the cabinet on a quarterly basis after a:

(a) Radon or radon progeny test;

(b) Radon mitigation activity;

(c) Modification to any component of the radon contractor's quality assurance program plan; or

(d) Request from the cabinet.

(2) The report shall include the:

(a) Zip code of location of the building;

(b) Name and telephone number of the owner or owners of the building where the radon testing or mitigation activities were conducted; and

(c) Results of any tests performed.

(3) The results for each measurement conducted shall include the:

(a) Method used for radon or radon decay product testing;

(b) Conditions under which the test or tests were conducted;

(c) Location or locations within the building where the test or tests were conducted;

(d) Results of the test or tests in picocuries per liter (pCi/L) of radon gas;

(e) Date on which the test or tests were conducted; and

(f) Purpose of the test or tests.

(4) The mitigation report shall include the:

(a) Type of structure mitigated;

(b) Type of mitigation system installed;

(c) Location of mitigation system within the structure;

(d) Post-mitigation measurements;

(e) Floor plan of the structure with the location of a mitigation system; and

(f) Diagnostic and communication testing.

Section 10. Administrative Hearings. Persons, business entities, and analytical laboratories shall be afforded an opportunity for an administrative hearing in accordance with KRS Chapter 13B.

Section 11. Penalties. The cabinet may assess civil penalties in accordance with KRS 211.9125 against any individual in violation of any cabinet administrative regulation pertaining to radon measurement, mitigation, or laboratory analysis.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form "DFS-375, Application for Certification for Radon Contractors and Laboratories", 9/2012;

(b) "Protocols for Radon Measurements in Homes (MAH 2005)", 9/2005;

(c) "Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (MAMF-2012)", 2012;

(d) "Protocols for Radon and Radon Decay Products Measurements in Homes (EPA 402-R-92-003)", 5/1993;

(e) "Active Soil Depressurization Radon Mitigation Standards (ASD RMS) for Low Rise Residential Buildings", 6/2006;

(f) "Radon Mitigation Standards for Multifamily Buildings (RMS-MF(PS)-2013)", 2013; and

(g) "Reducing Radon in New Construction of 1&2 Family Dwellings and Townhouses (CAAH-2013)", 12/2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m. (41 Ky.R. 219; Am. 469; eff. 9-17-2014.)