

State Radon Laws and Regulations

Policy Strategies for Taking Action To Reduce Radon in Homes

Tobie Bernstein
Environmental Law Institute
November 2012

Trends in State Radon Legislation

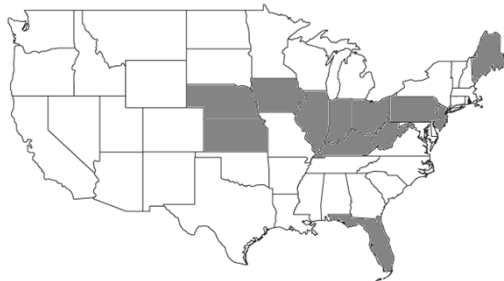
- Federal Indoor Radon Abatement Act – 1988
 - State legislatures begin to take action in late 1980s and early 1990s to address radon health risks
 - Currently, over three-quarters of the states have a law that addresses radon in some way
 - Pace of policymaking has slowed, but new measures continue to be considered and enacted
-

New ELI Report on State Radon Policy

- Purpose of Report
 - To provide information to assist state policymakers and others in establishing laws, regulations, and policies that will result in greater reduction of indoor radon levels in homes
 - Scope/Key Issues Covered
 - Radon Certification
 - Radon in the Real Estate Transaction
 - Radon in Rental Housing
 - Radon Control in New Construction
-

Radon Certification Laws: Overview

- Thirteen States Have Laws that Require Certification and Establish State Programs to Oversee Requirements



- A few other states have third-party certification requirements, but do not have state oversight programs – e.g., CA, CT, VA
-

Radon Certification Laws: Core Provisions

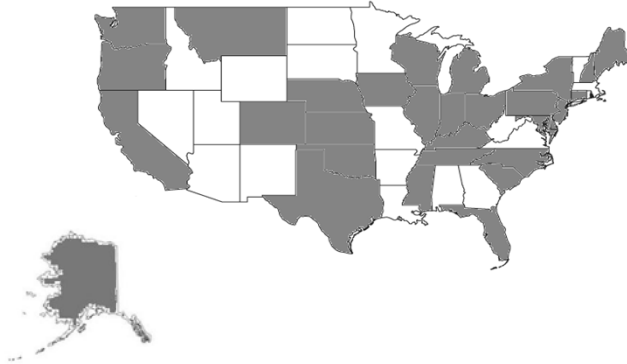
- Minimum Qualifications
 - Courses, Exams
 - Insurance, Financial Responsibility
 - Required Protocols/Practices
 - Testing, Mitigation, Devices
 - QA/QC, Health and Safety
 - Required Reporting to State
 - Testing, Mitigation
 - Enforcement
 - Inspections, Penalties, License Revocation
 - Fees
-

Radon Certification Laws: Future Policy Development

- Majority of States Do Not Require Certification
 - Adoption of State Certification Laws/Programs Are Important for:
 - Creating the **foundation** for additional policy measures
 - Ensuring services provided according to **accepted minimum standards**
 - Providing states with **data** on testing and mitigation activities to assist future policy and program development
 - Issues to Consider in Adopting New Laws
 - Requiring cert. for work on **new construction** as well as existing homes
 - Allocating **resources** to state programs to oversee and enforce laws and to analyze and use reported testing and mitigation data
-

Radon/Real Estate Disclosure Laws Overview

- Over 30 States Have Laws/Regs Requiring Radon Disclosure



Radon/Real Estate Disclosure Laws Core Provisions

- Typically Cover Dwellings with 1-4 Units
 - Some exempt new construction
 - Require Disclosure of **Known** Radon Hazards
 - Testing *Not* Required
 - Some States Require Provision of General Radon Information
 - At least 8 States require warning statements and/or pamphlet
-

Radon/Real Estate Disclosure Laws Future Policy Development

- Most States Have Some Type of Disclosure Requirement
 - Stronger Policies are Important for Taking Advantage of RE Transaction to **Increase Radon Testing** in Existing Dwellings
 - Issues to Consider in Adopting New Laws
 - Disclosure of all known information about radon tests/levels
 - Provision of general warning statement
 - Requirement for signed receipt of radon information by buyer
 - Require testing by sellers
-

Radon/Rental Housing Laws Overview

- Maine Law Requires **Testing and Mitigation** in Rental Units
 - Rental housing must be tested by 2014 and every ten years thereafter
 - Mitigation required if levels at or above 4.0 pCi/L
 - Landlords must notify tenants of testing/mitigation
 - Two States Have Laws Explicitly Requiring Some Form of Radon **Disclosure** to Tenants
 - Illinois: Landlords must make disclosure if test shows a “radon hazard exists,” unless hazard mitigated
 - Florida: Landlords must give new tenants short warning statement
-

Radon/Rental Housing Laws Core Provisions & Future Policy Dev't

- One-third of housing units are rental units
 - Tenants are not authorized to fix radon problems
 - General housing law provisions may not be adequate
 - Issues to Consider in Adopting New Laws
 - Testing and periodic re-testing
 - Mitigation of elevated levels
 - Use of certified professionals
 - Notification to tenants
 - Enforcement
-

Radon/New Construction Laws Overview

- Seven (7) States Have Building Codes Requiring RRNC



- A few other states have adopted model RRNC standards – e.g., FL, VA, ME
-

Radon/New Construction Laws Core Provisions

- “Passive” RRNC System Required – Typically IRC Appendix F
 - Type of Construction Covered:
 - All new residential construction (NJ, OR, WA, IL)
 - Dwelling types covered by IRC (MI, MN, MD)
 - Geographic Scope:
 - Throughout the state (MN, IL)
 - Designated jurisdictions based on radon potential (WA, MI, MD, NJ, OR)
-

Radon/New Construction Laws Future Policy Development

- Many States have State-wide Building Codes and High/Moderate Radon Potential Areas but Still **do not** Require RRNC
 - Key Considerations for Future Policy Development:
 - Active RRNC systems or passive systems with testing
 - RRNC throughout the state or in high & moderate radon zones
 - RRNC for all types of residential construction
 - Disclosure of RRNC system and testing to purchasers
 - Technical assistance and capacity building for local code officials
-

Radon/New Construction State Affordable Housing Finance Policies

- Most States have Programs that help Finance Affordable Housing Construction and Rehabilitation
 - States Establish and Administer Requirements and Selection Criteria for Program Applicants
 - Many States have Incorporated Radon into these Program Criteria as:
 - Requirements
 - Options for Earning Points in Competitive Selection Process
-

Radon/New Construction State Affordable Housing Finance Policies

- Radon Can be Included in a State's General Guidelines for a Range of Affordable Housing Programs
 - Generally apply to new construction *and* rehabilitation projects
 - Typically cover multi-family as well as single-family construction
 - Examples: CT, MN, NY, PA, RI, VA, WA
 - Radon Can be Included in State Policies Targeting Specific Federal Housing Programs
 - Example: Federal Low Income Housing Tax Credit (LIHTC) program
 - A number of states require radon action in their Qualified Allocation Plans (QAPs) for the LIHTC program – Exs: AL, CO, NC
-

Another Radon Policy Opportunity.... Green Building Policies

- The GB Approach has become Widely Accepted in Policy and Practice
 - An Opportunity for Radon Action: GB Integrates Environmental Protection and **Health**
 - State/Local GB Policies can Address Radon by
 - Referencing a **3rd-party GB standard** that includes radon
 - Including explicit radon provision in the policy
-

Radon/Green Building Policy How do GB Standards Address Radon?

- Residential GB **Rating Systems**
 - LEED/Homes
 - Enterprise Green Communities
 - ICC 700/NAHB National Green Building Standard
 - Regional Rating Systems - Exs: GreenPoint Rated (CA), EarthCraft Homes (Southeastern U.S.)
 - New National Green Construction **Codes** & Standards
 - International Green Construction Code (IgCC)
 - ASHRAE 189.1
-

Radon/Green Building Policy State and Municipal Examples

- **Radon/GB Incentives**
 - Reduced Permitting Fees - Ex: Wilmington (OH)
 - Expedited Permitting – Ex: Scottsdale (AZ)
 - Tax Credits – Ex: New Mexico
 - Direct Payments – Ex: New York State
 - **Radon/GB Requirements**
 - General residential building requirements – Exs: Boulder (CO), Conyers (GA)
 - Requirements for state-funded affordable housing
-

Radon Policy Resources from ELI

- New Radon Policy Report Available at:
 - www.eli.org/buildings/reports.cfm
 - Other Related Materials at www.eli.org/buildings
 - Database of State IAQ Laws (incl. Radon) – through 12/11
 - Policy Update: Radon Control in New Home Construction
 - Radon in Rental Housing – report and tenant guide
 - 2008 Report, “Municipal Green Building Policies
-