

**LAWS AND REGULATIONS RELATING TO
THE KENTUCKY BOARD OF RADON SAFETY**



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DISCLAIMER

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For the official copies of the statutes and regulations pertaining to this profession, please visit <http://lrc.ky.gov>

TABLE OF CONTENTS
KENTUCKY REVISED STATUTES

KRS 309.430 Definitions for KRS 309.430 to 304.4541
KRS 309.432 Creation of Kentucky Board of Radon Safety – Qualifications of
Members – Terms – Vacancies – Quorum – Officers – Immunity – Reimbursements....2
KRS 309.434 Powers and Responsibilities of Board of Radon Safety.....4
KRS 309.436 Prohibition Against Conduct of Radon Measurement, Mitigation, or
Laboratory Analysis Without Certification5
KRS 309.438 Registration as Radon Measurement Contractor – Renewal of Registration
Certificate – Duties of Measurement Contractor6
KRS 309.440 Registration as Mitigation Contractor – Renewal of Registration
Certificate – Duties of Mitigation Contractor7
KRS 309.442 Insurance Policy Required for Mitigation and Measurement Contractors....7
KRS 309.444 Registration as Radon Laboratory – Renewal of Registration Certificate -
Requirements for Radon Laboratory8
KRS 309.446 When Business Entity May Engage in Radon Measurement, Mitigation,
Or Laboratory Analysis.....9
KRS 309.448 Sanctions for Misconduct – Board’s Powers - Appeals.....9
KRS 309.450 Board’s Powers to Examine, Inspect, and Test – Prohibition Upon
Interfering with Inspection.....10
KRS 309.452 Duty to Report Noncompliance with KRS 309.430 to 309.454 – Location
And Retention of Required Records11
KRS 309.454 Radon Control Fund.....11

KENTUCKY ADMINISTRATIVE REGULATIONS

902 KAR 95:040 Radon Contractor Registration Program16

Kentucky Revised Statutes

309.430 Definitions for KRS 309.430 to 304.454.

As used in KRS 309.430 to 309.454, unless the context requires otherwise:

- (1) "Alter" means to change or modify a building or building design, or to revise, rather than repair, a mitigation system or mitigation system design;
- (2) "Analytical analysis" means the act of analyzing the radon or radon progeny concentrations with active measurement devices;
- (3) "Board" means the Kentucky Board of Radon Safety;
- (4) "Building" means any structure used or intended to be used for supporting or sheltering any use or occupancy;
- (5) "Certified" means meeting the certification requirements of a proficiency program for radon measurement, radon mitigation, or radon laboratory analysis;
- (6) "Commercial building" means any building other than a residential building, including those buildings intended for public purposes;
- (7) "Compensation" means something of value given or received in exchange for radon measurement, radon mitigation, or laboratory analysis;
- (8) "Contractor" means a person or business entity that provides goods or services to another person under the terms specified in a contract or verbal agreement, and who is not an agent or employee of that person;
- (9) "Direct supervision" means constant onsite supervision by a certified person;
- (10) "General supervision" means intermittent onsite supervision by a certified person who accepts responsibility for ensuring compliance by his or her employees or subcontractors with all applicable requirements under KRS 309.430 to 309.454;
- (11) "Government agency" means the Commonwealth of Kentucky, a state agency, a political subdivision, or any entity of local government;
- (12) "Laboratory analysis" means the act of analyzing the radon or radon progeny concentrations with passive measurement devices, or the act of calibrating radon or radon progeny measurement devices, or the act of exposing radon or radon progeny devices to controlled concentrations of radon or radon progeny;
- (13) "Measurement" means the act of testing the air, water, or soil using an active or passive measurement device for the presence of radon or radon progeny in the indoor environment of a building;
- (14) "Measurement device" means any active or passive device approved by a proficiency program and used for the measurement of radon or radon progeny in air, water, or soil in the indoor environment of a building;
- (15) "Measurement contractor" means a person certified by a proficiency program who provides radon measurement for compensation and who meets the requirements of KRS 309.438;

(16) "Mitigation" means the act of installing, repairing, or altering an active or passive system, for the purpose in whole or in part of reducing the concentration of radon or radon progeny in the indoor environment of a building;

(17) "Mitigation contractor" means a person certified by a proficiency program who provides radon mitigation for compensation and who meets the requirements of KRS 309.440;

(18) "Mitigation system" means any active or passive system designed to reduce radon concentrations in the indoor environment of a building;

(19) "Person" has the same meaning as in KRS 446.010;

(20) "Proficiency program" means either the National Radon Proficiency Program or the National Radon Safety Board;

(21) "Radon" means a naturally occurring radioactive element that exists as a colorless, odorless, and tasteless inert gas;

(22) "Radon decay products" means the four (4) short-lived radioactive elements polonium (Po-218), lead (Pb-214), bismuth (Bi-214), and polonium (Po-214) which exist as solids and immediately follow radon (Rn-222) in the decay chain;

(23) "Radon laboratory" means a business entity certified by a proficiency program that provides laboratory analysis for compensation and meets the requirements of KRS 309.444;

(24) "Radon progeny" means any combination of the radioactive decay products of radon;

(25) "Registrant" means a person or business entity registered with the board as a measurement contractor, mitigation contractor, or radon laboratory;

(26) "Research" means board-approved scientific investigation that includes radon measurement, radon mitigation, or laboratory analysis;

(27) "Residential building" means detached one (1) to four (4) family dwellings not more than three (3) stories in height where occupants are primarily permanent in nature; and

(28) "Standard operating procedure" means a written document established by an accredited American National Standards Institute development organization that describes in detail commonly accepted methods for the performance of certain tasks associated with radon measurement, mitigation, or laboratory analysis.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 1, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 1, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 1, effective June 8, 2011.

Formerly codified as KRS 211.9101.

309.432 Creation of Kentucky Board of Radon Safety -- Qualifications of members -- Terms -- Vacancies -- Quorum -- Officers -- Immunity -- Reimbursements.

(1) The Kentucky Board of Radon Safety is hereby created and shall be attached to the Department of Professional Licensing in the Public Protection Cabinet for administrative purposes. Each member of the board shall be a citizen and resident of the Commonwealth of Kentucky. The board shall consist of seven (7) members as follows:

(a) Four (4) members shall be either a radon measurement contractor, a radon mitigation contractor, or a person associated with a radon laboratory conducting laboratory analysis and shall be appointed by the Governor from a list of six (6) names submitted to the Governor by the Kentucky Association of Radon Professionals;

(b) One (1) nonvoting member shall be a representative of the home building industry and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Home Builders Association of Kentucky;

(c) One (1) nonvoting member shall be a real estate salesperson or broker licensed under KRS Chapter 324 and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Kentucky Association of Realtors; and

(d) One (1) member shall be a representative of a public health organization and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Kentucky Cancer Consortium.

(2)

(a) To be eligible for initial appointment as a member of the board under subsection (1)(a) of this section, a person shall have been actively engaged in the practice of radon measurement, mitigation, or laboratory analysis for not less than three (3) years immediately preceding the date of appointment to the board.

(b) Upon expiration of the initial appointments, to be eligible for appointment as a member of the board under subsection (1)(a) of this section, a person shall have been actively engaged in the practice of radon measurement, mitigation, or laboratory analysis for not less than three (3) years immediately preceding the date of the appointment to the board and hold a valid certification as a radon measurement contractor or radon mitigation contractor, or be associated with a radon laboratory with a valid certification.

(3) The Governor shall initially appoint two (2) members for a term of four (4) years, two (2) members for a term of three (3) years, and one (1) member for a term of two (2) years. All appointments shall expire on June 30 of the last year of the terms. Thereafter, members shall be appointed for terms of four (4) years. Members shall serve until their successors are appointed.

(4) Upon recommendation of the board, the Governor may remove any member of the board appointed by the Governor for poor attendance, neglect of duty, misfeasance, or malfeasance in office.

(5) Vacancies in the membership of the board for any cause shall be filled by appointment by the Governor for the balance of the unexpired term.

(6) A majority of the voting board members shall constitute a quorum to do business. The board shall meet at least once each calendar year or at other times deemed necessary by the chairperson or a quorum of the board upon being given a minimum of ten (10) days' notice at a location designated by the chairperson or a quorum of the board.

(7) The board shall elect a chairperson and a vice chairperson. The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at all meetings in the absence of the chairperson.

(8) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

(9) Members of the board shall be immune from suit for any discretionary act performed by them in good faith.

(10) Each member of the board shall be reimbursed for costs for actual travel and for incidental, clerical, and all other actual and necessary expenses incurred in the discharge of official duties associated with the board, as prescribed by the board through the promulgation of an administrative regulation.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 2, effective July 14, 2022.

-- Created 2011 Ky. Acts ch. 74, sec. 2, effective June 8, 2011.

Formerly codified as KRS 211.9103.

309.434 Powers and responsibilities of Board of Radon Safety.

The board shall:

(1) Promote the control of radon in the Commonwealth of Kentucky;

(2) Develop and conduct programs for evaluation and control of activities related to radon, including laboratory analyses, measurement, and mitigation;

(3) Promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce KRS 309.430 to 309.454;

(4) Issue a registration certificate to certified persons or business entities registered by the board;

(5) Maintain a public list of all certified persons or business entities registered by the board;

(6) Design and administer, or participate in the design and administration of, educational and research programs to ensure the citizens of the Commonwealth are informed about the health risks associated with radon;

(7) Enter into agreements with any federal or state agency, political subdivision, postsecondary education institution, nonprofit organization, or other person or entity to assist with and administer grants received by the board, including but not limited to the Environmental Protection Agency State Indoor Radon Grant (SIRG) program;

(8) Prepare an annual budget for the use of moneys received by the board from the collection of fees and fines, receipt of grants, and all other radon-related activities;

(9) Establish and maintain office space and personnel, as necessary, to administer, coordinate, and enforce KRS 309.430 to 309.454;

(10) Collect or receive all fees, fines, and other moneys owed pursuant to KRS 309.430 to 309.454, and deposit all those moneys into the radon control fund established by KRS 309.454;

(11) Issue subpoenas only through the board's attorney and only under the authority of the board's general counsel;

(12) Administer oaths, examine witnesses, investigate allegations of wrongdoing, and conduct administrative hearings in accordance with KRS Chapter 13B to enforce KRS 309.430 to 309.454; and

(13) Record minutes of board meetings and proceedings which shall be documented and made available for public inspection.

Effective: July 14, 2022

History: Repealed and reenacted 2022 Ky. Acts ch. 73, sec. 3, effective July 14, 2022. - -

Amended 2019 Ky. Acts ch. 159, sec. 2, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 3, effective June 8, 2011.

Formerly codified as KRS 211.9105.

309.436 Prohibition against conduct of radon measurement, mitigation, or laboratory analysis without certification -- Exceptions.

No person or business entity shall conduct radon measurement, mitigation, or laboratory analysis in this Commonwealth after January 1, 2013, without the appropriate certification pursuant to KRS 309.430 to 309.454. No person or business entity shall advertise or claim to be a "certified measurement contractor," "certified mitigation contractor," or "certified radon laboratory," unless certified pursuant to KRS 309.430 to 309.454. Certification requirements under KRS 309.430 to 309.454 shall apply to a radon measurement contractor, radon mitigation contractor, or radon laboratory, but shall not apply to:

(1) A person performing measurement or mitigation on a single-family residential building that he or she owns and occupies;

(2) A person performing measurement on a residential or commercial building that he or she owns;

(3) A person performing measurement who assists, and is under the general supervision of, a measurement contractor;

(4) A person performing mitigation who assists, and is under the direct supervision of, a mitigation contractor;

(5) An agent of the federal, state, or local government agency acting within an official capacity;

(6) A person performing measurement or mitigation as part of a scientific research project approved by the cabinet;

(7) A retail store or any other organization that sells or distributes radon measurement devices and is not engaged in a relationship with the client for other services, such as home inspection or real estate brokerage, and that does not conduct measurement, mitigation, or laboratory analysis;

- (8) A person performing measurement or mitigation as part of radon training approved by a proficiency program; or
- (9) A building contractor installing vent pipes during the construction of a commercial building or home.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 4, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 3, effective June 27, 2019. -- Amended 2016 Ky. Acts ch. 28, sec. 1, effective July 15, 2016. -- Created 2011 Ky. Acts ch. 74, sec. 4, effective June 8, 2011.

Formerly codified as KRS 211.9107.

309.438 Registration as radon measurement contractor -- Renewal of registration certificate -- Duties of measurement contractor.

- (1) The board shall issue a radon measurement contractor registration certificate to any person certified for measurement who:
 - (a) Completes a registration process prescribed by the board through promulgation of an administrative regulation;
 - (b) Presents proof of compliance with a board-approved proficiency program; and
 - (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442.
- (2) The board shall renew the radon measurement contractor registration certificate of any person who:
 - (a) Completes a registration renewal process and pays a fee prescribed by the board through promulgation of an administrative regulation;
 - (b) Presents proof of compliance with a board-approved proficiency program; and
 - (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442;
- (3) A measurement contractor shall:
 - (a) Maintain certification with a board-approved proficiency program;
 - (b) Ensure all measurements are conducted in accordance with the applicable standard operating procedures;
 - (c) Maintain a quality control program plan in accordance with the standard operating procedures for measurement quality assurance and control;
 - (d) Ensure all measurements are conducted under the general supervision of a measurement contractor;
 - (e) Use or sell only measurement devices approved by the proficiency program that certifies the person; and
 - (f) Ensure all laboratory analysis is procured through a radon laboratory.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 5, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 4, effective June 27, 2019. -- Amended 2013 Ky. Acts

ch. 68, sec. 2, effective June 25, 2013. -- Created 2011 Ky. Acts ch. 74, sec. 5, effective June 8, 2011.

Formerly codified as KRS 211.9109.

309.440 Registration as mitigation contractor -- Renewal of registration certificate -- Duties of mitigation contractor.

- (1) The board shall issue a mitigation contractor registration certificate to any person certified for mitigation who:
 - (a) Completes a registration process prescribed by the board through promulgation of an administrative regulation;
 - (b) Presents proof of compliance with a board-approved proficiency program; and
 - (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442.
- (2) The board shall renew the mitigation contractor registration certificate of any person who:
 - (a) Completes a registration renewal process and pays a fee prescribed by the board through promulgation of an administrative regulation;
 - (b) Presents proof of compliance with a board-approved proficiency program; and
 - (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442.
- (3) A mitigation contractor shall:
 - (a) Maintain certification with a board-approved proficiency program;
 - (b) Ensure all mitigations are conducted in accordance with the applicable mitigation standard operating procedures;
 - (c) Maintain a quality control program plan in accordance with the applicable standard operating procedures for mitigation quality assurance and control;
 - (d) Ensure all mitigation is conducted under the direct supervision of a mitigation contractor;
 - (e) Ensure all post-mitigation measurement is conducted by a measurement contractor; and
 - (f) Ensure all radon mitigation systems repaired or altered on or after January 1, 2013, meet the applicable mitigation standard operating procedures.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 6, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 5, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 68, sec. 3, effective June 25, 2013. -- Created 2011 Ky. Acts ch. 74, sec. 6, effective June 8, 2011.

Formerly codified as KRS 211.9111.

309.442 Insurance policy required for mitigation and measurement contractors.

Each mitigation or measurement contractor shall maintain an insurance policy that:

- (1) Is issued by an insurance company or other legal entity permitted to transact insurance business in the Commonwealth of Kentucky;

(2) Provides for general liability coverage for measurement contractors in an amount of at least two hundred fifty thousand dollars (\$250,000) that is maintained in effect at all times during the registration period;

(3) Provides for general liability coverage for mitigation contractors and radon laboratories in an amount of at least five hundred thousand dollars (\$500,000) that is maintained in effect at all times during the registration period;

(4) Lists the board as a certificate holder of any insurance policy issued under subsection (1) of this section; and

(5) States that cancellation or nonrenewal of the underlying liability insurance policy is not effective until the board receives at least ten (10) days' written notice of the cancellation or nonrenewal.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 7, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 6, effective June 27, 2019. -- Amended 2013 Ky. Acts ch. 68, sec. 4, effective June 25, 2013. -- Created 2011 Ky. Acts ch. 74, sec. 7, effective June 8, 2011.

Formerly codified as KRS 211.9113.

309.444 Registration as radon laboratory -- Renewal of registration certificate -- Requirements for radon laboratory.

(1) The board shall issue a radon laboratory registration certificate to any business entity certified for radon laboratory analysis that:

- (a) Completes a registration process prescribed by the board through promulgation of an administrative regulation;
- (b) Presents proof of compliance with a board-approved proficiency program; and
- (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442.

(2) The board shall renew the radon laboratory registration certificate of any business entity that:

- (a) Completes a registration process and pays a fee prescribed by the board through promulgation of an administrative regulation;
- (b) Presents proof of compliance with a board-approved proficiency program; and
- (c) Furnishes evidence of a general liability insurance policy that satisfies the requirements of KRS 309.442;

(3) A radon laboratory shall:

- (a) Maintain certification with a board-approved proficiency program;
- (b) Ensure all laboratory analysis is conducted in accordance with the applicable laboratory analysis standard operating procedures; and
- (c) Maintain a quality control program plan in accordance with the applicable standard operating procedures for laboratory analysis quality assurance and control.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 8, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 7, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 8, effective June 8, 2011.
Formerly codified as KRS 211.9115.

309.446 When business entity may engage in radon measurement, mitigation, or laboratory analysis.

A business entity may engage in radon measurement, mitigation, or laboratory analysis if the owner or an employee associated with the business entity is a measurement or mitigation contractor, or radon laboratory, as applicable.

Effective: July 14, 2022

History: Repealed and reenacted 2022 Ky. Acts ch. 73, sec. 9, effective July 14, 2022. - - Amended 2019 Ky. Acts ch. 159, sec. 8, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 10, effective June 8, 2011.
Formerly codified as KRS 211.9119.

309.448 Sanctions for misconduct -- Board's powers -- Appeals.

(1) Subject to an administrative hearing conducted in accordance with KRS Chapter 13B, the board may revoke, suspend, or restrict the registration of a registrant, refuse to issue or renew registration, reprimand, censure, place on probation, or impose a fine not to exceed one thousand dollars (\$1,000) per occurrence on a certified person or business entity who:

- (a) Has been convicted of a felony under the laws of the Commonwealth of any crime that involves theft or dishonesty, or is a sex crime as defined by KRS 17.500;
- (b) Has had disciplinary action taken against a professional license, certification, registration, or permit held by the person or business entity seeking registration;
- (c) Engaged in fraud or deceit in obtaining certification or registration;
- (d) Attempts to transfer the authority granted by the registration to another person or business entity;
- (e) Disregards or violates the building codes, electrical codes, or related laws of this Commonwealth or ordinances of any city, county, urban-county government, consolidated local government, charter county government, or unified local government;
- (f) Aids or abets any person attempting to evade the provisions of KRS 309.430 to 309.454 or the administrative regulations promulgated by the board;
- (g) Uses unfair or deceptive trade practices; or
- (h) Knowingly violates any of the provisions of KRS 309.430 to 309.454 or any administrative regulation promulgated by the board.

(2) If an application for registration or renewal of registration is denied, the person or business entity seeking registration shall not conduct radon measurement, mitigation, or laboratory analysis within the Commonwealth of Kentucky.

(3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the board may institute proceedings in the Circuit Court of the county where the person resides or the business

entity is located for an order enjoining the person or business entity from engaging or attempting to engage in activities that violate any provisions of KRS 309.430 to 309.454 or any administrative regulation promulgated by the board.

(4) Any final order of the board may be appealed to the Circuit Court of the county in which the person resides or the business entity is located after a written decision is rendered in accordance with KRS Chapter 13B.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 10, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 10, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 158, sec. 37, effective June 29, 2017. -- Created 2011 Ky. Acts ch. 74, sec. 13, effective June 8, 2011

Formerly codified as KRS 211.9125.

309.450 Board's powers to examine, inspect, and test -- Prohibition upon interfering with inspection.

(1) The board may examine records of mitigation contractors, measurement contractors, and radon laboratories, including but not limited to conducting inspections of mitigation system installations and measurement locations in order to ensure that radon measurement, mitigation, and laboratory analysis are conducted in accordance with the applicable standard operating procedures.

(2) The board may test any equipment used for measurement, mitigation, or laboratory analysis or photograph or sketch any portion of a site, building, or equipment involved in measurement, mitigation, or laboratory analysis.

(3) No person shall use or continue to use, or permit the use or continued use of, any radon mitigation system if an agent or inspector of the board finds that the radon mitigation system was not constructed, installed, or altered in accordance with the applicable mitigation standard operating procedures.

(4) For purposes of enforcing KRS 309.430 to 309.454 or any administrative regulation promulgated by the board pertaining to radon measurement, mitigation, or laboratory analysis, an agent or inspector of the board shall have the power to enter upon premises at all reasonable times to make an inspection, question all persons, and require the production of radon mitigation system plans, sketches, diagnostic information, and other evidence.

(5) Agents and inspectors of the board shall be empowered to issue a stop order to any owner, agent, or occupant of real property requiring that the radon mitigation system thereon cease operation if that system has been found to be in violation of KRS 309.430 to 309.454 or any administrative regulation promulgated by the board.

(6) A person shall not interfere with an inspection conducted by an agent or inspector of the board.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 11, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 11, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 15, effective June 8, 2011.
Formerly codified as KRS 211.9129.

309.452 Duty to report noncompliance with KRS 309.430 to 309.454 -- Location and retention of required records.

- (1) Any certified person or business entity shall report to the board the discovery of any apparent noncompliance with any provision of KRS 309.430 to 309.454 or any administrative regulation promulgated by the board pertaining to radon measurement, mitigation, or laboratory analysis.
- (2) Records required by this chapter or administrative regulations promulgated under KRS 309.430 to 309.454, including but not limited to records of radon measurement, mitigation, quality control program plans, calibration certifications, laboratory analysis activities, worker health and safety plans, and equipment repairs shall be retained by registrants, as applicable, for a minimum period of five (5) years or the length of time of any warranty or guarantee, whichever is greater. Records obtained by the board are exempt from the disclosure requirements of KRS 61.870 to 61.884, except that the board shall make the records available upon request:
 - (a) To the owner or occupant of a building; and
 - (b) To the public aggregated at the zip code level without identifying individual homeowners or individual property locations.
- (3) Any measurement or mitigation contractor applying for registration or renewal of registration shall specify, for approval by the board, the location where records required under this section shall be maintained for inspection by the board. This location shall be within the Commonwealth of Kentucky.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 12, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 159, sec. 12, effective June 27, 2019. -- Created 2011 Ky. Acts ch. 74, sec. 16, effective June 8, 2011.
Formerly codified as KRS 211.9131.

309.454 Radon control fund.

- (1) There is created the radon control fund as a separate trust and agency fund in the State Treasury, to be administered by the board. All fees, fines, and other moneys received by the board pursuant to KRS 309.430 to 309.454 shall be deposited in the fund and shall be used for the implementation of KRS 309.430 to 309.454, and are hereby appropriated for those purposes.
- (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- (3) Any interest earnings of the fund shall become part of the fund and shall not lapse.

Effective: July 14, 2022

History: Repealed, reenacted, and amended 2022 Ky. Acts ch. 73, sec. 13, effective July 14, 2022. -- Created 2011 Ky. Acts ch. 74, sec. 17, effective June 8, 2011. Formerly codified as KRS 211.9133.

Kentucky Administrative Regulations

902 KAR 95:040. Radon Contractor Registration Program.

RELATES TO: KRS Chapter 13B, 211.180(1)(a), 211.9101, 211.9107, 211.3113, 211.9119
STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 211.9109, 211.9111, 211.9115, 211.9121, 211.9125, 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 registration of an individual or laboratory to perform radon measurement, radon mitigation, or laboratory analysis.

Section 1. Registration Requirements.

(1) A person seeking registration as a radon measurement contractor or a radon mitigation contractor shall submit to the cabinet:

- (a) A completed DFS-375, Application for Registration for Radon Contractors and Laboratories;
- (b) The fee established in Section 2(2) of this administrative regulation; and
- (c) Evidence of financial responsibility in accordance with KRS 211.9109 (1)(b) or 211.9111(1)(b).

(2) A radon laboratory seeking registration shall submit to the cabinet:

- (a) A completed DFS-375, Application for Registration for Radon Contractors and Laboratories;
- (b) The fee established in Section 2(2) of this administrative regulation; and
- (c) Evidence of financial responsibility in accordance with KRS 211.9115(2)(b).

(3) A contractor with a dual certification as a radon measurement contractor and a radon mitigation contractor shall submit a separate registration for each discipline.

(4)

- (a) All potential registrants as a radon measurement or radon mitigation contractor shall have a background check performed by:
 1. The Administrative Office of the Courts; and
 2. The Division of Protection and Permanency within the Cabinet for Health and Family Services.
- (b) The required background check results shall be submitted directly to the cabinet.
- (c) The cabinet shall review the Kentucky Sex Offender Registry prior to the registration of a radon measurement or radon mitigation contractor.
- (d) In accordance with KRS 211.9125(1)(a) the cabinet may refuse or revoke a registration based on the results of the background check.

(5) A registered radon measurement contractor employee working exclusively for a registered radon laboratory shall not be required to meet:

- (a) The insurance requirements established in subsection (1) of this section; and

(b) The background check requirements established in subsection (4) of this section.

Section 2. Schedule of Fees.

(1) The fees required by subsection (2) of this section shall be:

- (a) Nonrefundable;
- (b) Submitted with an application for initial registration or registration renewal; and
- (c) Made payable to the Kentucky State Treasurer.

(2)

- (a) The fee for initial registration shall be \$500. The initial registration shall be valid for two (2) years.
- (b) The biennial renewal fee shall be \$500.
- (c) The fee for late renewal shall be \$500.
- (d) The fee for inactive registration status shall be \$200. The inactive registration status shall be valid for two (2) years.

Section 3. Registration Renewal.

(1) Each registration shall be renewed every odd-numbered year.

(2) An individual seeking registration renewal shall submit to the cabinet:

- (a) A completed renewal application on DFS-375, Application for Registration for Radon Contractors and Laboratories;
- (b) Proof of compliance with a proficiency program in accordance with KRS 211.9109(2)(a) or 211.9111(2)(a);
- (c) The background checks required under Section 1(4) of this administrative regulation;
- (d) The fee established in Section 2 of this administrative regulation; and
- (e) Evidence of financial responsibility in accordance with KRS 211.9109(2)(b) or 211.9111(2)(b).

(3) A laboratory seeking registration renewal shall submit to the cabinet:

- (a) A completed renewal application on DFS-375, Application for Registration for Radon Contractors and Laboratories;
- (b) Proof of compliance with a proficiency program in accordance with KRS 211.9115(2)(a);
- (c) The fee established in Section 2 of this administrative regulation; and
- (d) Evidence of financial responsibility in accordance with KRS 211.9115(2)(b).

(4) A registration not renewed within thirty (30) days after the renewal date shall lapse and may only be reinstated:

- (a) By meeting the requirements of subsections (2) or (3) of this section; and
- (b) Payment of the late renewal fee required by Section 2(2)(c) of this administrative regulation.

Section 4. Termination of Registration and Inactive Registration.

(1) A registered radon measurement contractor or radon mitigation contractor shall notify the cabinet in writing upon electing to terminate registration.

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

(a) If inactive status is granted, the person shall pay the registration fee established in Section 2(2)(d) of this administrative regulation.

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

Section 5. Registration Denial, Suspension, or Revocation. A registration shall be subject to denial, suspension, or revocation in accordance with KRS 211.9125.

Section 6. Reporting Requirements.

(1) A person, business entity, or analytical laboratory shall submit a report to the cabinet on an annual basis for each:

- (a) Radon measurement activity;
- (b) Radon mitigation activity; or
- (c) Laboratory analysis.

(2) The result of each measurement activity conducted shall include:

- (a) The location of the building;
- (b) The result of the measurement in picocuries per liter (pCi/L) of radon gas;
- (c) The start and end date of the measurement activity;
- (d) The type of measurement activity conducted;
- (e) The registrant responsible for supervising the measurement; and
- (f) The type of building measured, including the foundation type.

(3) The result of each mitigation activity conducted shall include:

- (a) The location of the building;
- (b) The result of the post-mitigation measurement in picocuries per liter (pCi/L) of radon gas;
- (c) The date of the mitigation activity;
- (d) The type of mitigation conducted;
- (e) The registrant responsible for supervising the mitigation; and
- (f) The type of building mitigated, including the foundation type.

(4) The result of each laboratory analysis conducted shall include:

- (a) The location of the building;
- (b) The result of the measurement in picocuries per liter (pCi/L) of radon gas;
- (c) The date of the measurement activity and laboratory analysis;
- (d) The type of laboratory analysis conducted;
- (e) The registrant responsible for supervising the measurement and laboratory analysis; and
- (f) The type of building measured, including the foundation type.

Section 7. 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 8. 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 9. Incorporation by Reference.

(1) "DFS-375, Application for Registration for Radon Contractors and Laboratories", 7/2020, 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; 47 Ky.R. 1493, 2599; eff. 6-16-2021.)