



INFORMATION NOTICE 2021-001

May 14, 2021

Waiver Requirements for Disclosure of Mitigation Work and Radon Testing related to Mitigation Work

The Iowa Department of Public Health (IDPH) is issuing this information notice to clarify instances in Chapter 44, where a signed waiver from the building owner for specific acts may be required. Copies of these signed waivers must be maintained for 5 years. It is expected that recipients will review the information for applicability to their individual situations and consider actions as appropriate. No written response to this notice is required.

DEFINITIONS AND APPLICABLE RULES:

Per IAC 641 Chapter 44 MINIMUM REQUIREMENTS FOR RADON MITIGATION:

641—44.3(136B) General provisions.

44.3(5) A credentialed person shall:

c. Not disclose to any other person, except to the department or its agents, the addressee or owner of a nonpublic building, the radon levels present in the building or abatement measures needed or performed, unless the building owner waives this right of confidentiality in writing.

d. Ensure that each building is tested for radon levels before and after mitigation work is performed. Such tests shall be of sufficient type, duration and consistency and shall be performed at such times and under such ventilation conditions as to allow for comparison of before and after mitigation radon levels. Premitigation and postmitigation radon tests shall be performed independently by a measurement specialist or technician who is not employed by the same firm as the mitigation specialist performing the mitigation. Postmitigation radon tests shall be started no sooner than one day after mitigation is completed. This requirement is not binding if the building owner waives the procedure, on a form prescribed by the department, before the mitigation process has started.

641—44.6(136B) Additional record-keeping requirements. A credentialed radon mitigation specialist shall maintain, for five years, a report of each mitigation activity which includes, but is not necessarily limited to:

4. The name of the certified radon measurement specialist or technician used to perform radon or radon progeny testing before and after radon mitigation of a building. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

5. The results of any initial or follow-up radon or radon progeny measurements performed and the measurement methods utilized. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

6. The results of the postmitigation radon measurements performed, including method of measurement and all pertinent dates. This requirement does not apply if the building owner has waived the testing requirement set forth in 641—subrule 44.3(5) and the mitigation specialist maintains a copy of the signed waiver.

DISCUSSION:

Therefore a waiver would be needed to be signed by the building owner for any of the following scenarios and before the mitigation process has started for 2-4:

1. Releasing any of the information outlined in item A above to anyone but the building owner.
2. Owner agrees to not having a premitigation test done by a certified measurement specialist (i.e.: has done their own passive test).
3. Leaving a test kit for the owner or the owner obtaining his own test kit to perform the postmitigation test.
4. When you or other member of your staff have performed the premitigation test or will perform the postmitigation test. (Reminder: you have to be certified as an Iowa Radon Measurement Specialist to perform pre or post mitigation testing)

It is important that any waiver clearly states which of the above rights or procedures the building owner is waiving.

An example waiver can be downloaded here: <https://www.idph.iowa.gov/radon/get-certified> under the “Resources for applicants and certified/credentialed individuals” section at the bottom of the page. It is a .ZIP file labeled Mitigation Confidentiality and Testing Waiver Example.

New Credential Applicants

Examples of the waiver(s) you will use must be provided with your application and the use of any waiver(s) must be referenced in your mitigation QA\QC plan outlined in section 2.6 of the “Application Guide for Obtaining a Credential as a Radon Mitigation Specialist”. A copy of the guide can be obtained here: <https://www.idph.iowa.gov/radon/get-certified>

Currently Credentialed Individuals

Your mitigation QA\QC plans should be amended if necessary to reflect current business practices relating to the use of the above mentioned waivers and compliance with Chapter 44 section 44.3(5).

Persons determined to be in violation of the requirements of 641 IAC Chapter 43 or 44, to include the above requirements, may be subject to denial, suspension, revocation, or modification of one or both credentials.

If you have any questions regarding the above, please contact Angela Leek at (515) 371-2255 or angela.leek@idph.iowa.gov.

Please read this information notice carefully and consult the IDPH website for rules cited in this notice.

FAILURE TO ADHERE TO THE APPLICABLE RULES MAY RESULT IN ENFORCEMENT ACTION



Angela Leek, Chief