

902 KAR 95:040. Radon Contractor Certification Program.

RELATES TO: KRS Chapter 13B, 211.180(1)(a), 211.9101 - 211.9135

STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 211.9109, 211.9111, 211.9115, 211.9121, 211.9127, 211.9135(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. 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 requirements for the certification of an individual or laboratory to 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) "ASTM" means the American Society for Testing and Materials International.

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

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

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

(7) "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.

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. A completed DFS-375, Application for Certification for Radon Contractors and Laboratories;

2. Verification of completion of a cabinet-approved course and exam pursuant to Section 5(3) of this administrative regulation;

3. The fee established in Section 3(2) of this administrative regulation;

4. A quality control program plan that meets the requirements established in Section 4(1) or (2) of this administrative regulation; and

5. Evidence of financial responsibility in accordance with KRS 211.9109(1)(f) or 211.9111(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. A completed DFS-375, Application for Certification for Radon Contractors and Laboratories;

2. The fee established in Section 3(2) of this administrative regulation; and

3. A quality control program plan as established in Section 4(3) 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 certificate for each discipline; and
- (b) Adhere to the limitations established 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 employee working exclusively for a certified radon laboratory shall not be required to meet the insurance and quality control program requirements established 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;
- (b) Submitted with an application for initial certification or certification renewal; and
- (c) Made payable to the Kentucky State Treasurer.

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

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

(c) The annual fee for reciprocity meeting the requirements of KRS 211.9123 shall be \$250.

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

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

(f) The annual fee for inactive certification status shall be \$100.

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

(a) A statement committing to provide quality work;

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

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

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

(e) A statement of compliance with cabinet-approved standard operating procedures pursuant to Section 5(3) of this administrative regulation; and

(f) 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 statement committing to provide quality work;

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

(c) A description of all types of radon mitigation methods performed and other related services offered;

(d) A description of diagnostic testing methods utilized in designing mitigation systems; and

(e) A statement of compliance with cabinet-approved standard operating procedures pursuant to Section 5(3) of this administrative regulation.

(3) A certified radon laboratory shall submit to the cabinet a quality control program plan that includes:

(a) A statement committing to provide quality work;

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

(c) A description of laboratory services performed and other related services offered;

(d) Documentation of enrollment and good standing within an independent laboratory accreditation program; and

(e) A requirement that all radon laboratory analyses shall be conducted in compliance with applicable state and federal laws.

(4) A mitigation system shall achieve a radon level below the U.S. Environmental Protection Agency's action level of four and zero-tenths (4.0) picocuries per liter for all post mitigation testing.

(5) 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 as low as reasonably achievable (ALARA).

(6) Prior to mitigation, educational material about radon levels shall be provided to the client.

(7) Upon modification to a component of the quality control program plan, the radon measurement or mitigation contractor shall resubmit the plan to the cabinet.

(8) If a deviation from cabinet-approved standard operating procedures occurs, the radon measurement or mitigation contractor shall document the reason for the deviation in the inspection report provided to the client.

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, 211.9111, 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 a cabinet- approved course in accordance with subsection (3) of this section.

(2) Certification Courses.

(a) Measurement contractor initial certification courses shall be a minimum of sixteen (16) hours of in-person instruction.

(b) Mitigation contractor initial certification courses shall:

1. Be a minimum of sixteen (16) hours of in-person instruction; and

2. Include an additional four (4) hours of hands-on field work at a mitigation site.

(3) A radon training course, exam, or standard operating procedure shall be cabinet-approved if issued by the:

(a) AARST;

(b) ANSI;

(c) ASTM;

(d) NRPP; or

(e) NRSB.

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 a minimum of thirty (30) calendar days prior to certification expiration:

1. A completed renewal application on DFS-375, Application for Certification for Radon Con-

tractors and Laboratories;

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

3. Proof of fulfillment of continuing education requirements as established in Section 5(1) of this administrative regulation;

4. An updated quality control program plan that meets the applicable requirements established in Section 4 of this administrative regulation; and

5. Evidence of financial responsibility in accordance with KRS 211.9109(1)(f) or 211.9111(1)(f).

(3) A certification not renewed within thirty (30) days after the renewal date shall pay a late renewal fee as established in Section 3(2)(e) of this administrative regulation.

(4) A certification 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 notify 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(2)(f) of this administrative regulation; and

2. Be exempt from the continuing education requirements.

(b) A certified radon measurement contractor or radon mitigation contractor on inactive status may petition the cabinet for renewal of active certification. If a certified radon measurement contractor or radon mitigation 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. A certification 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 semi-annual basis after a:

(a) Radon or radon progeny test;

(b) Radon mitigation activity;

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

(d) Request from the cabinet.

(2) The report shall include the:

(a) ZIP Code or location of the building; and

(b) Results of tests performed.

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

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

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

(c) Type of structure measured.

Section 10. Administrative Hearings. A person, business entity, or analytical laboratory 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) "DFS-375, Application for Certification for Radon Contractors and Laboratories", 8/2017, is incorporated by reference.

(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 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (41 Ky.R. 219; Am. 469; eff. 9-17-2014; 44 Ky.R. 541, 1348; eff. 1-5-2018.)