



Effective: July 4, 2006

West's Florida Statutes Annotated [Currentness](#)

Title XXIX. Public Health (Chapters 381-408)

[Chapter 404. Radiation \(Refs & Annos\)](#)

→ **404.056. Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules**

(1) Standards.--To preserve and protect the public health, the department is authorized to establish, by rule, environmental radiation standards for buildings, and to conduct programs designed to reduce human exposure to such harmful environmental radiation. In the establishment of such standards, the department shall consider:

- (a) Existing federal standards or guidelines.
- (b) The recommendations of nationally recognized bodies which are expert in the field of radiation protection.
- (c) The radiation effect of water supplies.
- (d) The use made, or to be made, of the land for residential dwellings, public or private schools, health care facilities, or other purposes.
- (e) The availability of measures to mitigate the effect of the radiation.

For the purposes of this section, “building” means any structure that encloses space used for sheltering any occupancy. Each portion of a building separated from other portions by a firewall shall be considered a separate building.

(2) Certification.--

- (a) The department may certify persons who perform radon gas or radon progeny measurements, including sample collection, analysis, or interpretation of such measurements, and who perform mitigation of buildings for radon gas or radon progeny, and shall collect a fee for such certification. Before performing radon measurement or radon mitigation services, including collecting samples, performing analysis, or interpreting measurement results, a certified individual must own, be employed by, or be retained as a consultant to a certified radon measurement or certified radon mitigation business. The department may establish criteria for the application, certi-

fication, and annual renewal of basic and advanced levels of certification for individuals, which may include requirements for education and experience, approved training, examinations, and reporting. The department may approve training courses for certification and establish criteria for training courses and instructors. The department may observe and evaluate training sessions, instructors, and course material without charge.

(b) A person may not participate in performing radon gas or radon progeny measurements, including sample collection, analysis, or interpretation of such measurements, or perform mitigation of buildings for radon gas or radon progeny, and charge a fee or obtain other remuneration as benefit for such services or devices, unless that person is certified by the department. A certification issued in accordance with this section automatically expires at the end of the certification period stated on the certificate. An uncertified commercial business may subcontract radon measurements to a certified radon business. The uncertified commercial business must provide the complete radon report from the certified radon business to the client and direct all the client's questions about the measurements or radon report to the certified radon business.

(c) The results of measurements of radon gas or radon progeny performed by persons certified under the provisions of this subsection shall be reported to the department and persons contracting for the service. Upon request, the results of measurements of radon gas or radon progeny which are performed to evaluate the effectiveness of a radon mitigation system shall be reported to the certified business that installed the mitigation system. The report must include the radon levels detected; the location, age, and description of the building; the name and certification numbers of the certified radon measurement business and individual who performed the measurements; and other information determined by the department to meet the requirements of the protocols and procedures for the type of measurement performed. Each installation of a radon mitigation system performed by a person certified under this section must be reported to the department according to the schedule set by the department. The report must include the premitigation and postmitigation radon levels; the type or types of systems installed; the location, age, and description of the building; and the name and certification number of the certified mitigation business that performed the mitigation.

(d) Authorized representatives of the department may inspect the business and records of any person certified under the provisions of this subsection, at all reasonable times, to examine records and test procedures to determine compliance with or violation of the provisions of this section.

(e) Any person who practices fraud, deception, or misrepresentation in performing radon gas or radon progeny measurements or in performing mitigation of buildings for radon gas or radon progeny is subject to the penalties provided in [s. 404.161](#).

(f) The department may charge and collect nonrefundable fees for the certification and annual recertification of persons who perform radon gas or radon progeny measurements or who perform mitigation of buildings for radon gas or radon progeny. The amount of the initial application fee and certification shall be not less than \$200 or more than \$900. The amount of the annual recertification fee shall be not less than \$200 or more than \$900. The fee amounts shall be the minimum fee prescribed in this paragraph, and such fee amounts shall re-

main in effect until the effective date of a fee schedule promulgated by rule by the department. The fees collected shall be deposited in the Radiation Protection Trust Fund and shall be used only to implement the provisions of this section. The surcharge established pursuant to [s. 553.721](#) may be used to supplement the fees established in this paragraph in carrying out the provisions of this subsection.

(g) The department may establish enforcement procedures; deny an application for initial or renewal certification; deny, suspend, or revoke a certification; or impose an administrative fine not to exceed \$1,000 per violation per day, for the violation of any provision of this section or rule adopted under this section.

(h) A certificateholder in good standing remains in good standing when he or she becomes a member of the Armed Forces of the United States on active duty without payment of renewal fees as long as he or she is a member of the Armed Forces on active duty and for a period of 6 months after his or her discharge from active duty, if he or she is not engaged in practicing radon measurement or radon mitigation in the private sector for profit. The certificateholder must pay a renewal fee to renew the certificate.

(i) A certificateholder who is in good standing remains in good standing if he or she is absent from the state because of his or her spouse's active duty with the Armed Forces of the United States. The certificateholder remains in good standing without payment of renewal fees as long as his or her spouse is a member of the Armed Forces on active duty and for a period of 6 months after the spouse's discharge from active duty, if the certificateholder is not engaged in practicing radon measurement or radon mitigation in the private sector for profit. The certificateholder must pay a renewal fee to renew the certificate.

(j) The department may set criteria and requirements for the application, certification, and annual renewal of certification for radon measurement and mitigation businesses, which may include:

1. Requirements for measurement devices and measurement procedures, including the disclosure of mitigation materials, systems, and other mitigation services offered.
2. The identification of certified specialists and technicians employed by the business and requirements for specialist staffing and duties.
3. The analysis of measurement devices by proficient analytical service providers.
4. Requirements for a quality assurance and quality control program.
5. The disclosure of client measurement reporting forms and warranties and operating instructions for mitigation systems.

6. Requirements for radon services publications and the identification of the radon business certification number in advertisements.

7. Requirements for a worker health and safety program.

8. Requirements for maintaining radon records.

9. The operation of branch office locations.

10. Requirements for supervising subcontractors who install mitigation systems.

11. Requirements for building code inspections and evaluation and standards for the design and installation of mitigation systems.

12. Prescribing conditions of premitigation and postmitigation measurements.

13. Requirements for renewals received after the automatic expiration date of certification.

14. Requirements for obtaining a duplicate or replacement certificate, including a fee not to exceed the cost of producing the duplicate or replacement certificate.

15. Requirements for reporting, including timeframes and content.

(k) Any change in the information provided to the department in the original business application to be reported within 10 days after the change.

(3) Public information.--The department shall initiate and administer a program designed to educate and inform the public concerning radon gas and radon progeny, which program shall include, but not be limited to, the origin and health effects of radon, how to measure radon, and construction and mitigation techniques to reduce exposure to radon. The surcharge established pursuant to [s. 553.721](#) may be used to supplement the fees established in paragraph (2)(f) in carrying out the provisions of this subsection.

(4) Mandatory testing.--All public and private school buildings or school sites housing students in kindergarten through grade 12; all state-owned, state-operated, state-regulated, or state-licensed 24-hour care facilities; and all state-licensed day care centers for children or minors which are located in counties designated within the Department of Community Affairs' Florida Radon Protection Map Categories as "Intermediate" or "Elevated Radon Potential" shall be measured to determine the level of indoor radon, using measurement procedures estab-

lished by the department. Initial measurements shall be conducted in 20 percent of the habitable first floor spaces within any of the regulated buildings and shall be completed and reported to the department within 1 year after the date the building is opened for occupancy or within 1 year after license approval for the entity residing in the existing building. Followup testing must be completed in 5 percent of the habitable first floor spaces within any of the regulated buildings after the building has been occupied for 5 years, and results must be reported to the department by the first day of the 6th year of occupancy. After radon measurements have been made twice, regulated buildings need not undergo further testing unless significant structural changes occur. No funds collected pursuant to [s. 553.721](#) shall be used to carry out the provisions of this subsection.

(5) Notification on real estate documents.--Notification shall be provided on at least one document, form, or application executed at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification shall contain the following language:

“RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.”

The requirements of this subsection do not apply to any residential transient occupancy, as described in [s. 509.013\(12\)](#), provided that such occupancy is 45 days or less in duration.

(6) Rules.--The department shall have the authority to promulgate rules necessary to carry out the provisions of this section, including the definition of terms.

CREDIT(S)

Laws 1984, c. 84-190, § 4; [Laws 1988, c. 88-285, § 1](#); [Laws 1991, c. 91-40, § 15](#); [Laws 1991, c. 91-145, § 3](#); [Laws 1991, c. 91-222, § 1](#); [Laws 1992, c. 92-173, § 28](#); [Laws 1993, c. 93-120, § 19](#); [Laws 1995, c. 95-269, § 31](#); [Laws 1995, c. 95-339, § 1](#); [Laws 1997, c. 97-101, § 106](#); [Laws 1997, c. 97-103, § 21](#); [Laws 1997, c. 97-237, § 57](#). Amended by [Laws 1998, c. 98-151, § 24, eff. July 1, 1998](#); [Laws 1999, c. 99-329, § 14, eff. June 11, 1999](#); [Laws 2000, c. 2000-153, § 41, eff. July 4, 2000](#); [Laws 2000, c. 2000-242, § 29, eff. June 7, 2000](#); [Laws 2000, c. 2000-372, § 27, eff. July 1, 2000](#); [Laws 2001, c. 2001-53, § 19, eff. July 1, 2001](#); [Laws 2001, c. 2001-89, § 29, eff. June 30, 2001](#); [Laws 2002, c. 2002-1, § 66, eff. May 21, 2002](#); [Laws 2004, c. 2004-350, § 37, eff. July 1, 2004](#); [Laws 2006, c. 2006-1, § 47, eff. July 4, 2006](#).

HISTORICAL AND STATUTORY NOTES

Prior Provisions for Legislative Review of Regulatory Statutes:

Laws 1988, c. 88-285, § 3, provided for repeal of subsec. (3) [now subsec. (2)] on Oct. 1, 1994, and provided

for review of the Florida coordinating council on radon protection by the legislature pursuant to § 11.611, the Sundown Act.

Laws 1991, c. 91-429, provided that, notwithstanding the Sundown Act or any other provision of law enacted before Jan. 14, 1992, which scheduled subsec. (3) [now subsec. (2)] for expiration or repeal, subsec. (3) [now subsec. (2)] would not expire or stand repealed as scheduled by such laws, but was revived and readopted.

Sections 11.61 and 11.611, the sunset and sundown review provisions, were repealed effective on the day following the day of adjournment sine die of the 1993 regular session of the legislature by Laws 1991, c. 91-429.

Preamble (Laws 1988, c. 88-285):

“WHEREAS, notification of the presence of radon to persons acquiring or selling real estate may protect the public health, NOW, THEREFORE.”

“WHEREAS, radon gas enters homes and buildings through exposures in foundations, decays to form radon progeny, and, unless exposed to the atmosphere, accumulates in structures and becomes hazardous to human health, and

“WHEREAS, prolonged exposure to elevated concentrations of radon decay products has been associated with increases in the risk of lung cancer, and

“WHEREAS, the State of Florida has established certain guidelines for exposure, and has begun a research strategy to develop building codes for radon-resistant buildings, and

“WHEREAS, the lack of statistically reliable scientific data impedes Florida's development of building codes for radon-resistant buildings, and

“WHEREAS, additional time and resources are needed to devote to research efforts toward development and adoption of appropriate building codes for radon-resistant buildings, and

“WHEREAS, until such time as appropriate codes are adopted, the building industry and the public need access to a primary repository of information so that information concerning building techniques and living conditions can be collected and disseminated to the building industry and the public, and

“WHEREAS, other states' experiences with radon testing and mitigation companies have proven that the possibility exists for fraudulent operations, and

“WHEREAS, there is a need to test and certify persons employed by companies that perform radon testing and mitigation, and


“WHEREAS, primary and secondary schools and certain 24-hour care facilities require testing for the presence of radon, and

“WHEREAS, notification of the presence of radon to persons acquiring or selling real estate may protect the public health, NOW, THEREFORE.

CROSS REFERENCES

Minimum building codes, surcharge, see [§ 553.721](#).

LIBRARY REFERENCES

Health and Environment  25.5(7), 31.

Westlaw Topic No. 199.

[C.J.S. Health and Environment §§ 37-40, 44, 47, 91, 106, 129](#).

West's F. S. A. § 404.056, FL ST § 404.056

Current through Chapter 243 (End) of the 2009 First Regular Session of the Twenty-first Legislature.

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