

## **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.)