

# ARTICLE 5.1. RADON

## Rule 1. Radon

### 410 IAC 5.1-1-1 "Building" defined

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 1. As used in this rule, "building" means a roofed and walled structure built or used for human habitation. (*Indiana Department of Health; 410 IAC 5.1-1-1; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

### 410 IAC 5.1-1-2 "Commissioner" defined

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 2. As used in this rule, "commissioner" means the state health commissioner or his or her authorized representative. (*Indiana Department of Health; 410 IAC 5.1-1-2; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

### 410 IAC 5.1-1-3 "Contact hour" defined (*Repealed*)

Sec. 3. (*Repealed by Indiana Department of Health; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

### 410 IAC 5.1-1-4 "Department" defined

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 4. As used in this rule, "department" means the Indiana department of health. (*Indiana Department of Health; 410 IAC 5.1-1-4; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 8:27 a.m.: 20210811-IR-410210310ACA*)

### 410 IAC 5.1-1-5 "Diagnostic testing" defined

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 5. As used in this rule, "diagnostic testing" means a test conducted to determine the presence or absence of radon-222 or to determine the primary source or sources of radon-222 leakage into a living area. This term shall not be construed as authorization for a person to perform testing to determine radon-222 concentrations in a living area for the purposes of determining the need for radon-222 mitigation without complying with this rule. (*Indiana Department of Health; 410 IAC 5.1-1-5; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

### 410 IAC 5.1-1-6 "EPA" defined

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 6. As used in this rule, "EPA" means the United States Environmental Protection Agency. (*Indiana Department of Health;*

410 IAC 5.1-1-6; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA)

**410 IAC 5.1-1-7 "Instant readout device" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38

Sec. 7. As used in this rule, "instant readout device" means any hand-held instrument that immediately quantifies radon-222 concentrations or provides data necessary to perform calculations that will quantify radon-222 concentrations. (*Indiana Department of Health; 410 IAC 5.1-1-7; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-8 "Interference with department agent" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38

Sec. 8. As used in this rule, "interference with department agent" means, but is not limited to, physical obstruction, attack, or threatened attack on a representative or agent of the department while that representative or agent is conducting inspection, certification, or enforcement activities pursuant to IC 16-41-38 or this rule. (*Indiana Department of Health; 410 IAC 5.1-1-8; filed Oct 27, 1993, 9:00 a.m.: 17 IR 349; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; errata filed Jan 28, 2000, 7:48 a.m.: 23 IR 1401; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-9 "Laboratory" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38

Sec. 9. As used in this rule, "laboratory" means a place equipped to manufacture, analyze, or both manufacture and analyze a passive monitor. (*Indiana Department of Health; 410 IAC 5.1-1-9; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA; errata filed Dec 13, 2021, 10:09 a.m.: 20211229-IR-410210023ACA*)

**410 IAC 5.1-1-10 "Living area" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38

Sec. 10. As used in this rule, "living area" means the lowest area in a building that could be adapted for human habitation. For example, a basement would be a living area if it could be converted to a den, playroom, work area, or bedroom without major structural changes. (*Indiana Department of Health; 410 IAC 5.1-1-10; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-11 "Mitigate" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38

Sec. 11. As used in this rule, "mitigate" means to repair or alter a building or building design for the purpose in whole or in part of reducing the concentration of radon-222 in the indoor atmosphere. (*Indiana Department of Health; 410 IAC 5.1-1-11; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-12 "Passive monitor" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
Affected: IC 16-41-38

Sec. 12. As used in this rule, "passive monitor" means those types of radon-222 detectors that do not require external power or batteries to operate. Charcoal canisters and alpha track detectors are the principle [*sic.*] types of passive monitors. (*Indiana Department of Health; 410 IAC 5.1-1-12; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-13 "Person" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
Affected: IC 16-41-38

Sec. 13. As used in this rule, "person" means an individual, partnership, copartnership, corporation, firm, company, association, society, holding company, trustee, school corporation, school city, school town, school district, any unit of government, or any other legal entity, its or their successors or assigns, or agents of the aforesaid. (*Indiana Department of Health; 410 IAC 5.1-1-13; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-14 "Picocuries per liter" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
Affected: IC 16-41-38

Sec. 14. As used in this rule, "picocuries per liter" means two and twenty-two hundredths (2.22) radioactive disintegrations per minute per liter of air. (*Indiana Department of Health; 410 IAC 5.1-1-14; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-15 "Primary radon tester" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
Affected: IC 16-41-38

Sec. 15. As used in this rule, "primary radon tester" means an individual who measures radon-222 concentrations utilizing detection instruments other than passive monitors. A primary radon tester may also place passive monitors in buildings for radon-222 testing but may not analyze passive monitors. (*Indiana Department of Health; 410 IAC 5.1-1-15; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-16 "Quality assurance plan" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2  
Affected: IC 16-41-38

Sec. 16. As used in this rule, "quality assurance plan" means a program which includes procedures that assure data are scientifically valid and of known precision and accuracy and a system for recording and monitoring these procedures. (*Indiana Department of Health; 410 IAC 5.1-1-16; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-17 "Radon-222" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 17. As used in this rule, "radon-222" means the radioactive noble gas radon-222 and related decay products produced by the disintegration of radon-222. (*Indiana Department of Health; 410 IAC 5.1-1-17; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-18 "Radon laboratory" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 18. As used in this rule, "radon laboratory" means an entity that manufactures or analyzes passive monitors for radon-222 after they have been exposed to the atmosphere. (*Indiana Department of Health; 410 IAC 5.1-1-18; filed Oct 27, 1993, 9:00 a.m.: 17 IR 350; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-19 "Research" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 19. As used in this rule, "research" means scientific investigation by testing or mitigating, or both, for radon-222. (*Indiana Department of Health; 410 IAC 5.1-1-19; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-20 "Secondary radon tester" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 20. As used in this rule, "secondary radon tester" means an individual who places passive monitors in, and/or retrieves passive monitors from, buildings for radon-222 testing. (*Indiana Department of Health; 410 IAC 5.1-1-20; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-21 "Test" defined**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 21. As used in this rule, "test" means the act of examining a building for the presence of radon-222 which may include analysis of the detector utilized. (*Indiana Department of Health; 410 IAC 5.1-1-21; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

**410 IAC 5.1-1-22 Certificate required; exclusion**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-35; IC 16-41-38

Sec. 22. (a) No person or entity may test, analyze, or mitigate for radon-222 in a building unless they are, or have in their employ, an individual certified to perform such services in accordance with this rule. However, a person who is testing or mitigating for radon-222 is exempt from the provisions of this rule if the person is:

- (1) performing the testing or mitigation in a dwelling which the person occupies; or
- (2) conducting research on radon-222 testing or mitigation with consent of the owner or occupant, and the owner or occupant is not charged for the testing or mitigation.

(b) Individuals certified to perform radon-222 measurement or mitigation services under this rule shall conduct such activities in accordance with IC 16-41-35, IC 16-41-38, this rule, and the application for certification submitted by the individual.

(c) Certification shall expire two (2) years from the date of issuance. (*Indiana Department of Health; 410 IAC 5.1-1-22; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; errata filed Jan 28, 2000, 7:48 a.m.: 23 IR 1401; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-23 Certification of secondary radon testers**

Authority: IC 16-19-3-4; IC 16-41-38-2  
 Affected: IC 16-41-38-3

Sec. 23. (a) A secondary radon tester must have both a current, active tester license from the department and a current, active measurement certification from an EPA recognized proficiency program in order to place or retrieve, or represent or advertise that the individual can place or retrieve, passive monitors in a building for radon-222 testing. If an individual loses or relinquishes their measurement certification through the EPA recognized proficiency program, their Indiana license will be immediately suspended, and will remain suspended until the national certification is renewed or the term of the Indiana license expires, whichever comes first.

- (b) The requirements for all individuals seeking certification to test as a secondary radon tester are as follows:
  - (1) Submission of a sworn affidavit that the individual has read and agrees to adhere to the following standards:
    - (A) For testing in residential buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurement in Homes" (ANSI/AARST MAH).
    - (B) For testing in multifamily buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings" (ANSI/AARST MAMF).
    - (C) For testing in schools and large buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurements in Schools and Large Buildings" (ANSI/AARST MALB).
  - (2) Proof of successful completion of a measurement training course and exam and current certification by a proficiency program recognized by the EPA.
  - (3) Submission of a quality assurance plan meeting the requirements of ANSI/AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA).
  - (4) Submission of a complete and accurate application form prescribed by the commissioner along with a fee of one hundred dollars (\$100). An application will not be considered complete unless the required fee has been submitted.

(*Indiana Department of Health; 410 IAC 5.1-1-23; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; filed Apr 16, 1996, 4:10 p.m.: 19 IR 2280; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-*

410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA)

**410 IAC 5.1-1-24 Certification of primary radon testers**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 24. (a) A primary radon tester must have both a current, active tester license from the department and a current, active measurement certification from an EPA recognized proficiency program in order to test for radon-222, or represent or advertise that the individual can test for radon-222, in a building. If an individual loses or relinquishes their measurement certification through the EPA recognized proficiency program, their Indiana license will be immediately suspended, and will remain suspended until the national certification is renewed or the term of the Indiana license expires, whichever comes first.

(b) The requirements for all individuals seeking certification to test as a primary radon tester are as follows:

(1) Submission of a sworn affidavit that the individual has read and agrees to adhere to the following standards:

(A) For testing in residential buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurements in Homes" (ANSI/AARST MAH).

(B) For testing in multifamily buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings" (ANSI/AARST MAMF).

(C) For testing in schools and large buildings: ANSI/AARST "Protocol for Conducting Radon and Radon Decay Product Measurements in Schools and Large Buildings" (ANSI/AARST MALB).

(2) Proof of successful completion of a measurement training course and exam and current certification by a proficiency program recognized by the EPA.

(3) Submission of a quality assurance plan meeting the requirements of ANSI/AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA).

(4) Submission of a complete and accurate application form prescribed by the commissioner along with a fee of one hundred dollars (\$100). An application will not be considered complete unless the required fee has been submitted.

(c) If using an instant readout device for radon-222 detection, evidence that the calibration and accuracy tests required by ANSI/AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA) are being met shall be provided to the commissioner yearly. Primary radon tester licensees are not required to be licensed as a laboratory if they are only analyzing the results from their personal instant readout device or electret ion chamber detection devices. (*Indiana Department of Health; 410 IAC 5.1-1-24; filed Oct 27, 1993, 9:00 a.m.: 17 IR 351; filed Apr 16, 1996, 4:10 p.m.: 19 IR 2280; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-25 Certification of radon laboratories**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 25. (a) A radon laboratory must have both a current, active laboratory license from the department and a current, active laboratory certification in order to manufacture monitors for radon-222, or represent or advertise that it can analyze passive monitors for radon-222, after they have been exposed to the atmosphere. If an entity loses or relinquishes its laboratory certification, its Indiana license will be immediately suspended, and will remain suspended until the national certification is renewed or the term of the Indiana license expires, whichever comes first.

(b) The requirements for all entities seeking certification to manufacture or analyze passive radon monitors as a radon laboratory are as follows:

(1) Submission of a sworn affidavit that the entity has read and agrees to adhere to the following standards:

(A) For instrumentation performance specifications: ANSI/AARST "Performance Specifications for Instrumentation Systems Designed to Measure Radon Gas in Air" (ANSI/AARST MS-PC).

(B) For radon measurement quality assurance: ANSI AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA).

(2) Proof of current certification by a proficiency program recognized by the EPA.

(3) Submission of a quality assurance plan meeting the requirements of ANSI/AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA).

(4) Submission of a complete and accurate application form prescribed by the commissioner along with a fee of one hundred dollars (\$100). An application will not be considered complete unless the required fee has been submitted.

(c) Evidence that the calibration and accuracy tests required by ANSI/AARST "Radon Measurement Systems Quality Assurance" (ANSI/AARST MS-QA) are being met shall be provided to the commissioner yearly.

(d) A radon laboratory's results of passive monitors analyzed for radon-222 shall be submitted to the commissioner annually following the procedures outlined in section 28(f) of this rule. (*Indiana Department of Health; 410 IAC 5.1-1-25; filed Oct 27, 1993, 9:00 a.m.: 17 IR 352; filed Apr 16, 1996, 4:10 p.m.: 19 IR 2281; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

#### **410 IAC 5.1-1-26 Certification of radon mitigators**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 26. (a) A radon mitigator must have both a current, active mitigator license from the department and a current, active mitigation certification from an EPA recognized proficiency program before the individual can mitigate for radon-222, or represent or advertise that the individual can mitigate for radon-222, in a building. If an individual loses or relinquishes their mitigation certification through the EPA recognized proficiency program, their Indiana license will be immediately suspended, and will remain suspended until the national certification is renewed or the term of the Indiana license expires, whichever comes first.

(b) The requirements for all individuals seeking certification as a radon mitigator are as follows:

(1) Submission of a sworn affidavit that the individual has read and agrees to adhere to the following standards:

(A) For mitigation in residential buildings: ANSI/AARST "Soil Gas Mitigation Standards for Existing Homes" (ANSI/AARST SGM-SF).

(B) For mitigation in multifamily buildings: ANSI/AARST "Radon Mitigation Standards for Multifamily Buildings" (ANSI/AARST RMS-MF).

(C) For mitigation in schools and large buildings: ANSI/AARST "Radon Mitigation Standards for Schools and Large Buildings" (ANSI/AARST RMS-LB).

(D) For mitigation in the new construction of one and two-family residential buildings: ANSI/AARST "Reducing Radon in New Construction of 1 and 2 Family Dwellings and Townhouses" (ANSI/AARST CCAH) and ANSI/AARST "Rough-in of Radon Control Components in New Construction of 1 and 2 Family Residential Buildings" (ANSI/AARST RRNC).

(E) For mitigation in the new construction of commercial, educational, multifamily, and other large buildings: ANSI/AARST "Soil Gas Control Systems in New Construction and Buildings" (ANSI/AARST CC-1000).

(2) Proof of successful completion of a mitigation training course and exam and current certification by a proficiency program recognized by the EPA.

(3) Submission of a complete and accurate application form prescribed by the commissioner along with a fee of one hundred dollars (\$100). An application will not be considered complete unless the required fee has been submitted.

(*Indiana Department of Health; 410 IAC 5.1-1-26; filed Oct 27, 1993, 9:00 a.m.: 17 IR 352; filed Apr 16, 1996, 4:10 p.m.: 19 IR 2282; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

#### **410 IAC 5.1-1-27 License term and recertification of primary and secondary radon testers, radon laboratories, and radon mitigators**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38-3

Sec. 27. (a) Prior to recertification as a primary or secondary radon tester, radon laboratory, or radon mitigator, the following must occur:

- (1) All licenses issued by the department are valid for a period of two (2) years from the date of issuance.
- (2) If there is a training course and exam and current certification by a proficiency program recognized by the EPA specific to the type of certification being obtained, proof of successful completion of the course is required.
- (3) A complete and accurate application for recertification shall be submitted to the commissioner on a form prescribed by the commissioner and shall include the fee specified in section 23(b)(4), 24(b)(4), 25(c)(4) [25(b)(4)], or 26(d)(3) [26(b)(3)] of this rule, whichever is applicable. An application will not be considered complete unless the required fee has been submitted.

(b) Individuals shall satisfy the requirement for biennial reexamination of primary radon testers, secondary radon testers, radon laboratories, and radon mitigators established in IC 16-41-38-3 if they comply with section 23, 24, 25, or 26 of this rule, whichever is applicable. (*Indiana Department of Health; 410 IAC 5.1-1-27; filed Oct 27, 1993, 9:00 a.m.: 17 IR 353; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; errata filed Jan 28, 2000, 7:48 a.m.: 23 IR 1401; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

#### **410 IAC 5.1-1-28 Certification standards; passive monitors; records; reporting**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 28. (a) No individual or entity required to be certified in accordance with this rule may advertise a service unless the individual has previously obtained a valid certificate from the commissioner to perform that service.

(b) Radon-222 mitigation activities shall be conducted in accordance with the following:

(1) Results of radon-222 tests shall be reported to the commissioner, on a form prescribed by the commissioner, and shall meet the requirements of subsection (f).

(2) Any construction undertaken to mitigate for radon-222 shall be in accordance with all applicable state and local building codes. Such construction shall be conducted or supervised by a certified radon mitigator who, at a minimum, shall be present at the start of such construction and at the conclusion of such construction.

(c) No person or entity may test, analyze, or mitigate radon-222 without first providing evidence that the person or entity is certified in accordance with this rule or that the person or entity has in its employ an individual certified in accordance with this rule who is responsible for the supervision of any such activities.

(d) Prior to conducting any radon-222 testing or mitigation, the certified individual shall give each client a copy of a notice about radon-222 testing and mitigation prepared by the department specifically for that purpose.

(e) A secondary radon tester, primary radon tester, or radon laboratory may only distribute those passive monitors which have been manufactured or prepared by a person who is certified in accordance with section 25 of this rule, or who employs at least one (1) individual who is certified in accordance with section 25 of this rule.

(f) All certified primary radon testers and certified laboratories providing radon-222 services shall submit to the commissioner, on a form approved by the commissioner, the results of all radon-222 screening measurements, follow-up measurements, and post-mitigation measurements, if known. All certified radon mitigators shall submit to the commissioner, on a form approved by the commissioner, any radon-222 mitigation conducted for each calendar year. Said reports must be submitted by January 31 of the previous calendar year. For radon-222 measurements and for any mitigation conducted, the information must, at a minimum, contain the following:

- (1) The name of the certified individual or entity providing the service.
- (2) The complete property address of the building involved.
- (3) The county in which the building is located.
- (4) The type of radon-222 mitigation conducted, if any.
- (5) The type of measurement conducted (initial, follow-up, or post-mitigation) and the results in picocuries per liter.
- (6) The date of last calibration of the detection instrument and the instrument serial number, if applicable.

(g) Records of radon-222 tests, quality assurance plans, calibration measurements, and equipment repairs conducted by a certified secondary radon tester, primary radon tester, or radon laboratory shall be retained by that individual for at least three (3)



years. Records of mitigation conducted by a certified radon mitigator shall be retained by that individual or entity for at least three (3) years. (*Indiana Department of Health; 410 IAC 5.1-1-28; filed Oct 27, 1993, 9:00 a.m.: 17 IR 353; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-29 Remedies; right of entry; reciprocity**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 4-21.5; IC 16-41-38

Sec. 29. (a) The radon certification of any individual or entity may be denied, revoked, or suspended in accordance with IC 4-21.5 if it is determined that the individual or entity:

(1) has engaged in unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the building owner or occupant or the public, including, but not limited to:

(A) intentional placement of testing devices in areas likely to bias results; or

(B) for radon-222 mitigation, performing mitigation activities in existing buildings without prior testing;

(2) does not meet the education, training, and testing requirements for certification;

(3) does not submit annual test data as required;

(4) does not provide the client with a copy of the notice prepared by the department as required by section 28(d) of this rule; or

(5) does not comply with other applicable sections of this rule.

(b) No individual may provide applicable radon-222 testing or radon-222 mitigation services after revocation, denial, suspension, or voluntary surrender of a secondary radon tester, primary radon tester, radon laboratory, or radon mitigator certificate.

(c) No individual or entity whose certification for primary radon tester, secondary radon tester, radon mitigator, or radon laboratory has been suspended or revoked shall be eligible for reinstatement unless that person or entity establishes, to the satisfaction of the commissioner, the following:

(1) The term of suspension prescribed in the order for suspension has elapsed.

(2) The individual or entity has complied fully with the terms, if any, of the order for suspension or revocation.

(3) The individual or entity can be safely recommended to the public as fit to be reinstated and is able to practice its radon-222 business with reasonable skill and safety.

(d) The commissioner, the commissioner's agents, and the commissioner's employees shall have the right to enter, at all reasonable times, in or upon any public or private property, upon presentation of appropriate credentials, to inspect any equipment or records pertaining to radon-222 testing or mitigation, to inspect radon-222 testing laboratories, or to inspect radon-222 mitigation facilities or equipment that have been, or are to be, installed.

(e) A person or entity accredited in another state to perform testing for, or mitigation of, radon-222 may be certified under this rule without passing an examination if:

(1) the person or entity pays the applicable fee;

(2) the state in which the person or entity is accredited maintains an accreditation program substantially similar to the certification program under this rule, as determined by the department; and

(3) the person or entity can document successful completion of a training course and exam and current certification by a proficiency program recognized by the EPA specific to the type of certification being obtained.

(*Indiana Department of Health; 410 IAC 5.1-1-29; filed Oct 27, 1993, 9:00 a.m.: 17 IR 354; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA*)

**410 IAC 5.1-1-30 Civil penalties**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 4-21.5; IC 16-41-38

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Sec. 30. (a) The commissioner may commence an action under IC 16-41-38 to levy civil penalties against an individual who:

- (1) fails to comply with IC 16-41-38 or this rule; or
- (2) interferes with or obstructs the department or its designated agent in the performance of official duties pursuant to IC 16-41-38 or this rule.

(b) A civil penalty in an amount in the appropriate range specified in this section may be sought for each day of each violation documented by the commissioner.

(c) In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the commissioner will consider the following:

- (1) The potential for harm or imminent threat to public health.
- (2) The extent of deviation from statutory or regulatory requirements.
- (3) Degree of willfulness or negligence.
- (4) History of noncompliance.

The absence of direct harm will not result in assessment of a lower penalty for a violation.

(d) Unless adjusted as provided for in subsection (e), all penalties shall be in accordance with the following schedule:

<u>Violation</u>	<u>Rule Citation</u>	<u>Range of Penalty</u>
Interference with department agent	410 IAC 5.1-1-30	\$ 0 to \$1,000
General requirements; exclusion	410 IAC 5.1-1-22	\$ 0 to \$1,000
Certification of secondary radon testers	410 IAC 5.1-1-23	\$ 0 to \$1,000
Certification of primary radon testers	410 IAC 5.1-1-24	\$ 0 to \$1,000
Certification of radon laboratory testers	410 IAC 5.1-1-25	\$ 0 to \$1,000
Certification of radon mitigators	410 IAC 5.1-1-26	\$ 0 to \$1,000
Recertification of primary and secondary radon testers, radon laboratory testers, and radon mitigators	410 IAC 5.1-1-27	\$ 0 to \$1,000
Certification standards; passive monitors; records; reporting	410 IAC 5.1-1-28	\$ 0 to \$1,000
Remedies; right of entry; reciprocity	410 IAC 5.1-1-29	\$ 0 to \$1,000

(e) After determining the appropriate penalty based on the schedule in this section, the commissioner may adjust the penalty to reflect a good faith effort to comply by the individual engaged in radon-222 activities.

(f) Each individual penalty may be multiplied by the number of days the particular violation has been documented by the commissioner.

(g) Penalties for all violations documented in an inspection or series of inspections will be totaled and sought under one (1) cause of action.

(h) After filing an action pursuant to IC 4-21.5, and in an attempt to resolve violations of IC 16-41-38 and this rule without resorting to a hearing, the commissioner may negotiate and enter into agreed orders. An agreed order may suspend all or part of the civil penalty calculated under the requirements and deadlines established in the agreed order.

(i) As provided by IC 16-41-38, an individual who violates this rule commits a Class A misdemeanor. (*Indiana Department of Health; 410 IAC 5.1-1-30; filed Oct 27, 1993, 9:00 a.m.: 17 IR 355; errata filed Nov 9, 1993, 9:00 a.m.: 17 IR 410; errata filed Jan 28, 2000, 7:48 a.m.: 23 IR 1401; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*)

#### **410 IAC 5.1-1-31 Incorporation by reference**

Authority: IC 16-19-3-4; IC 16-41-38-2

Affected: IC 16-41-38

Sec. 31. The following documents are incorporated by reference as part of this rule:

- (1) ANSI/AARST MAH 2019 Protocol for Conducting Measurements of Radon and Radon Decay Products in Homes.
- (2) ANSI/AARST SGM-SF 2017 Soil Gas Mitigation Standards for Existing Homes.
- (3) ANSI/AARST MAMF 2017 Protocol for Conducting Measurements of Radon and Radon Decay in Multifamily Buildings.

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- (4) ANSI/AARST RMS-MF 2018 Radon Mitigation Standards for Multifamily Buildings.
- (5) ANSI/AARST MALB 2014 Protocol for Conducting Measurements of Radon and Radon Decay Products in Schools and Large Buildings.
- (6) ANSI/AARST RMS-LB 2018 Radon Mitigation Standards for Schools and Large Buildings.
- (7) ANSI/AARST CCAH 2020 Reducing Radon in New Construction of One and Two-Family Residential Buildings.
- (8) ANSI/AARST CC-1000 2018 Soil Gas Control Systems in New Construction of Buildings.
- (9) ANSI/AARST MS-PC 2015 Performance Specifications for Instrumentation Systems Designed to Measure Radon Gas in Air.
- (10) ANSI/AARST MS-QA 2019 Radon Measurement Systems Quality Assurance.
- (11) ANSI/AARST RRNC-2020 Rough-in of Radon Control Components in New Construction in One and Two-Family Residential Buildings.

Copies of these documents may be obtained through the AARST Radon Standards website at <https://standards.aarst.org/>.

*(Indiana Department of Health; 410 IAC 5.1-1-31; filed Oct 27, 1993, 9:00 a.m.: 17 IR 356; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; readopted filed Sep 11, 2013, 3:19 p.m.: 20131009-IR-410130346RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; filed Nov 30, 2021, 2:53 p.m.: 20211229-IR-410210023FRA)*

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