State Radon Laws and Regulations

Policy Strategies for Taking Action
To Reduce Radon in Homes

Tobie Bernstein
Environmental Law Institute
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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
• 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

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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