

CHAPTER 44
MINIMUM REQUIREMENTS FOR RADON MITIGATION

641—44.1(136B) Purpose and scope. This chapter establishes requirements for the credentialing of radon mitigation specialists. All persons performing abatement for radon or radon progeny in buildings, other than buildings which the persons occupy or are constructing for their own occupancy, must be credentialed in accordance with the provisions of this chapter. Credentialed mitigation specialists are responsible for ensuring that all radon mitigation systems for which they are responsible are installed following guidelines that are provided in this chapter.

641—44.2(136B) Definitions. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

“*Active mitigation system*” means any system or materials installed as an active part of a ventilation system used for the purpose of reducing radon or radon progeny concentrations by means of an in-line fan.

“*ASTMI E2121*” means the American Society for Testing Materials International E2121, Standard Practice for Radon Mitigation Systems in Existing Low-Rise Residential Buildings.

“*Credentialed radon mitigation specialist (mitigation specialist)*” means an individual who evaluates diagnostic tests to determine appropriate radon or radon progeny mitigation strategies for a building, designs mitigation systems, installs or supervises the installation of radon or radon progeny mitigation techniques on buildings, and meets the requirements for credentialing provided by this chapter.

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

“*Diagnostic tests*” means tests performed or procedures used to determine appropriate mitigation methods for a building.

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

“*Mitigator*” means a person who installs mitigation systems for the purpose of abating radon levels within buildings.

“*Passive mitigation system*” means any system or materials installed for the purpose of reducing radon or radon progeny concentrations without the use of an in-line fan.

“*pCi/L*” means a measurement of radon in picocuries per liter.

“*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.

“*RMS*” means EPA Radon Mitigation Standards.

“*Working level month (WLM)*” means a cumulative exposure to radon decay products calculated by multiplying the radon daughter concentration in units of working levels by the number of hours exposed and dividing by 170.

641—44.3(136B) General provisions.

44.3(1) Except as provided in this chapter, no person may mitigate for radon or radon progeny in Iowa for a fee or other remuneration unless such a person has been credentialed by the department.

44.3(2) Individual qualifications for radon mitigation specialist. No individual may be credentialed as a radon mitigation specialist unless all of the following conditions are met. The individuals shall:

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

b. Possess three years of relevant professional work experience. Relevant postsecondary education may be substituted on a year-for-year basis for two of the three years of relevant professional work experience. Relevant postsecondary education includes a college curriculum in architecture, engineering, building construction, or the physical sciences. Relevant professional work experience includes the design or construction of buildings, or associated heating, ventilation, and air-conditioning systems, or closely related activities approved by the department.

c. Have successfully completed a combined radon measurement/mitigation course approved by the department and a radon mitigation examination approved by the department.

44.3(3) All applicants for credentialing must comply with Iowa Code chapter 136B and submit the following to the department:

a. An acceptable mitigation worker protection plan to follow when performing mitigation installations which includes, but is not limited to:

- (1) Procedures to follow to keep radiation exposure to workers as low as is reasonably achievable.
- (2) Methods to follow to reduce or minimize the radon concentration in the work area.
- (3) Criteria for wearing properly fitted respirators anytime the radon decay product level is above one working level.

b. An acceptable quality assurance plan to follow when performing mitigation installations which includes, but is not limited to:

(1) A description of all diagnostic tests performed to determine the mitigation strategy, names of the individuals performing the diagnostic tests, and any other related services offered.

(2) Ensuring that all instruments are properly calibrated according to the manufacturer's recommendations.

(3) A description of all mitigation materials and systems offered.

c. A complete and accurate application on a form prescribed by the department.

44.3(4) Requirements for continued credentialing shall include, at a minimum, the following conditions:

a. An Iowa credentialed person shall allow the department, its agents, employees, and contractors, upon presentation of appropriate credentials and with just cause, to have access during regular business hours without undue delay to their facilities, offices and files for inspection and examination of records and equipment. Credentialed persons shall also allow the department, its agents, employees, and contractors to accompany them while performing any radon abatement measures, 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 credentialed person shall remain in compliance with the Iowa Radon Testing and Abatement Act and this chapter. Any material changes in the information provided in the original application, including changes in credentialed personnel, shall be reported in writing to the department within ten working days of the change.

c. The credentialed person shall comply with department standards and all the requirements as stated in EPA's Radon Mitigation Standards (RMS) EPA 402-R-93-078, October 1993 (Revised April 1994) and ASTM E2121. All "shoulds" in the above document shall be "shalls" according to department standards.

44.3(5) A credentialed person shall:

a. Fully cooperate with the department or its agents when field evaluations are conducted.

b. Be present during scheduled visits by the department.

c. Not disclose to any other person, except to the department or its agents, the addressee or owner of a nonpublic building, the radon levels present in the building or abatement measures needed or performed, unless the building owner waives this right of confidentiality in writing.

d. Ensure that each building is tested for radon levels before and after mitigation work is performed. Such tests shall be of sufficient type, duration and consistency and shall be performed at such times and under such ventilation conditions as to allow for comparison of before and after mitigation radon levels. Premitigation and postmitigation radon tests shall be performed independently by a measurement specialist or technician who is not employed by the same firm as the mitigation specialist performing the mitigation. Postmitigation radon tests shall be started no sooner than one day after mitigation is completed. This requirement is not binding if the building owner waives the procedure, on a form prescribed by the department, before the mitigation process has started.

641—44.4(136B) Application for credentialing.

44.4(1) An application for credentialing or renewal of credentials as a radon mitigation specialist shall be filed on a form prescribed by the department, shall contain complete and accurate information and shall be accompanied by the appropriate fees as outlined in subrule 44.4(6).

44.4(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 credential should be amended, suspended, or revoked.

44.4(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.

44.4(4) A credential will be valid for one year following the date of issuance. No radon abatement covered by this chapter can be commenced after the expiration of the term of credentialing unless an application for renewal has been received by the department within 30 days of the notice of expiration and the renewal application is deemed complete and acceptable by the department. All radon mitigation work commenced prior to expiration of credentialing must be completed within 30 days of the expiration date if renewal is not accomplished. If the application is rejected, no radon abatement may be conducted by that applicant in the state of Iowa if a financial arrangement is involved.

44.4(5) An application to renew credentials must be on a form approved by the department and must include the number of mitigation systems installed for the renewal period and any changes in the initial credentialing application, along with the fee specified in subrule 44.4(6).

44.4(6) Radon mitigation credentialing. Any person wishing to become credentialed as a radon mitigation specialist shall be required to pay fees sufficient to defray the cost of administering this chapter.

a. Application fee.

(1) Each person with Iowa residency wishing certification under the provisions of 641—Chapter 44 shall pay a nonrefundable \$25 application fee.

(2) Each person without Iowa residency wishing certification under 641—Chapter 44 shall pay a nonrefundable \$100 application fee.

b. Annual credentialing fee. Each individual requesting credentialing must:

(1) Pay an initial fee of \$150 which is refundable if credentialing is not completed.

(2) Pay annually a renewal fee of \$150 or \$40 per mitigation system installed (as defined in 641—44.2(136B)) costing more than \$200, whichever is greater. With each renewal, a credentialed person must submit legal documentation of the number of mitigation systems installed the previous credentialing year. This number will be used to calculate the renewal fee.

c. Returned check and late fees.

(1) 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 mitigation fees.
2. \$25 per month for failure to pay annual radon mitigation credentialing fees starting after the annual renewal date or date of expiration.

(2) If payment is not received and the certification has been expired 30 days, certification will be revoked immediately. In order to regain certification, the individual must reapply and pay the appropriate fees as outlined in this subrule.

d. Applications for initial and renewal credentialing must be submitted along with the appropriate fees specified in this subrule to the Division of Environmental Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. The fee must be in the form of a check or money order made payable to the Iowa Department of Public Health and must include on the check or money order an indication of the purpose of the fee (i.e., radon mitigation credentialing).

e. Each person wishing to receive reciprocal recognition of credentialing from another jurisdiction must pay the appropriate fees as outlined in this subrule.

641—44.5(136B) Revocation of credentialing. The department will follow the procedures set forth in Iowa Code chapter 17A when revoking or suspending any credentials, in whole or in part. The department may deny, suspend, revoke, or modify the credentials of a person, or may impose a civil penalty or may refer the case to the office of the county attorney for possible criminal penalties pursuant to Iowa Code chapter 136B when it finds that a credentialed person or a person who is not credentialed has committed any of the following acts:

1. Any material misstatement in the application or in any supplementary statement.
2. Any material misstatement in the renewal application or supplementary statement received upon renewal.
3. Any condition revealed by an inspection of the applicant, the application, supplementary statement, report, record, or other evidence, which would warrant refusal by the department's agents or employees to grant a credentialing on an original application.
4. Falsifying approval records, qualifications, or other information or documentation related to licensing approval.
5. Any violation or failure to observe any of the applicable terms or provisions of credentialing, the public health law, or any other applicable rule, radon testing rule, ordinance, regulation, code or order.
6. Not completing the installation of a radon mitigation system within 30 days of the start date or date contracted to start.
7. Failing to submit a complete and accurate renewal application form before the end of the renewal period which includes the fee specified in subrule 44.4(6).
8. Failing to correct any violation of EPA, ASTM, or department rules that was found during a previous inspection or any violation found on an initial inspection which, as determined by the department, jeopardizes the safety of the building or other occupants.
9. Accepting compensation for installing ineffective radon remedies or for not dropping radon levels below 4 pCi/L in the area or level of the building where a radon mitigation system was installed.
10. Accepting compensation for installing active or nonactive radon mitigation systems that are not acceptable to the department or that do not comply with the requirements of this chapter.
11. Failing to fully cooperate with the department or its agents when field evaluations are conducted.

12. Failing to attend a scheduled meeting or inspection set up by the department or its agents, when the person holding the credentials was previously notified and agreed to the time and location of the inspection.

13. Failing to submit required information or notifications in a timely manner.

14. Failing to maintain the required records in 641—44.6(136B), and in EPA's Radon Mitigation Standards (RMS) EPA 402-R-93-078, October 1993 (Revised April 1994), and ASTM E2121 (NOTE: EPA has incorporated E2121 by reference and retained EPA's Radon Mitigation Standards (RMS) in effect until at least 2007).

15. Failing to comply with the training standards and requirements in 641—44.7(136B).

16. Failing to comply with federal, state, or local statutes and regulations, including the requirements of this chapter.

17. 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.

18. 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.

19. Falsifying reports and records required by this chapter.

20. Accepting any fee by fraud or misrepresentation.

21. 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 record.

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

23. Representation by a firm or individual that the firm or individual is credentialed when the credential has been suspended or revoked or has not been renewed.

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

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

26. Failing to comply with a subpoena issued by the department or failure to cooperate with a department investigation.

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

641—44.6(136B) Additional record-keeping requirements. A credentialed radon mitigation specialist shall maintain, for five years, a report of each mitigation activity which includes, but is not necessarily limited to:

1. The address or location of the building.

2. The name and phone number of the owner(s) of the building where the radon mitigation is conducted.

3. A written description of each mitigation system and materials installed, diagnostic test results and cost of each system.

4. The name of the certified radon measurement specialist or technician used to perform radon or radon progeny testing before and after radon mitigation of a building. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

5. The results of any initial or follow-up radon or radon progeny measurements performed and the measurement methods utilized. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

6. The results of the postmitigation radon measurements performed, including method of measurement and all pertinent dates. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

641—44.7(136B) Continuing education. All credentialed 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 radon mitigation or measurement.

641—44.8(136B) Exemptions. Credentialing requirements shall not apply to:

1. Those persons who mitigate radon/radon decay products in buildings that they occupy for their own use.
2. Those persons mitigating radon/radon decay products as part of scientific research approved by the department.

641—44.9(136B) Enforcement. A credentialed individual who mitigates for radon or radon progeny in the state of Iowa must meet the requirements of Chapter 44.

641—44.10(136B) Penalties. It is unlawful for an individual to function as a radon mitigation specialist in violation of the provisions of the Iowa radon testing and abatement Act. Persons convicted of violating the provisions of the Iowa radon testing and abatement Act or 641—Chapter 44 shall be guilty of a serious misdemeanor.

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

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