

Date/Time: February 10, 2022 10:00AM

Location: Virtual via webex

ATTENDEES

Cindy Costello, NYSDOH, Task Force Liaison
Alex Damiani, NYSDOH
Christine Dobert, NYSDOH
David Ohehir, NYSDOH
Gary Ginsburg, NYSDOH Designee.

Christine Westerman, NYSDOH
George G. Schambach
Richard "Dick" Kornbluth, Retired Mitigation
John Addario, Secretary of State Designee

AGENDA

10:00 AM Welcome & Introductions

10:15 AM Review/Approval of Minutes

10:30 Agency Role in Licensing (DOH, DOS, DEC, DOL, SED, others?)

12:00 PM Lunch

12:30 PM Finalize Recommendations of the Task Force (Tester & Mitigator Licensing)

1:00 PM Review of Draft Legislation

1:45 PM Next Steps

2:00 PM Adjourn

Meeting link: <https://meetny.webex.com/meetny/j.php?MTID=m0494064dfd22399b05b649e31d0a5a61>
Meeting number: 161 565 7879 Password: February2022 Join by phone +1-518-549-0500 USA Toll Access code: 161 565 7879

Notes:

- Meeting Start at 10:02 AM
- Introductions

- Selica Grant was not able to attend
- Review of Minutes from 01-06-22 meeting
 - Minutes accepted
- Review of Radon Task Force Report
 - Dick Kornbluth added language
 - Option 1
 - Advantage
 - Enable state to track where certified professionals are working
 - Disadvantage
 - In the absence of licensing requirements of the business, there is no way to ensure that all work is being supervised and done by certified individuals
 - In the absence of licensing requirements of the business, there is no way to enforce requirements that work is done to national standards
 - Option 2
 - Advantages
 - Adherence to testing and mitigation standards would be required by the license
 - Enables licensing agency to create a probationary period where a certain percentage of the first X projects can be inspected either in-person or remotely using pictures and documentation.
 - Testers currently have to provide a QA plan as part of ELAP requirements. This will extend that requirement to mitigation businesses also.
 - Oversight agency can require businesses to provide customers with information fact sheets about testing protocols and installation standards as part of the contract process and document that customers have received them.
 - Increases likelihood that work will be done to standards
 - Disadvantage
 - Additional cost to monitor and enforce business compliance
 - Option 3
 - Advantages
 - Same as for option 2
 - Easier to track where certified professionals are working, although this could still be done in Option 2 by requiring licensed businesses to supply list of certified employees.
 - Can suspend license of Technician without having to address license issues of business technician is working for (Advantage for business)
 - Disadvantage
 - Expense of monitoring and enforcement greater than in option 2
 - Difference between option 2 and 3
 - Licensing individual vs business
 - Can only take action against the business, not the individual

- Pennsylvania
 - Licensed business requires to list employees and roll. Each employee is given an “NRP” number.
 - George is accepting for option 2
 - Advantage to have license of individuals is putting the credentials upfront and less work later on.
 - Option 3
 - Advantage
 - access control for the individual for “bad apple”
 - Puts responsibility on business and individual
 - Change option 2
 - Qualify should be certified and/ or licensed
 - Business can qualify for license and employee needs to be certified
 - Accept the draft with future changes
 - Option 3 may be most advantageous
 - Include the suggested edits
- Agency Role in Licensing
 - Disadvantages are similar across multiple agencies
 - Add preamble disadvantages
 - Common barriers for each agency (economic, staffing, etc.)
 - Note that it will be required to be built up
 - Waiting on Whitney (Dept of State) comments
 - State Ed.
 - Not there area, but will have board of license look into the program
 - Not normally licensing of the trades
 - Main disadvantage- only licensing for professionals that go through formal NYSED programs. Limited to higher education programs
 - DEC
 - Most expertise in Radon mitigation
 - Possible role in overseeing inspections and enforcement
 - Routinely oversees installation of sub-slab depressurization systems for soil vapor intrusion. Same system used for radon mitigation
 - Not a high priority due to low staffing.
 - Will required follow up with DEC
 - Possible oversight by multiple agencies
 - Radon testers are mostly also home inspections (oversaw by Dept of State)
 - Specialized license
 - Not enforcement of test itself, but operation without certification/license would need enforcement
 - Similar to the home inspector
 - DOS would have it as a separate program and still opposed to the undertaking
 - Does not believe it can be folded under home inspectors
 - Needs more specifications on difficulties for agency
 - DOL
 - Already licenses specialist (mold, asbestos etc.)

- Can inspect mitigators and oversight for employee health and safety
- No perfect solution and give legislation as much data and reasons for them to make the decision
 - IF task force can not make a clear recommendation
- Report does not have a written proposal for multi-agency proposal
- Need other agencies to weigh in
- Home inspector violation
 - If licensed and there is a concern an arbitration is set up
 - If not licensed, application to get licensed
 - What is the statutory language? Penalty?
 - Any oversight?
 - Complaint driven
- Approx 200 mitigators, approx. 1000-1200 testers (mainly home inspectors)
- Pros and Cons for multi-agency overview for mitigators
 - Cross-check how many mitigators are certified?
 - How many does multi remediation (mold, asbestos etc.)
 - DOH has a list of NRPP/AARST that are certified (some wish not to be listed)
 - Larger question, how many are not certified?
 - Possible to talk with radon fan sellers for list
 - Is there an agency better equip to find uncertified
 - DOL- list both mold/ asbestos testers and mitigators
 - Asbestos/ mold licensing
 - Certification of company and individuals
 - Mold- not a lot of inspection or enforcement
 - Asbestos- enforcement and inspection program
 - Inspect 3% on complaint basis
 - Inspectors in regions
 - Engineers on staff for technical questions
 - Contract with DMV to issue the license
 - Add summary points to report
 - Can be dually certified but cannot be the same company for tester and mitigation
 - Involved due to workforce risk and public safety
 - DOL oversight for amusement “equipment”
 - Radon standards
 - If over 50 pci/l, employee needs to ventilate the workspace and track working minutes for time and exposure
 - Required by OSHA. Pa requires it.
 - NYSDOH PART 16
 - Does have a limited exposure
 - Does not apply to radon testers and mitigators
 - Exclusive to licensed and controlled material
 - OSHA rules would step in where DOH lack oversight
- Draft advantages/ Disadvantages for solo agency vs. multi- agency

- Disadvantage
 - Program funding being split
- Advantage
 - Testers are in line with home inspectors DOS. Added to same program and license
 - DOS does not believe radon testers can be dove-tailed into the existing program
 - Mitigators are in line with DOL
 - DOH has a passive tracking of mitigators/ testers
- Keeping it solo will keep it simplify and models similar to asbestos/ mold
- Enforcement of civil law
 - Offender taken to Admin general judge, could be followed by criminal law by AG
 - DOS cant take enforcement for uncertified individual
 - DOL may be similar to DOH for rad-tech licensing
- Need agencies to provide:
 - Correct languages on program roles
 - Pros and cons using technical reasoning
 - AARST/ NRPP- Will they be including the vapor intrusion (VOC) workforce
 - VOC trade is not certified currently
 - Outside agencies give recommendation and oversight
- How much VOC workforce is also in radon?
- Need DEC representative for next meeting
- Draft will be developed
- Moving forward
 - Interagency coordination of outreach and education
 - Summary of Indoor Air quality Grant
 - DOS can add text regarding Consumer Protection
 - NYSEDA had a pilot program for home indoor air quality
 - AARST has a grant for outreach
 - Outreach through medical community - physician/ patient conversation
 - Other programs that have radon outreach
 - American Lung Association, Cancer...
 - Housing and community renewal
 - DOS outreach through local code enforcement
 - Attempt to get into builder community
 - Real estate
 - Monthly DOH commissioners to physicians includes radon education
 - Code physicians in high radon areas to send booklet to more targets audience
 - 80,000 licensed physicians in NYS
 - Send CR3 magazine to physicians
 - Freedom on information request
 - Send radon to remodeling companies

- Due to nature of putting radon mitigation after a fully finished basement
 - Discussion of enforcement
 - Agency can decide to higher own inspectors or contract with AARST mitigator inspection program
 - Should be licensed already
 - Summary for post lunch
 - Review of draft legislation
 - Article 37 was shared for language guidance
 - Past legislation with radon
 - Home disclosure laws
- Meeting break for lunch at 12:11 AM
- Meeting Returned at 12:45 PM
 - Proposed Radon Legislation 2021-2022
 - A00095 and A00331 relates to Radon and the use of Natural Gas
 - Few are on daycare facilities and schools
 - Common theme testing of facilities, not fully detailed
 - DOH does work with early childhood education program
 - Daycare testing and education for Zone 1 facilities
 - A01194 radon and well water testing
 - Some states have laws with water and radon limitations
 - NYS does have regulation of radiation and water excluding radon
 - George seconds the inclusion of radon in water testing
 - There is no set number for action guidelines
 - National standard is 40,000 pci
 - ANSI owns the national standard
 - EPA 300-4,000 pci
 - Vt is 4,000 standard
 - Put in a recommendation to review radon in water
 - Public vs Private water
 - Radon in Schools and daycares
 - S05390 School must be aware of radon potential by reviewing radon map
 - No requirement for testing and mitigation
 - Various studies have been done on school testing
 - Iowa passed legislation to test all schools for radon
 - NYS has not passed probably due to financial concerns
 - Any literature work? Surveys completed?
 - 7 states require school testing, IA will be 8.
 - Daycares in NYS
 - Already require to do an environmental assessment themselves; including if located in zone 1 (listed by towns), testing for Radon
 - If test above 4, required to install mitigation and show proof to get license
 - Large portion of daycares are in homes
 - Adopted by OCFS
 - NYC does not test for radon and radon in water

- Draft to include radon in schools
 - Language and cost
 - Draft to include radon in water
 - Not making a requirement, but a guidance document for reference if chosen to test
 - Who is the collecting the sample, testing and the analytical (certified by ELAP)
 - More ways to collect wrong and have contamination can skew results
- Radon Regulation through Licensing and Certification
 - Definitions provided and need editing
 - Remove “laboratory analysis”
 - “Measurement device” remove soil
 - “Proficiency program” what is the certifying body?
 - “standard” according to the ANSI is not the only guiding standard. Give flexibility.
 - Accepted by the Department
 - Improve language to require license after effective date
 - Licensing of Business and individual
 - Section 3(2)(c) edit language for business to have general liability insurance policy, not every single license individual
 - Section 3 (3)(c) Quality assurance plan to send Blanks & duplicates be the responsibility of the business not the individual
 - Section 3(3)(g) need to make sure use of CRMS and electrets are certified by ELAP
 - Section 6 Requires more clarification and review by lawyer
 - Section 7- regulation not law
 - Section 8- ensure consistent with similar laws
 - Refer to Attorney general not circuit court
 - Section 9- conduct inspections of mitigation system installations
 - Do not have authority to enter private residences without permission
 - No authority to turn off the mitigation system or order turning off system
 - Section 11- regulation
 - Section 12- not a radon control agency. Substitute Agency Authority
 - Section 13- revenue account and cost recovery
 - Match other legislations
 - Section 14- removing advisory boards
- NEXT Steps
 - Review regulation
 - Include DOL, DEC on next meeting
- Meeting Adjourn at 2:12 PM
- Next meeting remotely pending rules and covid