



To: Members of the State Board of Health

From: James H. Grice, Radiation Program Manager, Hazardous Materials and Waste Management Division
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Through: Jennifer T. Opila, Division Director *JTO*

Date: **May 19**, 2021

Subject: **Rulemaking Hearing** concerning proposed amendments to 6 CCR 1007-1 Part 21, Colorado low income radon mitigation assistance (LIRMA) program.

In 2016, the Colorado legislature promulgated amendments to Title 25, Section 11 of the Colorado Revised Statutes (CRS) through house bill HB 16-1141. In addition to providing ongoing funding for a formal public outreach program relating to radon exposure, risks, and mitigation, the legislation also provided funding to establish a low income radon mitigation assistance (LIRMA) program. This program provides funding to help mitigate elevated radon levels in low income households. From its beginning in 2018, the LIRMA program has assisted approximately 152 low income homeowners by providing nearly \$230k in funding for the installation of radon mitigation systems in homes with elevated radon levels thereby helping to reduce non-smoking related lung cancer risk to these Colorado households.

In order to make the most up-to-date income criteria available to LIRMA applicants and mitigation contractors, the radiation program is proposing technical corrections and updates to Part 21 of the radiation regulations. The proposed change will remove the table used to determine eligibility for the LIRMA program and instead will defer to data developed by the U.S. Housing and Urban Development (HUD) Administration. This change will allow more applicants to be eligible for assistance that directly reduces health risk in low income households by using the most current federal income data. Additionally, removing the data table from the rule will eliminate the need for frequent rulemakings to update the table. In addition to the income table related changes, the proposed rule also corrects technical deficiencies needed for compliance with the Colorado Administrative Procedure Act, along with making other miscellaneous corrections.

Since the rule changes impact only a few areas of the rule, only those impacted sections are included in the proposed draft. New text appears as red bold text and deleted text shown as strikethrough text. **Text highlighted in yellow was modified since the request for rulemaking.**

The Radiation Program requests that the Board of Health **adopts the rule as proposed.**

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1007-1, Part 21,
Colorado low income radon mitigation assistance (LIRMA) program

Basis and Purpose.

The proposed amendment updates the rule such that applicants, mitigation contractors, and the department are able to use the most current income data in order to determine eligibility for the mitigation assistance program.

Similar to other recent rule amendments, changes are proposed to make technical and formatting changes to the rule for consistency with the Colorado Administrative Procedure Act with regard to documents incorporated by reference. The purpose and scope and incorporation by reference language was omitted from the original rule and is incorporated in the proposed rule.

The specific proposed changes to the rule are outlined for each section below.

Section 21.1

A new purpose and scope section is added to the rule for consistency with other radiation program rules. The added section includes the standard incorporation by reference language, consistent with recently amended radiation control regulations.

Sections 21.4.B and 21.6.A.4

These provisions are amended to remove the reference to (the now outdated) Appendix A, Table 21-1 income table and instead will defer to the federal U.S. Housing and Urban Development (HUD) criteria which was the source of the Appendix A income table when the rule was originally adopted. Income criteria used in the rule is maintained and routinely updated by HUD. This rule change will not impact the income data or tables used for determining eligibility other than maintaining consistency with the most recent income data.

The “low-income household” consideration in Section 21.4.B and 21.6.A.4 of this regulation will be based on the most recent HUD individual income limit table, which can be found online at <https://www.huduser.gov/portal/datasets/il.html>. A table of income limits based on the federal HUD data for all Colorado counties is also provided in the Low Income Radon Mitigation Assistance (LIRMA) program policy and procedures (application instructions) at <https://www.colorado.gov/pacific/cdphe/low-income-radon-mitigation-assistance> which is routinely updated.

Appendix A

As described earlier, Appendix A is proposed for removal from the rule in its entirety by instead referring to the HUD criteria.

Throughout Part 21

Minor typographical and formatting corrections are made, including renumbering of all sections of the rule to allow incorporation of the scope and purpose section.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

25-1.5-101(1)(k), 25-1.5-101(1)(l), 25-11-103, 25-11-104, 25-1-108, and 25-11-114,
C.R.S.

Is this rulemaking due to a change in state statute?

Yes, the bill number is _____. Rules are authorized required.

No

Does this rulemaking include proposed rule language that incorporate materials by reference?

Yes URL

No

Does this rulemaking include proposed rule language to create or modify fines or fees?

Yes

No

Does the proposed rule language create (or increase) a state mandate on local government?

No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS
6 CCR 1007-1, Part 21,
Colorado low income radon mitigation assistance (LIRMA) program

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
Individual applicants (low income homeowners) for radon mitigation assistance.	Approx. 150 per year	C / B
Individual applicants to become contractors for the mitigation assistance program.	Approx. 2-4 applicants per year	C
Governmental and private organizations and entities that provide assistance to low-income communities.	75	S

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please refer to the following relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, and any financial benefits.

C and B: None. There is no quantitative non-economic impact of the proposed rule change. The rule is being amended to refer to the source of income data information produced by a federal agency rather than specific values and data as found in the current rule. Additionally, the rule is amended to provide individuals with additional information on where to locate documents that are referenced or incorporated into the rules and provides purpose and scope information applicable to the rule.

There is a quantitative economic benefit to the Department if the rule is amended as proposed. By referring to the HUD data source as the information used to determine income eligibility for funding through the LIRMA program, the Department will not need to update the rule every 12-18 months to be current with the latest HUD income data. This is expected to result in a small cost savings by avoiding unneeded rulemaking efforts. Although some expenditure is anticipated to update the programs procedures, this is considered part of the routine business of the program.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: No financial costs or financial benefits.

B: The financial benefit of the proposed rule for qualified low income homeowners is that more families may be able to qualify for the mitigation assistance program, since income criteria are adjusted (and typically increase) on a periodic basis. The cost of mitigation system installation can run as much as \$1500 per household and setting income data to allow more homeowners will result in a significant cost savings and will also provide a safer home by reducing the risks from radon exposure.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

The anticipated favorable non-economic outcome is that the proposed rule will eliminate an outdated data table by instead referring to the source data which can be readily found on a federal agency website or in department documents. This will improve efficiency by avoiding future rulemaking efforts that would primarily be needed to update the income data table every year or so. The improved clarity in rule language would also be expected to decrease workload for rule users because information about the purpose and scope and information about where to find documents incorporated by reference is improved and clarified.

The non-favorable non-economic outcome could be that rule users will need to defer to the HUD website or defer to the department documents for the income data tables rather than read them directly in the rule. However, this is not expected to result in a significant impact as applicants currently may need to refer to the department website to obtain information about the program to begin with and to download the necessary application forms. Some individuals may apply through use of hardcopy forms that are periodically provided to or requested by other agencies or organizations that provide support and resources for low income households. In these instances, the forms provided to applicants include the application instructions (policy and procedures) and which provide the income data table.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.
 - A. Anticipated CDPHE personal services, operating costs or other expenditures: There are limited to no anticipated costs associated with the proposed changes.
 - B. Anticipated CDPHE Revenues: No change in revenues as a result of the

proposed changes. The LIRMA program provides resources to low-income households at no cost to the homeowner.

- C. Anticipated personal services, operating costs or other expenditures by another state agency:

Anticipated Revenues for another state agency: None.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- Comply with a statutory mandate to promulgate rules.
 Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
 Maintain alignment with other states or national standards.
 Implement a Regulatory Efficiency Review (rule review) result
 Improve public and environmental health practice.
 Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

- | |
|--|
| <p>1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.</p> <p><input type="checkbox"/> Contributes to the blueprint for pollution reduction
 <input type="checkbox"/> Reduces carbon dioxide from transportation
 <input type="checkbox"/> Reduces methane emissions from oil and gas industry
 <input type="checkbox"/> Reduces carbon dioxide emissions from electricity sector</p> |
| <p>2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.</p> <p><input type="checkbox"/> Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.
 <input type="checkbox"/> Supports local agencies and COGCC in oil and gas regulations.
 <input type="checkbox"/> Reduces VOC and NO_x emissions from non-oil and gas contributors</p> |
| <p>3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.</p> <p><input type="checkbox"/> Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.
 <input type="checkbox"/> Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.
 <input type="checkbox"/> Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health</p> |

	Care Policy and Financing.
4.	<p>Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <p>___ Ensures access to breastfeeding-friendly environments.</p>
5.	<p>Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Performs targeted programming to increase immunization rates.</p> <p>___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).</p>
6.	<p>Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <p>___ Creates a roadmap to address suicide in Colorado.</p> <p>___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.</p> <p>___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.</p> <p>___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.</p>
7.	<p>The Office of Emergency Preparedness and Response (OEP) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <p>___ Conducts a gap assessment.</p> <p>___ Updates existing plans to address identified gaps.</p> <p>___ Develops and conducts various exercises to close gaps.</p>
8.	<p>For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <p>___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.</p> <p>___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.</p> <p>___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.</p>

9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.

- Implements the CDPHE Digital Transformation Plan.
- Optimizes processes prior to digitizing them.
- Improves data dissemination and interoperability methods and timeliness.

10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.

- Reduces emissions from employee commuting
- Reduces emissions from CDPHE operations

11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.

- Used a budget equity assessment

Advance CDPHE Division-level strategic priorities.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Failing to implement the proposed change to eliminate Appendix A of the rule will retain the existing outdated data table in the rule. In the future, this will necessitate a periodic (12-18 months) rulemaking effort to then update the table. The proposed change to reference HUD for this information is an improvement in efficiency. Additionally, failing to implement the proposed changes pertaining to documents incorporated by reference may make the rule incompatible with the Colorado Administrative Procedure Act.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Rulemaking is proposed when it is the least costly method or the only statutorily allowable method for achieving the purpose of the statute. The benefits, risks and costs of these proposed revisions were compared to the costs and benefits of other options. The proposed revisions provide the most benefit for the least amount of cost, are the minimum necessary or are the most feasible manner to achieve compliance with statute. By eliminating the data income table from the rule and deferring to the source of the data table with the federal agency that produces the data, it is expected to minimize the expense and frequency of rule amendments needed to maintain consistency with the current HUD income data.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No alternatives to this rulemaking were considered. Failure to implement requirements that are consistent with the requirements of the Administrative Procedure Act for documents incorporated by reference may result in the rule being negated or invalidated by the legislature. Failure to amend the rule to update the income data table will result in outdated information being retained in the rule and will necessitate future, ongoing rulemaking efforts.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The proposed change did not require a data based evaluation or analysis. The proposed language and approach is generally consistent with other commonly accepted language and information found in other Department rules and regulations. Eliminating the income data table in the rule will provide for a level of regulatory efficiency by reducing the need for a periodic (annual or thereabouts) rulemaking effort to keep the data table current. As a general rule, the income data maintained by HUD incrementally increases each year which in turn will allow more individuals to qualify for the LIRMA program.

STAKEHOLDER ENGAGEMENT
for Amendments to
6 CCR 1007-1, Part 21,
Colorado low income radon mitigation assistance (LIRMA) program

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Approximately 235 stakeholders were notified via email of the opportunity to comment on the proposed draft rules, which were posted on the Department website. The stakeholders primarily consisted of radon mitigation contractors, home inspection companies, environmental consultants, and other individuals having an interest in radon issues. Due to the limited scope and anticipated impact of the proposed rule changes, no stakeholder meetings were held. No comments were received during the 30 day comment period held December 20, 2020 through January 20, 2021.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

- Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.
- Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

No major factual or policy issues were encountered. The proposed changes are primarily informational in nature and are made to improve rulemaking efficiency through elimination of an outdated data table and for consistency with the Colorado Administrative Procedure Act. No stakeholders provided comments or feedback on the proposed rule changes.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.		Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
X	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.		Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.	X	Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.		Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
X	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
X	Other: Benefits stakeholders with additional information where to located documents incorporated into the rule to help aide compliance with the requirements._____		Other: _____ _____

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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - COLORADO LOW INCOME RADON MITIGATION ASSISTANCE (LIRMA) PROGRAM

6 CCR 1007-1 Part 21

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Adopted by the Board of Health ~~October 19, 2016~~ **May 19, 2021**; effective, ~~December 15, 2016~~ **July 15, 2021**

Part 21: COLORADO LOW INCOME RADON MITIGATION ASSISTANCE (LIRMA) PROGRAM

21.1 Purpose and Scope.

21.1.1 Authority.

A. Rules and regulations set forth herein are adopted pursuant to the provisions of section 25-11-114, CRS.

21.1.2 Basis and Purpose.

A. A statement of basis and purpose accompanies this part and changes to this Part. A copy may be obtained from the Department.

21.1.3 Scope.

A. This Part establishes requirements and provisions for the Colorado Low Income Radon Mitigation Assistance (LIRMA) program.

B. Nothing in this part relieves any person from complying with other local, state, and federal laws, regulations, ordinances, and other applicable requirements pertaining to the installation of mitigation systems and related activities under the LIRMA program.

21.1.4 Applicability.

A. Unless specifically exempted, the requirements and provisions of these regulations apply to Department staff who implement the LIRMA program; any person who applies to receive funding for the installation of a radon mitigation system; and any person who applies to become a mitigation system installer (contractor) that provides mitigation system installation and related activities through the Colorado LIRMA program.

21.1.5 Published material incorporated by reference.

A. Throughout this Part 21, federal regulations, state regulations, and standards or guidelines of outside organizations have been adopted and incorporated by reference. Unless a prior version of the incorporated material is otherwise

Commented [JSJ1]: Editorial note 1: All comments (such as this one) shown in the right side margin of this draft document are for information purposes only to assist the reader in understanding the proposed rule change during the review and comment process.

The side margin notes are **not** part of the rule and all comments will be deleted prior to publication of the final rule by the Colorado Secretary of State.

Editorial note 2: Alignment and formatting corrections and minor typographical adjustments may be made in the rule and may not be specifically identified with a side margin comment.

Commented [JSJ2]: These dates reflect anticipated adoption and effective dates based on the current rulemaking schedule. Dates are subject to change pending additional review, approvals, and department rulemaking and Board of Health schedules.

Commented [JSJ3]: When originally published, the current rule did not contain some of the standard language provisions found in more recently amended radiation control regulations. These provisions are therefore added in this proposed amendment for clarification and consistency.

The addition of these provisions has resulted in renumbering throughout the rule.

Commented [JSJ4]: Provisions are added to 21.1.5 for consistency with the Colorado Administrative Procedure Act (24-4-103(12.5)(a)(2), CRS) and other recently amended Radiation Control Regulations with regard to documents incorporated by reference.

37 specifically indicated, the materials incorporated by reference cited herein include
 38 only those versions that were in effect as of the most recent effective date of this
 39 Part 21 (July 2021), and not later amendments or editions of the incorporated
 40 material.

41 **B. Materials incorporated by reference are available for public inspection, and copies**
 42 **(including certified copies) can be obtained at reasonable cost, during normal**
 43 **business hours from the Colorado Department of Public Health and Environment,**
 44 **Hazardous Materials and Waste Management Division, 4300 Cherry Creek Drive**
 45 **South, Denver, Colorado 80246. Additionally,**
 46 **<https://www.colorado.gov/cdphe/radregs> identifies where the incorporated**
 47 **materials are available to the public on the internet at no cost. Due to copyright**
 48 **restrictions certain materials incorporated in this Part are available for public**
 49 **inspection at the state publications depository and distribution center.**

50 **C. Availability from Source Agencies or Organizations.**

51 **1. All federal agency regulations incorporated by reference herein are**
 52 **available at no cost in the online edition of the Code of Federal Regulations**
 53 **(CFR) hosted by the U.S. Government Printing Office, online at**
 54 **www.govinfo.gov.**

55 **2. All state regulations incorporated by reference herein are available at no**
 56 **cost in the online edition of the Code of Colorado Regulations (CCR)**
 57 **hosted by the Colorado Secretary of State's Office, online at**
 58 **<https://www.sos.state.co.us/CCR/RegisterHome.do>.**
 59

60 **21.42 Definitions**

- 61 A. "Certified test kit" means a radon test kit (and analysis) that is certified by the National Radon
 62 Proficiency Program (NRPP) or the National Radon Safety Board (NSRB).
- 63 B. "Certified radon measurement contractor" means a contractor that is certified to conduct testing
 64 by the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NSRB).
- 65 C. "Colorado Low Income Radon Mitigation Assistance Program" (LIRMA) means the assistance
 66 program created to address local community needs through an assistance process established
 67 pursuant to Section 25-11-114, C.R.S. administered by the Hazardous Materials and Waste
 68 Management Division (HMWMD) at the Colorado Department of Public Health and Environment
 69 (CDPHE).
- 70 D. "Conflict of Interest" consists of one or more the following conditions:
 71 A situation in which any individual has a personal or financial interest that could reasonably be
 72 perceived as an interest that may influence an individual in his or her official duties.
- 73 E. "Department" means the Colorado Department of Public Health and Environment or CDPHE.
- 74 F. "Division" means the Hazardous Materials and Waste Management Division (HMWMD).
- 75 G. "Financial interest" means an interest held by an individual which is an ownership or vested
 76 interest in an entity or employment, or investment interests, or a prospective employment for
 77 which negotiations have begun, or a directorship or officership in an entity, or immediate family
 78 members.

Commented [JSJ5]: This and subsequent rule sections are renumbered in order to incorporate the additional incorporation by reference information in the new section 21.1.

- 79 H. "Fiscal year" means the period commencing July 1 of a calendar year and concluding June 30 of
80 the following calendar year.
- 81 I. "Homeowner" means, for purposes of this regulation, a Colorado resident who owns a dwelling as
82 demonstrated by that person's name appearing on a warranty deed or deed of trust, and who
83 lives in the home as their primary residence.
- 84 J. "LIRMA eligible certified radon mitigation contractor" means a company that has applied for
85 eligibility to the LIRMA Program and has been approved to participate in the program.
- 86 **K. "Low income" means an income that does not exceed eighty percent (80 %) of the median**
87 **income for the area, as determined by the United States Department of Housing and Urban**
88 **Development (HUD).**

89 **21.23 Program goal**

90 The assistance program is created to address local community needs by funding the installation of radon
91 mitigation systems and post-installation radon testing in low income homes showing elevated levels of
92 radon. The program is intended to reduce the incidence of lung cancer caused by radon in qualified
93 homeowner-occupied homes in Colorado.

94 **21.34 Homeowner eligibility for mitigation system assistance**

95 The following contains the criteria under which homeowners may receive assistance (funding) for the
96 installation of radon mitigation systems under the Colorado LIRMA Program:

- 97 A. The home must be a homeowner-occupied home located within the State of Colorado. The
98 following types of homes are eligible for the LIRMA Program:
- 99 1. Single family dwelling unit;
 - 100 2. One-to four unit buildings. The unit occupied by the owner is eligible for mitigation
101 assistance under the program;
 - 102 3. Condominium or cooperative unit; or
 - 103 4. Manufactured homes.
- 104 Rental units and/or properties listed for sale are not eligible for the LIRMA Program.
- 105 B. The homeowner applicant must be:
- 106 1. A resident of Colorado. Proof of residency must be established at the time of application;
107 and
 - 108 ~~2. Be considered a low income household and meet the low income limits specified in~~
109 ~~Appendix A, Table 21-4. Meets the criteria, for the county of residence, of "low~~
110 ~~income".~~
- 111 C. Assistance with mitigation system installation will be provided for qualified homes with radon
112 levels exceeding 4 picocuries per liter (4 pCi/L) as tested using a certified test kit or certified
113 radon measurement contractor. Initial radon testing will not be paid for or reimbursed under this
114 program.
- 115 D. Homes with mitigation systems currently installed are not eligible for mitigation assistance funding
116 or reimbursement under this program.

Commented [JSJ6]:

Here and in a subsequent section, the reference to Appendix A is removed as it is proposed for deletion.

- 117 E. Following mitigation system installation:
- 118 1. The LIRMA eligible certified radon mitigation contractor will provide the homeowner with
119 a certified test kit; and
- 120 2. The homeowner shall conduct the provided radon test no sooner than 24 hours and
121 within 7 days of the mitigation system installation. The homeowner must submit the radon
122 test results to the LIRMA Program within 30 days of the test.
- 123 F. Homes under the governance or requirements of a home owners association (HOA) must have
124 approval of the mitigation plan from the HOA.
125

126 **21.45 Homeowner applications for assistance**

- 127 A. Applicants (homeowners) seeking funding to pay for radon mitigation and post-mitigation radon
128 testing shall complete the LIRMA Homeowners Application as provided by the LIRMA Program.
- 129 B. In addition to any other penalty imposed by law, any applicant who knowingly or intentionally
130 provides false information to the ~~d~~Department when applying for assistance may be denied
131 funding and shall be ineligible to receive any future funds under these rules.
- 132 C. Within 30 days of receiving a homeowner application for assistance, the LIRMA Program will
133 review the application and will:
- 134 1. Approve the application; or
- 135 2. Deny the application; or
- 136 3. Request additional information from the applicant.
- 137 D. Applicants who submit an incomplete application or who submit incomplete information or
138 documents in the application process will be given 30 days to correct or submit the necessary
139 information. Applicants who fail to provide the necessary information within 30 days of the LIRMA
140 Program request will result in the application being abandoned and no mitigation system funding
141 will be provided except where the applicant resubmits a full application with all necessary
142 information and documents. The LIRMA Program will make all reasonable efforts to contact the
143 applicant to request the additional information or documentation.
- 144 E. Timeline for assistance applications
- 145 1. Applications for assistance may be submitted throughout the year as funds remain
146 available. Once funding is no longer available, the LIRMA Program will cease to process
147 applications until additional funding becomes available. If funding is not available at the
148 time of application, the applicant may request that the LIRMA Program hold the
149 application (for up to 45 days) while the program awaits additional funding. Unless
150 otherwise indicated, the LIRMA Program will not hold applications for longer than 45 days
151 while waiting for funding.
- 152 If it has been longer than 45 days since the application was received by the LIRMA
153 Program, the applicant will be required to reapply and resubmit all necessary
154 documentation.
- 155 F. Request for application forms

156 1. Upon request the LIRMA Program will mail or email blank application forms to any
157 person(s) requesting such forms. A maximum of 10 application forms will be mailed at
158 any time. Application forms are also posted on the eDepartment website.

159 **21.56 Criteria for selecting ~~awards to homeowners~~ homeowner grant awards.**

160 A. The LIRMA Program shall receive and review applications and select applicants on a first-come,
161 first-served basis and will be evaluated based upon the following criteria:

162 1. The funds are available during the current state fiscal year/funding cycle to fund the
163 radon mitigation system and post mitigation testing at the time the application is received;

164 2. The radon test results indicate that radon levels in the livable areas of the home exceed
165 the EPA recommended radon action level of 4 picocuries per liter (4 pCi/L) for radon as
166 tested by one of the following accepted testing methods:

167 a. A short term radon test using a certified test kit;

168 b. A long term radon test using a certified test kit; or

169 c. A test or measurement performed by a certified radon measurement contractor;

170 All radon testing must be completed within a 12 month period prior to receipt of the
171 LIRMA Program homeowner application.

172 3. The applicant has provided documentation that they own and occupy the home as their
173 primary residence;

174 4. ~~The applicant meets the low income criteria in accordance with Appendix A, Table 21-1.~~
175 **A determination that the applicant meets the criteria for low income specified for**
176 **their county of residence.**

177 B. The LIRMA Program shall have final authority to approve or deny the funding awards based upon
178 the documentation submitted or otherwise obtained by the eDepartment.

179 **21.67 Homeowner assistance limits**

180 A. Assistance amounts shall be limited to a maximum of \$1,500.00 per homeowner applicant unless
181 otherwise approved in advance by the LIRMA Program. All funds will be paid directly to the
182 LIRMA eligible certified radon mitigation contractor.

183 B. A person may not apply for assistance more than one time in a calendar year.

184 **21.78 Awarding of assistance monies and feedback on program implementation**

185 A. The LIRMA Program shall award funds and will specify the amount of the assistance based upon
186 the contractor's mitigation plan and the LIRMA Program statement of work requirements for
187 LIRMA eligible certified radon mitigation contractors.

188 B. All award decisions by the LIRMA Program are final and not subject to appeal or further review.
189 However, any applicant may provide feedback on the LIRMA Program implementation and
190 processes at any time in order to facilitate continuous improvement, efficiency, and effectiveness
191 of the program.

192 **21.89 Application process to become a LIRMA eligible certified radon mitigation contractor**

- 193 A. Radon mitigation contractors seeking to become a LIRMA eligible certified radon mitigation
194 contractor shall:
- 195 1. Follow the requirements of the LIRMA Program as prescribed by the eDepartment;
- 196 2. Complete the Radon Contractor's LIRMA Application form as prescribed by the
197 eDepartment;
- 198 B. In addition to any other penalty imposed by law, any contractor applicant who knowingly or
199 intentionally provides false information to the eDepartment when applying to become a LIRMA
200 eligible certified radon mitigation contractor may be restricted from participating in the LIRMA
201 Program or from receiving mitigation funds under the LIRMA Program.
- 202 C. Within 30 days of receiving a contractor application, the LIRMA Program will review the
203 application and will:
- 204 1. Approve the application; or
- 205 2. Deny the application; or
- 206 3. Request additional information from the contractor applicant.
- 207 D. Contractor applicants who submit an incomplete application or who submit incomplete information
208 or documents in the application process will be given 30 days to correct or submit the necessary
209 information. Applicants who fail to provide the necessary information within 30 days of the LIRMA
210 Program request will result in the application being abandoned and the contractor will not be
211 added to the LIRMA eligible contractor list except where the applicant resubmits a full application
212 with all necessary information and documents. The LIRMA Program will make all reasonable
213 efforts to contact the contractor applicant to request the needed additional information or
214 documentation.
- 215 E. Timeline for contractor applications
- 216 1. Contractor applications may be submitted throughout the year. Approved applicants will
217 be added to the eligibility list within 30 days of the approval.
- 218 F. Delisting of contractors from approved list
- 219 1. At the discretion of the LIRMA Program, a mitigation contractor may be delisted
220 (removed) from the LIRMA eligible certified radon mitigation contractor list.
- 221 G. Mitigation contractor responsibilities
- 222 1. In addition to requirements specified by the LIRMA Program, contractors shall adhere to
223 the following requirements:
- 224 a. Installation of mitigation systems shall be completed in accordance with the
225 signed statement of work, completed in a timely manner within 60 days of the
226 approval of the mitigation plan;
- 227 b. Following mitigation system installation, a post-mitigation test showing levels
228 have been reduced below 4 pCi/L will be required for reimbursement to the
229 mitigation contractor.
- 230 c. Any mitigation contractor who knowingly or intentionally provides false
231 information to the eDepartment as part of a mitigation system installation may be

232 restricted from participating in the LIRMA Program or from receiving mitigation
233 funds under the LIRMA Program.

234 H. Request for application forms

235 1. Upon request the LIRMA Program will mail or email contractor application forms to any
236 person(s) requesting such forms. A maximum of 10 application forms will be mailed per
237 request. Application forms are also posted on the ~~d~~Department website.
238
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240 **21.910 Reporting requirements**

241 The LIRMA Program will make information about the LIRMA Program impact available on an annual basis.

242 **21.4011 Conflict of interest**

243 A. Any CDPHE Staff involved in reviewing or approving applications must disclose any potential or
244 actual conflict of interest, as defined in section 21.42, to the Radiation Program Manager. If the
245 Radiation Program Manager determines that the person has a potential conflict of interest, the
246 Radiation Program Manager shall assign an alternate person to review, or assist in the review, of
247 any application for which a conflict of interest may exist.
248
249

250 **APPENDIX A – INCOME TABLE USED TO DETERMINE LIRMA ELIGIBILITY**

251 ~~Table 21-1. Table of annual income limits listed by Colorado county. Table limits are compared to the~~
 252 ~~applicants total Adjusted-Gross Income (AGI) from the applicants most recent years federal income tax~~
 253 ~~form to determine income eligibility for the LIRMA Program.~~
 254

Commented [JSJ7]: The LIRMA program income table found in the current rule is outdated. The table is based on data from the federal U.S. Housing and Urban Development (HUD) and is updated periodically, making it both costly and challenging to update the rule to maintain a current table. Rather than update the rule through a formal rulemaking process every 12-24 months, the Department is instead proposing to defer to the federal HUD data criteria.

As proposed, the Appendix A table will be deleted from the Part 21 rule and instead defer to federal HUD criteria. The LIRMA program instructions (policy and procedures) for applicants and mitigation contractors is posted on the Department website will be updated periodically updated to provide a summary of the HUD income data.

CDPHE LIRMA PROGRAM LOW INCOME LIMITS								
# PERSONS IN HOUSEHOLD	1 PERSON	2 PEOPLE	3 PEOPLE	4 PEOPLE	5 PEOPLE	6 PEOPLE	7 PEOPLE	8 PEOPLE
COUNTY								
Adams County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Alamosa County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Arapahoe County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Archuleta County	35,750	40,850	45,950	51,050	55,150	59,250	63,350	67,400
Baca County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Bent County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Boulder County	46,000	52,600	59,150	65,700	71,000	76,250	81,500	86,750
Broomfield County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Chaffee County	34,300	39,200	44,100	48,950	52,900	56,800	60,700	64,650
Cheyenne County	36,750	42,000	47,250	52,500	56,700	60,900	65,100	69,300
Clear Creek County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Conejos County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Costilla County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Crowley County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Custer County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Delta County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Denver County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Dolores County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Douglas County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Eagle County	46,000	52,600	59,150	65,700	71,000	76,250	81,500	86,750
El Paso County	39,800	45,450	51,150	56,800	61,350	65,900	70,450	75,000
Elbert County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Fremont County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Garfield County	39,050	44,600	50,200	55,750	60,250	64,700	69,150	73,600
Gilpin County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Grand County	42,800	48,900	55,000	61,100	66,000	70,900	75,800	80,700
Gunnison County	38,550	44,050	49,550	55,050	59,500	63,900	68,300	72,700
Hinsdale County	43,700	49,950	56,200	62,400	67,400	72,400	77,400	82,400
Huerfano County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Jackson County	34,900	39,900	44,900	49,850	53,850	57,850	61,850	65,850
Jefferson County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Kiowa County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Kit Carson County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
La Plata County	39,600	45,250	50,900	56,550	61,100	65,600	70,150	74,650

Lake County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Larimer County	43,800	50,050	56,300	62,550	67,600	72,600	77,600	82,600
Las Animas County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Lincoln County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Logan County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Mesa County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Mineral County	39,350	44,950	50,550	56,150	60,650	65,150	69,650	74,150
Moffat County	39,550	45,200	50,850	56,500	61,050	65,550	70,100	74,600
Montezuma County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Montrose County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Morgan County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Otero County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Ouray County	41,550	47,450	53,400	59,300	64,050	68,800	73,550	78,300
Park County	44,900	51,300	57,700	64,100	69,250	74,400	79,500	84,650
Phillips County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Pitkin County	49,750	56,850	63,950	71,050	76,750	82,450	88,150	93,800
Prowers County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Pueblo County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Rio Blanco County	42,650	48,750	54,850	60,900	65,800	70,650	75,550	80,400
Rio Grande County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Routt County	42,850	49,000	55,100	61,200	66,100	71,000	75,900	80,800
Saguache County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
San Juan County	35,200	40,200	45,250	50,250	54,300	58,300	62,350	66,350
San Miguel County	45,050	51,450	57,900	64,300	69,450	74,600	79,750	84,900
Sedgwick County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Summit County	46,000	52,600	59,150	65,700	71,000	76,250	81,500	86,750
Teller County	42,200	48,200	54,250	60,250	65,100	69,900	74,750	79,550
Washington County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400
Weld County	38,450	43,950	49,450	54,900	59,300	63,700	68,100	72,500
Yuma County	33,600	38,400	43,200	48,000	51,850	55,700	59,550	63,400

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