

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 218 AND 240]

Radiological Health and Radon Certification Fees; Pennsylvania Radon Mitigation System Fee

The Environmental Quality Board (Board) amends Chapters 218 and 240 (relating to fees; and radon certification) to read as set forth in Annex A. The amendments to Chapter 218 will increase the annual fees for radioactive material licenses, with one exception, and increase the hourly rate professional fee associated with certain full cost recovery licenses. The amendments to Chapter 240 will increase the application fees for certification of radon services and add a new requirement and fee for active mitigation systems installed or passive mitigation systems converted to active mitigation systems in this Commonwealth.

This order was adopted by the Board at its meeting of June 20, 2017.

A. *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact Joseph Melnic, Chief, Division of Radiation Control, P.O. Box 8469, Rachel Carson State Office Building, Harrisburg, PA 17105-8469, (717) 783-9730; or Keith Salador, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8075. This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. *Statutory Authority*

This final-form rulemaking is adopted under the authority of section 301, 302 and 401 of the Radiation Protection Act (RPA) (35 P.S. §§ 7110.301, 7110.302 and 7110.401), which directs the establishment of fees in amounts at least sufficient to cover the costs of the radiation protection programs mandated by the RPA and review of those fees every 3 years; section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which directs the Board to formulate, adopt and promulgate rules and regulations as may be determined by the Board for the proper performance of the work of the Department; and sections 8, 12 and 13 of the Radon Certification Act (RCA) (63 P.S. §§ 2008, 2012 and 2013), which direct the Department to establish fees in amounts sufficient to cover the costs of the certification programs established by the RCA.

D. *Background and Purpose*

On August 19, 2014, the Department presented its Three-Year Regulatory Fee and Program Cost Analysis Report (Report) to the Board. The Report indicated that, despite substantial increases in personnel and program costs, the Chapter 218 fees, which support the licensing and inspection of radioactive materials, and the Chapter 240 fees, which support radon testing and mitigation

certification, have not been amended since 2009. As a result, the Radiation Protection Fund is decreasing annually in operating reserves. Without a fee increase, the Department would be required to curtail spending for needed equipment, infrastructure upgrades, training and hiring of qualified personnel. This final-form rulemaking addresses these problems by increasing the fees in Chapters 218 and 240 to meet RPA and RCA requirements to adequately fund the licensing and inspection of radioactive materials and the certification of individuals who perform radon-related activities.

In March 2008, Governor Rendell signed an agreement with the Chairperson of the United States Nuclear Regulatory Commission (NRC) for the Commonwealth to oversee and regulate licensure of radioactive materials for entities in this Commonwealth. These duties are funded through the Chapter 218 license fees and include registration and inspection of X-ray facilities, licensing and inspection of accelerators, registration of radiation-producing machine service providers, and licensing and inspection of radioactive material users. As part of the agreement with the NRC, the Commonwealth implements a radiation protection program comparable to the NRC's program and ensures that Commonwealth regulations are compatible with NRC regulations.

The amendments to the Chapter 218 fees for radioactive material licenses are necessary to assure adequate funding is available for the Commonwealth to carry out its duties under the agreement with the NRC. Approximately 850 licenses have been issued for radioactive material users that have associated annual fees. The professional hourly rate fee that supports required full cost recovery for unique services that cannot be standardized is an important component to the Chapter 218 fees. Examples of the professional hourly rate fee include the evaluation, inspection and licensing of high-energy accelerators and decommissioning activities at contaminated sites. If the Commonwealth were forced to cede its authority to regulate radioactive materials back to the NRC, the regulated community would experience higher costs per the NRC's fees in its regulations, which are approximately 50% higher than the Department's former fees. Further, the NRC's fees typically increase by 6–8% annually. The NRC's current fees are approximately 24% higher than the fees in this final-form rulemaking.

The Chapter 240 fees collected biennially are used by the Department to ensure that contractors and firms performing radon testing and remedial work are qualified to perform those services. The Chapter 240 fees are also used to perform outreach and to provide public service announcements to encourage homeowners to test for and mitigate radon contamination. The Chapter 240 fee revenue did not fully cover the Department's Radon Program costs. Without this fee increase, it would be difficult to provide effective quality assurance for the Statewide radon program, data reporting and quality of radon mitigation. Approximately 720 certified radon service providers are subject to the certification fees.

The final-form amendments to the radiological health regulations in Chapters 218 and 240 were reviewed by the Department's Radiation Protection Advisory Committee (RPAC). RPAC represents various stakeholders, including radioactive materials licensees and radon service providers, as well as the general public. The Department

presented the final-form rulemaking to RPAC on November 17, 2016. RPAC endorsed moving forward with the final-form rulemaking.

E. Summary of Changes to the Proposed Rulemaking

Chapter 218, Appendix A. Fees for radioactive material licenses

Amendments have not been made to the fees in this final-form rulemaking. "Specific License" is deleted from fee category 7C based on feedback from RPAC. RPAC noted that general licenses are not covered by this category and therefore the inclusion of "specific license" is not necessary.

§ 240.303. Reporting of information

Proposed § 240.303(a)(7) (relating to reporting of information) included the serial number of the Pennsylvania Radon Mitigation System Tag as a reporting requirement. This proposed paragraph is not adopted due to the removal of the proposed requirement of a Pennsylvania Radon Mitigation System Tag to be placed on a newly installed or converted radon mitigation system in this Commonwealth.

§ 240.309. Radon mitigation system fee

Proposed § 240.309 (relating to radon mitigation system fee) contained the requirements for Pennsylvania Radon Mitigation System Tags to implement the new \$50 radon mitigation system fee. The Board received several comments that raised concern over the logistical and administrative burdens that the tags would place on the Department and the regulated community. This section has been revised in this final-form rulemaking to remove the use of a mitigation tag for payment of the \$50 fee. This final-form rulemaking requires payment of the fee to the Department using a form created for this purpose. The Department must receive the fee and the form within 10 business days of the end of the quarter in which an active mitigation system is installed or a passive mitigation system is converted to an active system. This revision to this final-form rulemaking reduces the logistical and administrative burdens that would have been posed by requiring a mitigation tag while retaining the \$50 mitigation system fee needed to adequately fund the radon certification program.

Chapter 240, Appendix A. Radon certification fee schedule

Amendments have not been made to the fees in this final-form rulemaking. The radon mitigation fee no longer includes the mitigation tag and has been revised consistent with the change to § 240.309.

F. Summary of Comments and Responses on the Proposed Rulemaking

The proposed rulemaking was approved by the Board on April 19, 2016, and published at 46 Pa.B. 3509 (July 2, 2016). Public comments on the proposed rulemaking were accepted through August 30, 2016. No public meetings or hearings were held. The Board received comments from 40 commentators during the public comment period and the Independent Regulatory Review Commission (IRRC). These comments were considered and are addressed in a separate comment and response document.

Most commentators were opposed to the Chapter 240 radon fee increase. A few commentators raised concerns about the effect of the fee increases for Chapter 218 radioactive material licenses on competition within the industry and on small businesses. While the Chapter 218 fees are increasing, most fee categories are significantly lower than the corresponding NRC fees. In addition, fee

categories SB1 and SB2 are available for small businesses to obtain a radioactive materials license at a reduced cost. Lastly, section 401 of the RPA requires license fees to be established "in an amount at least sufficient to cover the department's costs of administering the programs."

Regarding the Chapter 240 fees, commentators raised concerns over the fee increase and new radon mitigation fee's impact on real estate transactions and on the regulated community itself. Section 8 of the RCA requires the establishment of "a fee schedule to cover the costs of the certification programs." Additionally, the cost of testing for radon and installing a mitigation system, if needed, is a small percentage of the overall costs of real estate transactions and should not be an impediment to homeownership. Radon testing and radon mitigation systems provide significant benefits to the health and safety of homeowners. By testing for radon, a serious health concern can be identified. The United States Environmental Protection Agency and other National and international health and radiation safety organizations have declared radon to be the second leading cause of lung cancer after smoking, and the leading cause of lung cancer in nonsmokers. Residents in this Commonwealth are at risk because the radon levels in this Commonwealth are much higher than most other parts of the United States. If a mitigation system is needed and installed, the health concern can be mitigated. This benefit to the purchaser and any future occupants of the home outweighs the cost of the increased fee.

Several commentators were concerned about the logistics and benefit of the new radon mitigation tag. The requirement for a radon mitigation system tag has been deleted and this final-form rulemaking requires the certified mitigator to pay the \$50 fee when each active mitigation system is installed or when each passive mitigation system is converted to an active mitigation system. Payments shall be made within 10 business days of the end of the quarter in which the installation or conversion was performed.

Several commentators and IRRC were concerned that the increase in costs associated with testing for and mitigating radon exposure would discourage the public from seeking those services. The Department did not experience a decrease in the amount of reported mitigation installations and tests after the last radon certification fee increase in 2009. This fee increase is not expected to discourage testing and mitigation and will continue to be monitored.

Several commentators and IRRC asked what the Department has done to reduce costs and improve efficiency of the program. Based on the Department's fee analysis, personnel costs (salaries and benefits) are the largest cost item and have increased approximately 45% since 2009. The Department is continually analyzing its administrative processes, equipment and technology to identify areas to improve efficiency, but the current staffing levels are necessary for the Department to carry out its obligations under the RPA and RCA. It is important to note that the NRC performs routine audits to ensure the Department is maintaining adequate staffing levels to perform the required radioactive materials licensing actions and facility inspections. To date, this has not been a concern to the NRC. However, training new employees in this highly technical work can take up to 2 years. Therefore, it is prudent to add new staff before too many current staff retire, which is foreseeable due to the demographics of the Bureau. Though not subject to audit, the radon program is required to certify over 700 radon testers,

mitigators and laboratories. Efficiencies have recently been gained using new online radon data reporting, allowing a respective reduction in clerical staff, but the certification aspect still requires several trained and experienced radiological health physics staff.

IRRC noted that the fee report shows that proposed increased fees were expected to begin in 2016-2017, but that the anticipated effective date for this final-form rulemaking is the second quarter of 2017. Given this

discrepancy, IRRC asked the Board to provide updated information in this preamble regarding projected program costs and revenue. The following tables show projected program costs and revenue for the Radioactive Materials Licensing Program and the Radon Program. This increase in fees along with existing program funds will provide sufficient revenue through Fiscal Year (FY) 2020-2021 for radioactive materials licensing and FY 2019-2020 for the radon program.

Radioactive Materials Licensing Program

	<i>FY</i> <i>2012-</i> <i>2013</i>	<i>FY</i> <i>2013-</i> <i>2014</i>	<i>FY</i> <i>2014-</i> <i>2015</i>	<i>FY</i> <i>2015-</i> <i>2016</i>	<i>FY</i> <i>2016-</i> <i>2017</i>	<i>FY</i> <i>2017-</i> <i>2018</i>	<i>FY</i> <i>2018-</i> <i>2019</i>	<i>FY</i> <i>2019-</i> <i>2020</i>	<i>FY</i> <i>2020-</i> <i>2021</i>	<i>FY</i> <i>2021-</i> <i>2022</i>
Fee collection*	\$3,343	\$3,538	\$3,364	\$3,097	\$3,400	—	—	—	—	—
Fee collection with 50% increase beginning in 2017-2018*	—	—	—	—	—	\$5,100	\$5,100	\$5,100	\$5,100	\$5,100
Fines and penalties*	\$71	\$215	\$143	\$145	\$125	\$125	\$125	\$125	\$125	\$125
Total revenue*	\$3,414	\$3,753	\$3,507	\$3,242	\$3,550	\$5,250	\$5,250	\$5,250	\$5,250	\$5,250
Program costs*	\$4,121	\$4,329	\$4,260	\$4,306	\$5,042	\$5,193	\$5,349	\$5,510	\$5,675	\$5,845

*In thousands of dollars

Radon Program

	<i>FY</i> <i>2012-</i> <i>2013</i>	<i>FY</i> <i>2013-</i> <i>2014</i>	<i>FY</i> <i>2014-</i> <i>2015</i>	<i>FY</i> <i>2015-</i> <i>2016</i>	<i>FY</i> <i>2016-</i> <i>2017</i>	<i>FY</i> <i>2017-</i> <i>2018</i>	<i>FY</i> <i>2018-</i> <i>2019</i>	<i>FY</i> <i>2019-</i> <i>2020</i>	<i>FY</i> <i>2020-</i> <i>2021</i>	<i>FY</i> <i>2021-</i> <i>2022</i>
Fee collection*	\$172	\$164	\$170	\$181	\$182	—	—	—	—	—
Fee collection with 50% increase beginning in 2017-2018*	—	—	—	—	—	\$273	\$273	\$273	\$273	\$273
Installation fee**	—	—	—	—	—	\$400	\$400	\$400	\$400	\$400
Fines and penalties*	\$85	\$28	\$59	\$60	\$50	\$50	\$50	\$50	\$50	\$50
SIRG***	\$482	\$482	\$428	\$428	\$429	\$429	\$429	\$429	\$429	\$429
Total revenue*	\$739	\$674	\$657	\$669	\$661	\$1,152	\$1,152	\$1,152	\$1,152	\$1,152
Program costs*	\$1,527	\$1,751	\$1,640	\$1,582	\$1,312	\$1,351	\$1,392	\$1,434	\$1,477	\$1,521

*In thousands of dollars

**\$50 fee for each mitigation installation; approximately 8,000 installations per year

***State Indoor Radon Grant

G. Benefits, Costs and Compliance

Benefits

The Chapter 218 fees for radioactive material licenses are necessary to ensure that adequate funding is available for the Commonwealth to carry out its duties under its agreement with the NRC and the RPA. If the Commonwealth were forced to cede its authority to regulate radioactive materials back to the NRC, the regulated community would be subject to higher NRC fees. Radioactive material controls under the agreement with the NRC guard against the potential for unnecessary public radiation exposure from the use of radioactive material. With regard to Chapter 240, the Radon Program ensures that homeowners receive services from qualified individuals when testing for and mitigating the presence of radon, the largest controllable source of unnecessary radiation exposure in this Commonwealth. The Chapter 240 fee

increases and the new radon mitigation system fee further will allow the Department to maintain adequate funding to carry out its duties under the RCA.

Compliance costs

This final-form rulemaking calls for increases in fees of approximately 50% for most existing radioactive material licensees and certified radon service providers. Other than the increase in fees, there are not additional costs associated with the radioactive materials license categories under Chapter 218 for maintaining compliance with this final-form rulemaking and provisions for reduced materials fees for small businesses remain.

With respect to Chapter 240, an additional \$50 for each radon mitigation performed will be charged as a result of the new radon mitigation system fee. Approximately 8,000 to 10,000 new radon mitigation system installations or conversions occur in this Commonwealth each year and

approximately 132 certified mitigators would be required to submit the \$50 fee to the Department. A typical mitigation system costs between \$800 and \$1,200.

Compliance assistance plan

The Department will notify the regulated community of the higher fees through this final-form rulemaking, by informing the RPAC and by issuing an Information Notice to relevant licensees.

Paperwork requirements

This final-form rulemaking does not require additional recordkeeping or reporting requirements as a result of the Chapter 218 fee increases. The amendments to Chapter 240 require certified individuals who install active radon mitigation systems or convert passive radon mitigation systems to active radon mitigation systems to submit a Department-approved form along with the appropriate fee on a quarterly basis.

H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials or the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This final-form rulemaking is designed to support the safe and effective use of licensed radioactive materials and promote proper radon testing and mitigation procedures to protect the health and safety of residents in this Commonwealth. The increased fees will ensure the Department maintains its ability to implement radiological pollution prevention.

I. Sunset Review

The Board is not establishing a sunset date for these regulations because they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 16, 2016, the Department submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 3509, to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department shall submit to IRRC and the House and Senate Committees copies of comments received during the public comment period, as well as other documents

when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on August 23, 2017, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 24, 2017, and approved the final-form rulemaking.

K. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 46 Pa.B. 3509.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this final-form rulemaking.

L. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 218 and 240, are amended by adding § 240.309 and amending Chapter 218, Appendix A, § 240.3 and Chapter 240, Appendix A to read as set forth in Annex A.

(Editor's Note: The amendment to § 240.303 in the proposed rulemaking has been withdrawn by the Board.)

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

(d) The Chairperson of the Board shall certify this order and Annex A as approved to legality and form and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson

(Editor's Note: See 47 Pa.B. 5761 (September 9, 2017) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-498 remains valid for the final adoption of the subject regulations.

Annex A
TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart D. ENVIRONMENTAL HEALTH AND SAFETY
ARTICLE V. RADIOLOGICAL HEALTH
CHAPTER 218. FEES
APPENDIX A

Fees for Radioactive Material Licenses

<i>Fee Category^{5,6}</i>	<i>Description</i>	<i>Annual Fee (\$)^{1,2,3,4,7}</i>
1C	Special Nuclear Material Sealed Source Gauges (X-Ray Fluorescence)	3,150
1D	Special Nuclear Material—Other	8,700
2A(2)(c)	Source Material—Metal Extraction	45,100
2A5	Removal of Radioactive Contaminants from Drinking Water	16,800
2B	Source Material as Shielding	1,125
2C	Source Material—Other (not 11e2)	20,100
3A	Manufacturing & Distribution Commercial Broad Scope—10 CFR 30, 33	43,650
3B	Manufacturing, Refurbishing & Distribution Commercial Specific License—10 CFR 30	12,450
3C	Manufacturing & Distribution Pharmaceuticals—10 CFR 32.72—32.74	17,850
3D	Pharmaceuticals—Distribution Only—10 CFR 32.7x	10,200
3E	Irradiator—Shielded Source	6,300
3F	Irradiator—Unshielded < 10kCi	11,700
3G	Irradiator—Unshielded >= 10kCi	46,800
3I	Distribution As Exempt—No Review of Device	16,050
3J	Distribution—SSD Devices to Part 31 GLs	3,750
3K	Distribution—No Review-Exempt Sealed Source	2,850
3L	Research & Development Broad Scope	22,650
3M	Research & Development	8,400
3N	Services other than Leak Testing, Waste Disposal or Calibration	12,750
3O	Radiography	21,150
3P	Other Byproduct Material	4,050
3Q	Generally licensed devices under § 217.143 (relating to certain measuring, gauging or controlling devices)	480
3R1	Greater than the General License Limits in 10 CFR 31.12(a)(3), (4) or (5) but not more than ten times those Limits	3,150
3R2	Greater than ten times the General License Limits in 10 CFR 31.12(a)(3), (4) or (5)	4,050
3S	Manufacturing & Distribution Pharmaceuticals—Accelerator Produced Only	17,700
4A	Waste Storage, Processing or Disposal	Full Cost *
4B	Waste Packaging or Repackaging	18,000
4C	Waste Receipt of Prepackaged for Disposal	13,800
5A	Well Logging & Non Field Flood Tracers	6,600
5B	Well Logging Field Flood Tracer Studies	Full Cost *
6A	Nuclear Laundry	43,200
7A	Human Use—Teletherapy	20,550
7B	Human Use—Broad Scope (except Teletherapy)	36,250
7C	Human Use (except Teletherapy)	7,350
8A	Specifically licensed sources used in static eliminators, nonexempt smoke detectors, fixed gauges, dew pointers, calibration sources, civil defense uses or in temporary (2 years or less) storage	3,150
14	Decontamination, Decommissioning, Reclamation or Site Restoration	Full Cost *

<i>Fee Category^{5,6}</i>	<i>Description</i>	<i>Annual Fee (\$)^{1,2,3,4,7}</i>
16	Reciprocity (180 days/year)	2,250
SB1 ⁵	Small Business—Category 1	3,450
SB2 ⁶	Small Business—Category 2	750

¹ A license may include as many as four noncontiguous sites at the base fee. Sites that are within 5 miles of the main radiation safety office where the license records are kept will be considered contiguous. An additional fee of 25% of the base fee will be added for each noncontiguous site above four.

² All fees will be effective upon publication of the final rules in the *Pennsylvania Bulletin*. Existing NARM licenses will be changed to the corresponding category of byproduct material license in Appendix A upon publication of the final rule.

³ Annual fees for categories of NRC licenses that are not included in this table will be calculated as follows: PA Fee = (NRC Annual Fee + 0.10 NRC Application or Renewal fee).

⁴ Annual fees charged to holders of transferred NRC licenses with multiple sites will not exceed the fees charged by the NRC for the same licenses that are in effect in the year of transfer, provided the number of noncontiguous sites does not increase.

⁵ Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Manufacturing Entities that have an average of 35–500 employees with Gross Annual Receipts of more than \$350,000 and less than \$5 million; Small Government Jurisdictions (including publicly supported, nonmedical educational institutions) with a population between 20,000 and 50,000; and nonmedical Educational Institutions that are not state or publicly supported and have 35–500 employees.

⁶ Small Businesses Not Engaged in Manufacturing, and Small Not-For-Profit Organizations with Gross Annual Receipts of less than \$350,000; Manufacturing Entities that have an average of less than 35 employees and less than \$350,000 in Gross Annual Receipts; Small Government Jurisdictions (including publicly supported nonmedical educational institutions) with a population less than 20,000; and nonmedical Educational Institutions that are not state or publicly supported and have less than 35 employees.

⁷ Full cost recovery licensees and licensees required to provide financial assurance for decommissioning are not eligible for reduced fees under category SB1 or SB2.

* Full cost recovery consists of a professional fee, to cover the activities and support of Department personnel, and any other additional incidental charges incurred, such as related contracted services or laboratory costs. The professional fee component (Hourly Rate) is \$225 per hour. Other costs are recovered at 100% of actual cost. Invoices shall be issued by the Department at regular intervals but at least quarterly when net costs are incurred.

CHAPTER 240. RADON CERTIFICATION

Subchapter A. GENERAL PROVISIONS

GENERAL

§ 240.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Radon Certification Act (63 P.S. §§ 2001–2014).

Active radon mitigation system—A radon mitigation system with an electric vent fan.

Acts—The Radon Certification Act and the Radiation Protection Act (35 P.S. §§ 7110.101–7110.703).

Firm—A person, other than an individual.

Laboratory analysis—The act of determining radon concentrations in air, water, soil or passive radon testing devices.

Mitigate—To repair or alter a building or building design for the purpose in whole or in part of reducing the concentration of radon in the indoor atmosphere.

Passive radon mitigation system—A radon mitigation system without an electric vent fan.

Person—An individual, corporation, partnership, association, trust, estate, public or private institution, group, agency or political subdivision of this Commonwealth, another state or political subdivision or agency thereof,

and a legal successor, representative, agency or agency of the entities listed in this definition.

Picocurie per liter—2.2 disintegrations per minute of radioactive material per liter of air.

Primary device—Continuous monitors or electrets, or both, read or analyzed, or both, by a primary tester.

Primary tester—A tester who reads or analyzes, or both, the continuous monitors or electrets, or both, that the tester places or retrieves, or both.

Radon—The radioactive noble gas radon-222 and the short-lived radionuclides which are products of radon-222 decay, including polonium-218, lead-214, bismuth-214 and polonium-214.

Test—The act of examining a building, soil, air or water for the presence of radon, including taking air, soil or water samples, or the act of diagnosing the cause of radon contamination in a building.

WL—Working level—One working level is that amount of potential alpha-particle energy dissipated in air by the short-lived daughters in equilibrium with 100 pCi/l of Radon-222. One WL is equal to 130,000 Mev of alpha-particle energy deposited per liter of air.

Subchapter D. OPERATION REQUIREMENTS

§ 240.309. Radon mitigation system fee.

(a) The radon mitigation system fee in Appendix A with a Department-approved radon mitigation system fee form shall be submitted to the Department by:

(1) A person who installs or is in responsible charge of employees who install an active radon mitigation system in this Commonwealth.

(2) A person who converts or is in responsible charge of employees who convert a passive radon mitigation system to an active radon mitigation system in this Commonwealth.

(b) The fee for each radon mitigation system installed or activated must be received by the Department no later than 10 business days after the end of the quarter in which the installation or activation was performed.

APPENDIX A

Radon Certification Fee Schedule

Testing Individual	\$525 every 2 years
Testing Employee	\$150 every 2 years
Testing Firm	\$1,050 every 2 years
Mitigation Individual	\$450 every 2 years
Mitigation Firm	\$1,050 every 2 years
Laboratory Individual	\$600 every 2 years
Laboratory Firm	\$1,125 every 2 years
Primary Testing Device Listing	\$150 every 2 years (1)
Course Provider	\$565 every 2 years (2)
Late Application Renewal	\$150
Late 45-Day Reporting	\$150 (3)
Radon Mitigation System Fee	\$50 for each radon mitigation system installed or activated (4)

The Department will review the adequacy of the fees established in this schedule at least once every 3 years

and provide a written report to the EQB. The report must identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and must contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

(1) Primary radon testers shall submit the Primary Testing Device Fee as specified in the Radon Certification Fee Schedule for each device they read or analyze, or both.

(2) A person approved by the Department to provide initial or continuing, or both, education courses shall submit the Course Provider Fee as specified in this appendix.

(3) Anyone not submitting the required 45-day testing or mitigation, or both, reporting within 90 days of the completion of the testing or mitigation, or both, activity (or if no activities have been performed during this period of informing the Department of same in writing) will be subject to the Late 45-Day Reporting Fee as specified in this appendix.

(4) The Department will waive the radon mitigation system fee for a local government employee or school employee who installs an active radon mitigation system in a school or local government building or activates a passive radon mitigation system in a school or local government building if the employee installs or activates the system pursuant to the employee's official duties and the employee is not compensated for this service except through the employee's salary.

[Pa.B. Doc. No. 17-1729. Filed for public inspection October 20, 2017, 9:00 a.m.]
