

3169

RECEIVED
IRRC

Mr. David J. Allard, CHP, Director
Bureau of Radiation Protection
Environmental Quality Board
Rachel Carson State Office Building
16th Floor, 400 Market Street
Harrisburg, PA 17101-2301

2017 JUN 23 AM 10: 22

DEP Proposed Regulatory Changes 2017

Dear Mr. Allard,

I would like to first mention as a member of the AARST National Board of Directors, that the EPA currently recognizes (9) ANSI/AARST National Standards of Practice, and more are currently being developed. You can view the currently recognized standards at <https://www.epa.gov/radon/publications-about-radon>. I am uncertain as to why the PA-DEP does not utilize all of the more current ANSI/AARST Standards instead of relying on several antiquated standards?

Since 1987, when I first entered the world of Radon Mitigation, the EPA, DER/DEP has been telling us that "We are saving lives." So when I look at regulatory changes, I view through the lens of "Are these changes helping or hurting the effort to Save Lives." I fail to see how most of the proposed regulation will aid in the effort to save lives.

240.1 Agree

240.2 Agree

240.3 Agree

240.101 Agree

240.102 I agree with most of the points, however I cannot agree to limiting the number of employees. As long as there is a single certified person in charge, there is accountability. Forcing a Firm to hire a second certified individual could be the business equivalent to training a competitor who could become disgruntled and open up shop down the street and put you out of business. It could get as ugly as a divorce! I do not know that the employee limit would pass a Constitutional challenge, and fear the Department may risk having the entire Radon Regulation thrown out depending on how the case was presented.

240.104 Change 10 days to 10 working days.

240.104 Agree

240.111 I agree with only having one certified person in charge, however I feel that listing an employee prior to the performing any radon related activity put an unnecessary burden on an employer. I typically have them experience what field work is like first hand before I list them. I know of no better gauge than having them on the job for a day or two. I have had an employee quit after one or two days. I have also let employees go after one or two days. It could be because they are afraid or unsafe to be on a ladder or roof, or refuse to seal a crawlspace. Some new hires do not take direction well. At that point, my focus was on finding a replacement, not on what obligation do I have to the State to make sure I don't receive a fine! I feel 10 working days would be a much more

appropriate. A trainee under direct supervision poses no risk to the public. A trainee under the direct guidance and supervision of the firms certified individual will learn more about safety, procedures and processes than any course of test that could ever possibly be offered. And to whom is it more important that the new employee possesses the skill and knowledge to perform up to his employers expectation, the employer or the government? At the end of the day that radon system will have my name on it. Is the certified individuals time better spent instructing the trainee, or sitting at his computer filling out a government reporting form?

240.112 As in 240.102 I agree with notifying the loss of the certified individual, however I cannot agree to limiting the number of employees. As long as there is a single certified person in charge, there is accountability. Forcing a Firm to hire a second certified individual could be the business equivalent to training a competitor who could become disgruntled and open up shop down the street and put you out of business. I do not know that the employee limit would pass a Constitutional court challenge, and fear the Department may risk having the entire Radon Regulation thrown out depending on how the case was presented.

240.113 Agree if 10 days is changed to 10 business days.

240.114 I'm not sure I understand this amendment.

240.121 thru 124 I will defer to the opinion of Certified Laboratories, with the exception that 10 days be changed to 10 business days.

240.132 Grammar is not my strongest suit.

240.133 Agree with change from 10 days to 10 business days.

240.141 Agree

240.142 My employees have there badges with them at all times, but asking the to wear them in attics and crawlspaces means that I will be asking the Department for replacements at a much higher rate of frequency! I am also concerned that if an employee would like a day off, he could simply tell me his badge was lost. The last time I lost my badge, I had a vendor call me and tell me that it was found in their parking lot, and all I had done was load a few boxes into the trunk of my car. I view this requirement as a headache waiting to happen and feel it puts an undue burden on me as an employer. If the wording was changed to "Presented upon request" I would agree with it.

240.143 I will defer to folks with certified devices.

240.201 Agree

240.202 Agree

240.203 Defer

240.204 I would like to agree, however this year I did not receive my renewal packet until it was about 30 days from expiration. I know that was probably due to a changeover in DEP personnel, but technically I would have been in violation, and it was not with my control.

240.205 Agree with the principle, however the wording should be more specific.

240.302 I thought this was covered earlier. I recommend changing the wording to "Should" and "Upon request". What happens if you are called by a Realtor to view a vacant property or a homes owner who gives you access when there is no one present to present your ID? The way it is worded, you will be in violation and it is not within our control.

240.303 I have concerns about changing the existing reporting method. There are frequent times that it is hard to get people to retest right away. Reasons range from real estate transactions that are delayed, home improvements taking place where the new owners will not be capable of maintaining closed house conditions until the renovations are completed, to people who refuse to test until cooler weather because they don't have or choose not to use air conditioning and will not test during that time. It doesn't matter what my guarantee states. I've been told that "radon levels are higher in the Winter, and you just want me to test now so it will pass. If it flunks in January and you don't honor your guarantee I'll take you to court" (expletives' omitted). In the 30 years I have been mitigating I have heard just about everything under the sun, and holding a Mitigator responsible for something that is well beyond any reasonable expectation of their control is an extremely unfair burden.

240.304 Agree

240.305 Even using the highest measured concentration, which does not exist during the time of mitigation because venting the home by opening basement doors and windows is probably in the Workers Safety Program of every mitigator in the State, in 30 years I have never reached more than a fraction of the exposure limits. I view exposure tracking as a totally worthless waste of time and feel the language should be deleted from any regulation. Have you ever seen any exposure tracking that has ever reached 50% of the limit? I seriously doubt it! So why don't you remove this unnecessary burden and let us focus on something a little more productive?

240.306 I agree, but I thought that it was already pretty clear.

240.307 Defer

240.308 Agree but thought this was already quite clear.

240.309 I wholeheartedly agree with every and all ANSI/AARST Standard, and recommend that the wording "within 10 working days" should be the standard verbiage used in any 10 day period imposed by the PA-DEP. ANSI/AARST Standards are developed by folks who know more about radon than anyone in the world. If no one at that level can poke a hole in a proposed Standard, I think it would be wise for the State adopt them all and hold off on changing regulation while the remaining standards are still under review.

240.401 Grammar and punctuation: are, not my 'Best". Subject,

240.501 and 240.502 Agree

240.601 Defer

240.602 Defer

240.603 Agree

240.604 Defer

240.605 Defer

240.606 Defer

Proposed Appendix B Defer

Proposed Appendix C As stated in 340.305, a complete and utter waste of time.

Benefits

I have agreed with every topic that I feel is reasonable. I believe I agree with most of the section where I have deferred because I do not possess the knowledge, experience or expertise of a Certified Tester or Laboratory. I am deeply concerned that the overall tone

of this document seems to be setting a minefield of "gotcha" traps that myself or other could step into and be punished for an inconsequential omission, or a violation, that despite my best efforts, I could be drug into by a strong willed client.

Compliance Costs

The analysis does not come close to what it would really cost. The State fee may only be \$300, but the cost of paying someone salary, continuing education credit, travel costs and expenses to become certified wouldn't stop at \$3000, and then you have just paid to educate your mightiest potential competitor. As I have mentioned previously, I do not think limiting the number of employees will pass a Constitutional challenge. I fail to see how allowing that to potentially happen would be of a benefit to anyone but the attorneys. It certainly wouldn't be doing the taxpayers justice.

215. How does this possibly apply to a radon mitigator?

Back in the earlier days, about 1995 if I recall, I was involved in "Workshops" on the 7th floor of the Rachel Carson Building, working as partners with the State. Our primary objective at that time was developing a "Builders System" which has now become ANSI/AARST RRNC 2.0. It felt like a partnership because it was industry and government working together as a team, for the good of Pennsylvanians, and eventually the world. I have devoted almost my entire adult life to reducing radon induced lung cancer. Much of this new regulation seems very adversarial. Feeling now that I have to turn my attention from providing the best quality mitigation systems for my clients to look over my shoulder and watching every step because the State I have so willingly volunteered my time thru community outreach education, TV newscast on stations that aren't in my work travel radius, volunteering Nationally thru AARST, even before becoming a board member, fighting diligently year after year, at my expense, in Washington DC for SIRG grants... may penalize me... really sucks. What happens if an employee was to quit when the certified individual is on vacation? Or at the International Radon Symposium, or when you are in the hospital? The entire tenor of this proposed regulation is very disturbing. It seems it's intention has nothing to do with saving lives.

Thank you for your time.

Sincerely,



Jay F. Bauder
Bauder Basement Systems, Inc.
110 South Line Road
Ephrata, PA 17522
(717) 949-2011