

CHAPTER 43

MINIMUM REQUIREMENTS FOR RADON TESTING AND ANALYSIS

641—43.1(136B) Purpose and scope. This chapter establishes requirements for the certification of radon measurement specialists and radon measurement laboratories. All persons performing measurements for radon or radon progeny in buildings, other than those which they own or occupy, and who provide the results of these measurements to the owner or occupant of these structures must be certified in accordance with the provisions of this chapter.

641—43.2(136B) Definitions. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

“*Act*” means the Iowa Radon Testing Act (Iowa Code chapter 136B).

“*Building*” means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, and designed for the housing, shelter, enclosure and support of individuals.

“*Certified person*” means a certified radon measurement specialist or certified radon measurement laboratory as defined by this chapter.

“*Certified radon measurement laboratory (certified laboratory)*” means a commercial laboratory which may analyze samples or test for radon decay products and meets the provisions for certification in this chapter.

“*Certified radon measurement specialist (certified specialist)*” means an individual who performs radon or radon progeny measurements in buildings and provides professional or expert advice on radon and radon progeny measurements, radon entry routes, and other radon-related activities; is knowledgeable in the health risk associated from exposure to radon; and who meets the provisions for certification in this chapter.

“*Compensation*” means any form of monetary gain which in any way directly or indirectly results from a radon or radon progeny measurement being conducted.

“*Department*” means the Iowa department of public health.

“*EPA*” means the United States Environmental Protection Agency.

“*Laboratory*” means any person performing analysis, not at a testing site, on a passive device to measure radon or radon progeny (charcoal canister, alpha-track, electret, etc.).

“*NEHA*” means the National Environmental Health Association.

“*NRSB*” means the National Radon Safety Board.

“*Person*” means an individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, any other state or political subdivision or agency, and a legal successor, representative, agency or agencies of the entities listed in this paragraph.

“*Picocurie per liter*” means a quantity of radioactive material per liter of air that will produce 2.2 disintegrations per minute of radiation. It may be used as a measure of the concentration of radon gas in air. One curie is equivalent to one trillion picocuries.

“*Radon*” means the radioactive noble gas radon-222.

“*Radon progeny*” means the short-lived radionuclides formed as a result of the decay of radon-222, including polonium-218, lead-214, bismuth-214, and polonium-214.

“*Working level (WL)*” means the concentration of radon progeny that will result in 130,000 million electron volts of alphanparticle energy released per liter of air. Working level is a measure of radon decay product concentration in air.

641—43.3(136B) General provisions.

43.3(1) Except as provided in this chapter, no person may test for the presence of radon or radon progeny in the state of Iowa unless the person has been certified by the department of public health. This requirement also applies to persons whose place of business is located in Iowa, or in a state other than Iowa, and who offer radon testing to residents of Iowa either directly or through the mail.

43.3(2) Individual qualifications for radon measurement specialist. No individual may be certified as a radon measurement specialist unless all of the following conditions are met:

a. Be at least 18 years of age at the time of application;

b. Possess two years of relevant professional work experience. Relevant postsecondary education may be substituted for professional work experience. Relevant postsecondary education includes a college curriculum in architecture, engineering, building construction or the physical sciences. Relevant professional work experience includes house testing/evaluation for the presence of radon, design and installation of heating, ventilation and air-conditioning systems, design or construction of buildings, or related activities approved by the department of public health;

c. Use detection devices approved by EPA and the department to measure radon. The detection device must be obtained from an Iowa certified radon measurement laboratory. When a portable electronic detection device is used, the device must be calibrated on at least an annual basis by the manufacturer, or by persons acceptable to the department. The records of calibration must be maintained for review by the department or agents of the department.

43.3(3) Individual qualifications for radon measurement laboratory. No business may be certified as a radon measurement laboratory unless the business:

a. Is successfully enrolled with either the NEHA or NRSB Radon/Radon Progeny Measurement Proficiency Program (RMPP), and

b. Follows all applicable EPA and department protocols and guidelines.

43.3(4) No certification shall be approved unless the applicant demonstrates to the department that the following conditions are met:

a. Has in place a quality assurance plan and quality control procedures, approved by the department, for all measurements and equipment;

b. Has shown the ability or intention to comply with the Radon Testing and Abatement Act, Iowa Code chapter 136B, or this chapter, or has been able or willing to conduct radon-related activities forthrightly and honestly with the applicant's clients.

43.3(5) Requirements for continued certification shall include the following:

a. A certified person located within the state of Iowa shall allow the department, its agents, employees, and contractors, upon presentation of appropriate credentials, to have access without undue delay to the person's facilities, offices and files for inspection and examination of records and equipment. The certified person shall also allow the department, its agents, employees, and contractors to accompany the person while performing any radon measurement, for the purpose of inspection of those activities, with the approval of the property owner or resident on whose property the activities are being performed.

b. The certified person shall remain in compliance with the Act and this chapter.

641—43.4(136B) Application for certification.

43.4(1) An application for certification or renewal of certification as a radon measurement specialist or a radon measurement laboratory shall be filed on a form prescribed by the department and shall contain complete and accurate information.

a. An application for a radon measurement specialist must include:

(1) Proof of successful completion of a department-approved training course on radon/radon progeny measurements. A certificate of attendance is required.

(2) Proof of successful completion of an examination approved by this department. A letter from NEHA or NRSB showing a passing score for the radon measurement specialist examination fulfills this requirement.

(3) Proof of two years of postsecondary education in architecture, natural science, engineering, or a related discipline. A college transcript must be included to fulfill this requirement or a detailed resume evidencing two years of relevant professional work experience, such as conducting professional home inspections; or the design and installation of heating, ventilation and air-conditioning systems; or the design or construction of buildings; or related activities approved by the department; or a combination of professional work experience and postsecondary education.

(4) A quality assurance/quality control (QA/QC) plan for all measurement devices and equipment. If laboratory devices are used, the names and addresses of the Iowa certified radon measurement

laboratories must be included. If a continuous radon monitor is used, the name of the manufacturer, model, and picture of the monitor must be included. The manufacturer of any device used must have EPA or other national agency approval which indicates the device has been approved for measuring radon. Only measurement devices from Iowa certified radon measurement laboratories or a continuous radon monitor that has been satisfactorily calibrated and approved by the Iowa radon program are allowed for use in performing radon measurements.

(5) Standard operating procedures (SOPs). Procedures must include information concerning the placement and pickup of devices used, who performs the tests, and what measures will be used to ensure all tests are in conformance with EPA protocols and procedures.

(6) A signed statement that the individual will follow all EPA radon measurement guidelines and protocols.

(7) A signed statement that the individual will submit radon test results every 30 days to the Iowa radon program within the department. The radon test results may be submitted on a form, a diskette, or through E-mail in a manner that is approved by the department.

(8) A signed statement that the individual will keep all records for a minimum of five years after the radon test is completed.

(9) A copy of the confidentiality waiver that reports results to the customer as outlined in Iowa Code section 136B.2.

(10) A signed statement that the individual will submit to the department within 14 working days any changes in the original application and that the individual will acquire at least eight hours of continuing education credits every two years before certification is renewed.

(11) The fee specified in 43.4(6).

b. An application for a radon measurement laboratory must include:

(1) Proof of successful participation in the NEHA or NRSB Radon/Radon Progeny Measurement Proficiency Program.

(2) A quality assurance plan and quality control procedures for all measurements and equipment.

(3) A signed statement that all EPA, NEHA and NRSB and any department measurement guidelines and protocols will be followed.

(4) Name(s) and address(es) of any retail operation(s) selling the laboratory's testing service(s) within Iowa.

(5) A signed statement that all changes in the original application will be submitted to the department within 14 working days.

(6) The fee specified in 43.4(6).

43.4(2) The department may require the applicant to submit supplementary statements containing additional information to enable the department to determine whether an application should be approved or denied, or whether a previously issued certification should be amended, suspended, or revoked.

43.4(3) Each application or supplementary statement shall be signed by either the applicant personally, or a person authorized in writing by the applicant to do so on the applicant's behalf.

43.4(4) A certification will be valid for one year following the date of issuance. No radon measurement covered by this chapter can be conducted after the expiration of the term of certification unless an application for renewal certification has been received by the department 30 days prior to the expiration date of certification and is pending approval. If the application is rejected, no radon test or measurement may be conducted by that applicant in the state of Iowa if a financial arrangement is involved.

43.4(5) Renewal of an annual certification must contain all the information requested in the Notice of Renewal for certification along with the fee specified in subrule 43.4(6). The application to renew credentials must also include a signed and dated continuing education form and a copy of a course certificate which indicates the name of the individual receiving continuing education, the amount of continuing education the individual has received, and the date the continuing education course was given.

43.4(6) Radon certification fees. Any person wishing to become certified as a radon measurement specialist or as a radon measurement laboratory is required to pay fees sufficient to defray the cost of administering this chapter. Fees which must be submitted are as follows:

- a.* Application fee.
 - (1) Each person with Iowa residency wishing certification under the provisions of 641—43.1(136B) shall pay a nonrefundable \$25 application fee.
 - (2) Each person without Iowa residency wishing certification under 641—43.1(136B) shall pay a nonrefundable \$100 application fee.
- b.* Annual certification fee.
 - (1) Each individual requesting certification and renewing certification as a radon measurement specialist must pay a nonrefundable annual fee of \$250.
 - (2) Each person requesting certification and renewing certification as a radon measurement laboratory must pay a nonrefundable annual fee of \$500.
- c.* Each person wishing to give reciprocal recognition of credentials from another jurisdiction must pay the appropriate fees in 43.4(6).
- d.* Returned check and late fees. Persons who fail to pay required fees to the department are subject to the following penalty(ies):
 - (1) \$15 for each insufficient funds check submitted for payment of radon testing fees.
 - (2) \$25 per month for failure to pay annual radon testing certification fees starting after the annual renewal date or date of expiration.
- e.* If payment is not received and the certification has been expired 30 days, certification will be revoked immediately. In order to regain certification, the person must reapply and pay the appropriate fees as outlined in this subrule.

641—43.5(136B) Revocation of certification.

43.5(1) The department will consider revoking or suspending any certification, in whole or in part, for:

- a.* Any misstatement in the application or in any supplementary statement;
- b.* Any condition revealed by the application, supplementary statement, report, record, or other evidence, which would warrant the department's refusal to grant a certification on an original application;
- c.* Any violation or failure to observe any of the applicable terms or provisions of certification, the public health law, or any other applicable rule, regulation, code or order;
- d.* Being discontinued or removed from the NEHA or NRSB Radon/Radon Progeny Measurement Proficiency Program;
- e.* Not fully cooperating with the department or its agents when field evaluations are being conducted;
- f.* Not attending a scheduled meeting or inspection set up by the department or its agents, when the certified person was previously notified and agreed to the time and location of the inspection;
- g.* Not submitting radon test data as required in 641—43.6(136B).

43.5(2) The department may deny, suspend, revoke, modify the certification of a person, impose a civil penalty, or refer the case to the office of the county attorney for possible criminal penalties pursuant to Iowa Code chapter 136B, or any combination thereof, when it finds that a certified person or a person who is not certified has committed any of the following acts:

- a.* Failing to submit required information or notifications in a timely manner;
- b.* Failing to maintain the required records;
- c.* Falsifying approval records, qualifications, or other information or documentation related to licensing approval;
- d.* Failing to comply with the training standards and requirements in 43.3(2);
- e.* Submitting in the application for approval or reapproval false or misleading statements which the department relied upon in approving the application;
- f.* Failing to comply with federal, state, or local statutes and regulations, including the requirements of this chapter;
- g.* Knowingly making misleading, deceptive, untrue, or fraudulent representations involving radon, or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established;

h. Using untruthful or improbable statements in advertisements. Use of these statements includes, but is not limited to, the presentation of information to the public by training programs that is false, deceptive, or misleading, or that is promoted through fraud or misrepresentation;

i. Falsifying reports and records required by this chapter;

j. Accepting any fee by fraud or misrepresentation;

k. Revocation, suspension, or other disciplinary action taken by a certification or licensing authority of this state, another state, territory, or country; or failure by the firm or individual to report such action in writing within 30 days of the final action by such certification or licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board;

l. Failing to comply with the terms of a department order or the terms of a settlement agreement or consent order;

m. Representation by a firm or individual that the firm or individual is certified when the certification has been suspended or revoked or has not been renewed;

n. Failing to respond within 30 days of receipt of communication from the department that was sent by registered or certified mail;

o. Engaging in any conduct that subverts or attempts to subvert a department investigation;

p. Failing to comply with a subpoena issued by the department or failing to cooperate with a department investigation; or

q. Failing to pay costs assessed in any disciplinary action.

641—43.6(136B) Reporting requirements.

43.6(1) A certified person must submit to the department within 30 days after any radon/radon progeny testing, or at the request of the department prior to testing, the address or location of the building, the name and telephone number of the owner(s) of the building where the radon testing will be conducted and the results of any tests performed.

43.6(2) The results for each test conducted shall include, but not necessarily be limited to:

a. The method used for radon or radon decay product testing, media tested, and conditions under which the testing was or will be performed.

b. The level or floor of building where the test(s) was or will be conducted.

c. The results of the test(s) in picocuries/liter (pCi/l) of radon gas or working level (WL) of radon decay products.

d. The date on which the test was or will be conducted.

e. The purpose of the test.

43.6(3) Rescinded IAB 5/29/91, effective 5/10/91.

43.6(4) A certified person shall:

a. Cooperate with the department when conducting field evaluations.

b. Notify the department within 14 days of any changes in testing results or procedures.

c. Not disclose to any other person, except to the department, the address or owner of a nonpublic building that was tested for radon gas or radon progeny, unless the owner of the building waives this right of confidentiality in writing.

641—43.7(136B) Training and continuing education programs. Each person conducting radon-related activities shall complete a radon measurement training program approved by the department. All certified individuals must participate in a continuing education program every other year that consists of a minimum of eight hours of department-approved courses or seminars on either radon measurement or mitigation or both.

641—43.8(136B) Exemptions. Certification requirements shall not apply to:

1. Those persons who test for radon/radon decay products in buildings that they own.

2. Those persons testing for radon/radon decay products as part of scientific research approved by the department.
3. State officials conducting radon testing as part of the state's radon testing program or local officials acting on behalf of the state, and approved by the department.
4. Officials conducting radon testing as part of government programs in the United States or contractors working for the United States government.

641—43.9(136B) Enforcement.

43.9(1) A certified individual who measures for radon or radon progeny in the state of Iowa must meet the requirements of this chapter.

43.9(2) Any laboratory providing analysis services for radon detectors used in Iowa must meet the provisions of this chapter.

43.9(3) Any certified individual is prohibited from using radon measurement devices in Iowa obtained from a laboratory which is not certified under the provisions of this chapter.

641—43.10(136B) Penalties. It is unlawful for an individual to function as a radon measurement specialist or radon measurement laboratory in violation of the provisions of the Iowa radon testing Act or of any rule adopted pursuant to the Act. Persons convicted of violating the provisions of the Act or the rules adopted pursuant to the Act shall be guilty of a serious misdemeanor (Iowa Code section 136B.5).

641—43.11(136B) Persons exempted from certification. Persons providing radon or radon progeny measurement devices to the public, but not conducting physical tests for the presence of radon or radon progeny with the measurement devices may do so under the following conditions:

1. They must provide measurement devices obtained from a laboratory certified in Iowa.
2. A valid visible expiration date must be permanently affixed to each measurement device.
3. In addition to the required laboratory instructions regarding measurement procedures, each measurement device must be accompanied by clear directions on where to obtain additional information and interpretation for test results. The certified laboratory or a certified specialist must be included as one of the sources of information and interpretation.

These rules are intended to implement Iowa Code chapter 136B.

[Filed 9/30/88, Notice 8/10/88—published 10/19/88, effective 11/23/88]

[Filed 1/14/91, Notice 10/17/90—published 2/6/91, effective 3/13/91]

[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]

[Filed 5/8/92, Notice 4/1/92—published 5/27/92, effective 7/1/92]

[Filed 9/14/92, Notice 8/5/92—published 9/30/92, effective 11/4/92]

[Filed 3/14/02, Notice 2/6/02—published 4/3/02, effective 5/8/02]

[Filed 9/18/06, Notice 8/2/06—published 10/11/06, effective 11/15/06]