



COLORADO

Department of Public
Health & Environment

To: Members of the State Board of Health

From: James H. Grice, Radiation Program Manager, Hazardous Materials and Waste Management Division
James S. Jarvis, Regulatory Lead, Hazardous Materials and Waste Management Division
Margaret Horton, Radon Program Manager

Through: Tracie M. White, Division Director *TMCW*

Date: **June 20**, 2024

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

The 2016 amendment to Title 25, Section 11 of the Colorado Revised Statutes (CRS) created and provides ongoing funding for a formal public outreach program relating to radon exposure, risks, and mitigation, and also provides funding for a low income radon mitigation assistance (LIRMA) program. From its beginning in 2018, the LIRMA program has assisted approximately 493 low income homeowners by providing nearly \$950k in assistance 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. The LIRMA program has reduced residential radon exposure for more than 1,000 Colorado residents.

A 2021 legislative effort initiated by Colorado radon measurement and mitigation professionals and the AARST (American Association of Radon Scientists and Technologists), resulted in [HB 21-1195](#) that established licensing requirements for individuals who perform radon measurement and radon mitigation services for the public. The legislation provides requirements, and grants licensing authority to the Colorado Department of Regulatory Agencies (DORA). Although the Colorado Department of Public Health and Environment (CDPHE) has no involvement with the licensing of these individuals, the Part 21 LIRMA rule relies on licensed radon professionals. We are therefore proposing minor updates to the LIRMA rule to ensure that the language, terminology and processes we use are consistent between our agencies. In addition, we are also proposing additional minor corrections and updates for clarity and consistency with other radiation control regulations.

Following review by our Radiation Advisory Committee and a 30 day comment period, we received no comments or feedback from stakeholders regarding the proposed changes.

Since the proposed rule changes impact multiple areas of Part 21, the entire rule is provided. New text appears as red bold text, and deleted text is shown with strikethrough text.

Consistent with Board practice, items highlighted in yellow have been revised since the request for rulemaking.

The Radiation Program respectfully requests that the Board of Health **adopt the changes to Part 21 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 to ensure consistent language is used between the Part 21 rule and the requirements of the Colorado Department of Regulatory Agencies (DORA) in the licensing of radon measurement and radon mitigation professionals.

We are also proposing to make minor technical and formatting changes to ensure consistency within the rule and with other radiation control regulations, along with improving the overall clarity and understanding of the Part 21 rule. The specific proposed changes for each section of the rule are outlined in further detail below and in the informational side margin notes found in the draft rule.

Changes at the beginning of the rule

- We are updating the adoption and effective dates of the rule due to this rulemaking, consistent with current practice and other radiation control regulations;

Changes throughout Part 21

- We are changing the term “funding” to the word “assistance” to better reflect that assistance is and has been provided for the installation and testing of radon mitigation systems through the LIRMA qualified contractor, rather than providing funding directly to the homeowner;

Changes to Section 21.2 (Definitions)

- We are replacing the definition “Certified radon measurement contractor” with two separate definitions as follows:
 - “Certified and licensed radon measurement contractor”; and
 - “Certified and licensed radon mitigation contractor”

As of July 1, 2022 and in accordance with [HB 21-1195](#) which amends the Colorado Revised Statutes in [Title 12, Article 165](#), a license is required for individuals who provide testing for radon (known as radon measurement contractors), or who install radon mitigation systems (known as radon mitigation contractors) as a business. Licenses are issued separately for radon measurement or radon mitigation. The Colorado Department of Regulatory Agencies (DORA) issues and manages the licensing process for these radon contractor professionals. The Colorado Department of Public Health and Environment - CDPHE is not involved in this licensing process. However, for consistency with this recent law, definitions are added to the Part 21 rule to better reflect the terminology used by DORA for the licensing of these radon professionals. These new terms are incorporated throughout the rule where applicable;

- We are revising the definition “LIRMA eligible certified radon mitigation contractor” to remove the word “certified” to reflect the newly added definitions described above, which incorporate national certification requirements as part of the licensing process.

In order for an individual to be eligible to provide services to qualified homeowners under the LIRMA rule and program, individuals must be both nationally certified, and licensed as a radon professional with DORA;

Changes to Section 21.4 (Homeowner eligibility for mitigation system assistance)

- In Section 21.4C, we are adding language to clarify that radon testing performed by the homeowner prior to application to the LIRMA program will not be reimbursed. The initial testing by homeowners is typically of nominal cost or free if obtained through the Department radon program;
- In Section 21.4E, we are adding language to clarify that testing done after the installation of the (LIRMA) mitigation system can be completed via a certified radon test kit by the homeowner or through a certified and licensed radon measurement contractor. We are also allowing additional flexibility in the rule by increasing the timeframe in which the post-installation testing must occur to align with the current ANSI (American National Standards Institute) and AARST (American Association of Radon Scientists and Technologists) post-mitigation testing standards;

Changes to Section 21.5 (Homeowner applications for assistance)

- Here and in later sections, we are adding clarifying language to the term “applicant” to better identify whether the applicant is a homeowner or a measurement/mitigation contractor, since both require applications and acceptance to participate in the LIRMA program in their respective roles;
- Web page links are added to assist the reader in locating additional information and forms for the LIRMA program;

Changes to Section 21.7 (Homeowner assistance)

- Updates are made in this section to remove the language regarding the monetary limits for homeowner assistance, which are already evaluated on a case by case basis. Over several years of implementing the LIRMA program, the department has seen a steady increase in the installation costs for radon mitigation systems. System cost will vary depending upon the complexity and other factors that may result in increased costs;

Changes to Section 21.9 (Application process to become a LIRMA eligible radon mitigation contractor)

- Minor wording changes are made for clarity, including adding the word “radon” before the word “contractor”, and incorporating the revised definition “LIRMA eligible radon mitigation contractor”;
- Web page links are added to assist the reader in locating additional information and forms for the LIRMA program;

Changes to Section 21.11 (Conflict of interest)

- Minor changes made to clarify that employees are involved in reviewing the applications for the LIRMA program, rather than the more generic term “persons”.

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 [HB 21-1195](#).

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.

** While the specific legislation noted resulted in the addition of [Article 165 to title 12 to the Colorado Revised Statutes](#), this statute is specific to the Colorado Department of Regulatory Agencies (DORA) and not the Colorado Department of Public Health and Environment (CDPHE). However, the changes in terminology and licensing requirements under the authority of DORA indirectly impacts Part 21 and is therefore cited here as a primary driver of the proposed changes to the CDPHE LIRMA rule.

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. 325 per year	C
Individual applicants interested in providing services and becoming radon contractors under the LIRMA program.	Approx. 15 applicants per year	C / B
Governmental and private organizations and entities that provide assistance to low-income communities and or help promote the LIRMA program and radon reduction related education and activities.	31	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.
CLG = local governments that must implement the rule in order to remain in compliance with the law.
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 add clarity and to incorporate language related to and consistent with state law and the Colorado specific licensing of radon professionals by DORA.

There is no quantitative economic benefit to the Department if the rule is amended as proposed.

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

S: There are no financial costs or financial benefits as a result of the proposed changes.

B: There are no financial costs or financial benefits as a result of the proposed changes.

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 help ensure that Part 21 is using terminology and language that is consistent with the DORA licensing requirements for radon measurement and radon mitigation contractors that may provide services under the LIRMA program.

There are no non-favorable non-economic outcomes as a result of the proposed changes.

3. The probable costs to the agency and to any other agency for 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 no anticipated costs associated with the proposed changes other than those costs associated with this rulemaking.

B. **Anticipated CDPHE Revenues:** There is no change to CDPHE revenues as a result of the proposed Part 21 rule changes.

C. **Anticipated personal services, operating costs or other expenditures by another state agency:** There is no change to any other state agency costs or expenditures as a result of the proposed Part 21 rule changes.

D. **Anticipated revenues for another state agency:** There is no change to other state agencies as a result of the proposed Part 21 changes.

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:

- ☒_X_ 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.
- ☒_X_ Implement a Regulatory Efficiency Review (rule review) result
- ☒_X_ Improve public and environmental health practice.
- ☐___ Implement stakeholder feedback.

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

Goal 1, Implement public health and environmental priorities

Goal 2, Increase Efficiency, Effectiveness and Elegance

Goal 3, Improve Employee Engagement

Goal 4, Promote health equity and environmental justice

Goal 5, Prepare and respond to emerging issues, and

Comply with statutory mandates and funding obligations

Strategies to support these goals:

- ☐___ Substance Abuse (Goal 1)
- ☐___ Mental Health (Goal 1, 2, 3 and 4)
- ☐___ Obesity (Goal 1)
- ☐___ Immunization (Goal 1)
- ☐___ Air Quality (Goal 1)
- ☐___ Water Quality (Goal 1)
- ☒_X_ Data collection and dissemination (Goal 1, 2, 3, 4, 5)
- ☒_X_ Implement quality improvement/a quality improvement project (Goal 1, 2, 3, 5)
- ☐___ Employee Engagement (Goal 1, 2, 3)
- ☒_X_ Decisions incorporate health equity and environmental justice (Goal 1, 3, 4)
- ☐___ Detect, prepare and respond to emerging issues (Goal 1, 2, 3, 4, 5)
- ☐___ 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 changes may make the Part 21 rule inconsistent with the licensing language and requirements of DORA. This may lead to confusion among staff, individuals applying to receive mitigation assistance, and also may be confusing to individuals wanting to apply to become a LIRMA eligible radon measurement or mitigation contractor.

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. Improving the consistency between the licensing requirements and terminology used by of DORA and the Part 21 rule will help ensure the LIRMA program is operating in a clear and efficient manner.

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

No alternatives to this rulemaking were considered as the cost of rulemaking is minimal relative to the overall benefit of consistency. Failure to amend the rule to update language used by DORA, the licensing agency, may result in inconsistency in regulations between the agencies as well as confusion by the regulated entities and applicants using the Part 21 rule.

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 is intended to add clarity and consistency to the regulation.

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 753 stakeholders/entities were notified via email of the opportunity to comment on the proposed draft rules, which were posted on the Department website. In addition to the draft rule, stakeholders were provided with the full rulemaking schedule, and a summary document highlighting the proposed changes. The stakeholder group primarily consists of individuals interested in the radiation program, current LIRMA eligible contractors, radon measurement contractors, state SIRG (state indoor radon) grantees, and radon contractors. Due to the limited scope and anticipated minimal impact of the proposed rule changes, no stakeholder meetings were held. No comments were received during the 30 day comment period held February 5 through March 6, 2024.

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). The notice of rulemaking hearing was sent to stakeholders on May 16, 2024 prior to publication in the May 25, 2024 Colorado Register.

— 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 during the stakeholder process. The proposed changes are primarily minor technical or administrative in nature needed to improve rulemaking efficiency and consistency with the rules of the Colorado Department of Regulatory Agencies and other radiation control regulations. 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.

DRAFT 1 03/21/2024

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 May 19, 2024 June 20, 2024; effective, July 15, 2024 August 14, 2024

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 assistance** 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 specifically indicated, the materials incorporated by reference cited herein include only those versions that were in

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. These 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.

Editorial note 3: This is a Colorado specific regulation originally initiated by statute and there are no equivalent rules in federal regulation or in the Conference of Radiation Control Program Directors (CRCPD), Inc. model rules.

Commented [JSJ2]: The stated adoption and effective dates are tentative and subject to change, pending Board of Health meeting schedules, final adoption of the rule by the Board, and the Colorado Register publication dates.

The anticipated dates are based on the annual rulemaking schedule (regulatory agenda) for the Department which may be found [online](#).

Commented [JJ3]: Here and in other sections of the rule, where appropriate, the term "funding" is replaced with "assistance" to better reflect the process used by the LIRMA program. Under the program, monetary payment is provided to the LIRMA contractor (not the homeowner) after the mitigation system is installed, the post-mitigation test results verify that test results are acceptable, and it is accepted/approved by the LIRMA program staff.

effect as of the most recent effective date of this Part 21 (~~July 2021~~**June 2024**), and not later amendments or editions of the incorporated material.

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

~~C.~~ Availability from Source Agencies or Organizations.

1. All federal agency regulations incorporated by reference herein are available at no cost in the online edition of the Code of Federal Regulations (CFR) hosted by the U.S. Government Printing Office, online at www.govinfo.gov~~https://www.govinfo.gov/app/collection/cfr/~~.

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

Commented [JJ4]:

Web page links are updated consistent with recent changes to other regulatory parts.

21.2 Definitions

A. "Certified test kit" means a radon test kit (and analysis) that is certified by the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB).

~~B. "Certified radon measurement contractor" means a contractor that is certified to conduct testing by the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB).~~

~~B.~~ "Certified and licensed radon measurement contractor" means a contractor that is:

- 1. Certified to conduct radon measurement by the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB); and**
- 2. Is licensed by the Colorado Department of Regulatory Agencies (DORA) as a "Radon measurement professional".**

C. "Certified and licensed radon mitigation contractor" means a contractor that is:

- 1. Certified to conduct radon mitigation by the National Radon Proficiency Program (NRPP) or the National Radon Safety Board (NRSB)**
- 2. Is licensed by the Colorado Department of Regulatory Agencies (DORA) as a "Radon mitigation professional".**

~~CD.~~ "Colorado Low Income Radon Mitigation Assistance Program" (LIRMA) means the assistance program created to address local community needs through an assistance process established pursuant to Section 25-11-114, C.R.S. administered by the Hazardous Materials and Waste Management Division (HMWMD) ~~at~~**of** the Colorado Department of Public Health and Environment (CDPHE).

Commented [JJ5]: The original definition is revised divided into two definitions as discussed below.

Commented [JSJ6]:

In provisions 21.2B and 21.2C, the definition language is revised to ensure consistency with the licensing requirements and terminology of the Colorado Department of Regulatory Agencies (DORA).

As of July 1, 2022, in accordance with [Title 12, Article 165 of the Colorado Revised Statutes](#), individuals who perform radon measurements and/or radon mitigation activities in Colorado must be licensed by the Colorado Department of Regulatory Agencies (DORA). DORA also provides separate licenses for those who perform only radon measurements and those who perform radon mitigation.

Licensing with DORA is a separate requirement to become an eligible contractor under the LIRMA program.

77 **DE.** "Conflict of Interest" consists of one or more the following conditions:

78 A situation in which any individual has a personal or financial interest that could reasonably be
79 perceived as an interest that may influence an individual in his or her official duties.

80 **EF.** "Department" means the Colorado Department of Public Health and Environment or CDPHE.

81 **FG.** "Division" means the Hazardous Materials and Waste Management Division (HMWMD).

82 **GH.** "Financial interest" means an interest held by an individual which is an ownership or vested
83 interest in an entity or employment, or investment interests, or a prospective employment for
84 which negotiations have begun, or a directorship or officership in an entity, or immediate family
85 members.

86 **HI.** "Fiscal year" means the period commencing July 1 of a calendar year and concluding June 30 of
87 the following calendar year.

88 **IJ.** "Homeowner" means, for purposes of this regulation, a Colorado resident who owns a dwelling as
89 demonstrated by that person's name appearing on a warranty deed or deed of trust, and who
90 lives in the home as their primary residence.

91 **JK.** "LIRMA eligible ~~certified~~ radon mitigation contractor" means ~~an company~~ **individual** that is:

92 **1. A certified and licensed radon mitigation contractor; and**

93 **2. ~~h~~Has applied for eligibility to the LIRMA Program and has been approved to participate in**
94 **the program.**

95 **KL.** "Low income" means an income that does not exceed eighty percent (80%) of the median income
96 for the area, as determined by the United States Department of Housing and Urban Development
97 (HUD).

98 **21.3 Program goal**

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

103 **21.4 Homeowner eligibility for mitigation system assistance**

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

106 A. The home must be a homeowner-occupied home located within the State of Colorado. The
107 following types of homes are eligible for the LIRMA Program:

108 1. Single family dwelling unit;

109 2. One-to four unit buildings. The unit occupied by the owner is eligible for mitigation
110 assistance under the program;

111 3. Condominium or cooperative unit; or

112 4. Manufactured homes.

Commented [JSJ7]:

This definition is updated for clarity and consistency with other definitions and terminology throughout the rule.

The word "company" is revised to "individual", since only individuals are licensed by DORA.

- 113 Rental units and/or properties listed for sale are not eligible for the LIRMA Program.
- 114 B. The homeowner applicant must be:
- 115 1. A resident of Colorado. Proof of residency must be established at the time of application;
116 and
- 117 2. Meets the criteria, for the county of residence, of "low income".
- 118 **C.** Assistance with mitigation system installation will be provided for qualified homes with radon
119 levels exceeding 4 picocuries per liter (4 pCi/L) as tested using a certified test kit or certified **and**
120 **licensed** radon measurement contractor. ~~Initial radon testing will not be paid for or reimbursed~~
121 ~~under this program. Radon testing incurred at the homeowner's expense will not be~~
122 **reimbursed.**
- 123 D. Homes with mitigation systems ~~currently~~**previously** installed are not eligible for ~~mitigation~~
124 ~~assistance funding or~~ reimbursement under this program.
- 125 **E.** Following mitigation system installation:
- 126 1. ~~The LIRMA eligible certified radon mitigation contractor will provide the homeowner with~~
127 ~~a certified test kit; and A post-mitigation radon test must be conducted no sooner~~
128 ~~than 24 hours and no later than 30 days after the mitigation system installation.~~
- 129 a. **The LIRMA eligible radon mitigation contractor will provide the homeowner**
130 **with a certified test kit; or**
- 131 b. **The post mitigation test may be conducted by a certified and licensed**
132 **radon measurement contractor.**
- 133 2. ~~The homeowner shall conduct the provided radon test no sooner than 24 hours and~~
134 ~~within 7 days of the mitigation system installation. The homeowner must submit the radon~~
135 ~~test results to the LIRMA Program within 30 days of the test. The homeowner is~~
136 ~~responsible for submitting the radon test results to the LIRMA Program within 45~~
137 ~~days of the test.~~
- 138 F. Homes under the governance or requirements of a home owners association (HOA) must have
139 approval of the mitigation plan from the HOA.
- 140 **21.5 Homeowner applications for assistance**
- 141 **A.** ~~Applicants (homeowners)~~ **Homeowner applicants** seeking ~~funding~~**assistance** to pay for radon
142 mitigation and post-mitigation radon testing shall complete the LIRMA Homeowners Application
143 as provided by the LIRMA Program.
- 144 B. In addition to any other penalty imposed by law, any applicant who knowingly or intentionally
145 provides false information to the Department when applying for assistance may be denied
146 ~~funding~~**assistance** and shall be ineligible to receive any future funds under these rules.
- 147 C. Within 30 days of receiving a homeowner application for assistance, the LIRMA Program will
148 review the application and will:
- 149 1. Approve the application; or
- 150 2. Deny the application; or

Commented [JJ8]:

This provision is revised for clarity and consistency with other provisions of the rule.

Commented [JJ9]:

This provision is revised and reorganized to clarify the language and to better follow the sequence of requirements related to post-mitigation testing.

Additionally, consistent with national standards for radon mitigation systems/testing and current practices in the program, the rule language is revised to allow more time for completion of post-mitigation testing (now 30 days) and provides for additional time for submission of the post-installation testing results (now 45 days).

Commented [JJ10]:

Here and in other sections of the rule, language is clarified for homeowner applicants, and applicants to become a LIRMA eligible radon mitigation contractor.

3. Request additional information from the applicant.

D. **Homeowner** Applicants who submit an incomplete application or who submit incomplete information or documents in the application process will be given 30 days to correct or submit the necessary information. Applicants who fail to provide the necessary information within 30 days of the LIRMA Program request will result in the application being abandoned and no mitigation system **fundingassistance** will be provided except where the applicant resubmits a full application with all necessary information and documents. The LIRMA Program will make all reasonable efforts to contact the applicant to request the additional information or documentation.

E. Timeline for assistance applications

1. Applications for assistance may be submitted throughout the year as funds remain available. Once funding is no longer available, the LIRMA Program will cease to process applications until additional funding becomes available. If funding is not available at the time of application, the applicant may request that the LIRMA Program hold the application (for up to 45 days) while the program awaits additional funding. Unless otherwise indicated, the LIRMA Program will not hold applications for longer than 45 days while waiting for funding.

If it has been longer than 45 days since the application was received by the LIRMA Program, the applicant will be required to reapply and resubmit all necessary documentation.

F. Request for application forms

1. Upon request the LIRMA Program will mail or email blank application forms to any person(s) requesting such forms. A maximum of 10 application forms will be mailed at any time. Application forms are also posted **for downloading** on the Department **LIRMA website** **web page** (<https://cdphe.colorado.gov/hm/low-income-radon-mitigation-assistance>).

Commented [JJ11]:

Text and web page links are added to help users locate the necessary application form(s) and to provide additional information about the LIRMA program.

21.6 Criteria for selecting homeowner grant awards.

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

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

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

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

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

c. A test or measurement performed by a certified **and licensed** radon measurement contractor;

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

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

4. A determination that the applicant meets the criteria for low income specified for their county of residence.

B. The LIRMA Program shall have final authority to approve or deny the **funding awards** assistance based upon the documentation submitted or otherwise obtained by the Department.

21.7 Homeowner assistance limits

A. ~~Assistance amounts shall be limited to a maximum of \$1,500.00 per homeowner applicant unless otherwise approved in advance by the LIRMA Program. Assistance amounts shall be determined by the LIRMA Program through evaluation of the mitigation plan to help ensure the system will meet national mitigation standards once installed.~~ All funds will be paid directly to the LIRMA eligible **certified** radon mitigation contractor.

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

21.8 Awarding of a Assistance monies and feedback on program implementation

A. The LIRMA Program shall ~~award funds and will~~ specify the amount of the assistance **to be provided** based upon the **LIRMA eligible radon mitigation** contractor's mitigation plan ~~and the LIRMA Program statement of work requirements for LIRMA eligible certified radon mitigation contractors.~~

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

21.9 Application process to become a LIRMA eligible certified radon mitigation contractor

A. Radon mitigation contractors seeking to become a LIRMA eligible **certified** radon mitigation contractor shall:

1. Follow the requirements of the LIRMA Program as prescribed by the Department;
2. Complete the Radon Contractor's LIRMA Application form as prescribed by the Department;

B. In addition to any other penalty imposed by law, any **radon** contractor applicant who knowingly or intentionally provides false information to the Department when applying to become a LIRMA eligible **certified** radon mitigation contractor may be restricted from participating in the LIRMA Program or from receiving mitigation funds under the LIRMA Program.

C. Within 30 days of receiving a **radon** contractor application, the LIRMA Program will review the application and will:

1. Approve the application; or
2. Deny the application; or
3. Request additional information from the contractor applicant.

Commented [JSJ12]:

As the LIRMA program has evolved over time, the department has seen mitigation system cost increases. System costs will vary greatly depending on complexity and location. Therefore, removing an upper limit value is proposed to accommodate changing and increasing costs.

Commented [JJ13]:

This provision is revised for clarity and understanding, and for consistency in terminology used in other sections of the rule.

D. ~~Radon C~~contractor applicants who submit an incomplete application or who submit incomplete information or documents in the application process will be given 30 days to correct or submit the necessary information. Applicants who fail to provide the necessary information within 30 days of the LIRMA Program request will result in the application being abandoned and the contractor will not be added to the LIRMA eligible ~~radon mitigation~~ contractor list except where the applicant resubmits a full application with all necessary information and documents. The LIRMA Program will make all reasonable efforts to contact the contractor applicant to request the needed additional information or documentation.

E. Timeline for contractor applications

1. ~~Radon C~~contractor applications may be submitted throughout the year. Approved applicants will be added to the eligibility list within 30 days of the approval.

F. Delisting of contractors from approved list

1. At the discretion of the LIRMA Program, a mitigation contractor may be delisted (removed) from the LIRMA eligible ~~certified~~-radon mitigation contractor list.

~~G.~~ ~~Mitigation~~LIRMA eligible ~~radon mitigation~~ contractor responsibilities

1. In addition to requirements specified by the LIRMA Program, **LIRMA eligible radon mitigation** contractors shall adhere to the following requirements:
 - a. Installation of mitigation systems shall be completed in accordance with the ~~signed statement of work~~**LIRMA eligible radon mitigation contractor submitted and approved mitigation plan**, completed in a timely manner within 60 days of the approval of the mitigation plan;
 - b. Following mitigation system installation, a post-mitigation test showing levels have been reduced below 4 pCi/L will be required for reimbursement to the ~~mitigation~~**LIRMA eligible radon mitigation** contractor.
 - c. Any **LIRMA eligible radon** mitigation contractor who knowingly or intentionally provides false information to the Department as part of a mitigation system installation may be restricted from participating in the LIRMA Program or from receiving mitigation funds under the LIRMA Program.

~~H.~~ Request for application forms

1. Upon request the LIRMA Program will mail or email ~~radon~~ contractor application forms to any person(s) requesting such forms. A maximum of 10 application forms will be mailed per request. Application forms are also posted ~~for downloading~~ on the Department ~~LIRMA website~~**web page (<https://cdphe.colorado.gov/hm/low-income-radon-mitigation-assistance>)**.

Commented [JJ14]:

Language is updated for consistency with terminology and phrasing used in other sections of the rule.

Commented [JJ15]:

Text and web page links are added to help users locate the necessary application form(s) and to provide additional information about the LIRMA program.

21.10 Reporting requirements

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

21.11 Conflict of interest

- A. Any CDPHE ~~Staff~~**employee** involved in reviewing or approving applications must disclose any potential or actual conflict of interest, as defined in section 21.2, to the Radiation Program

267 Manager. If the Radiation Program Manager determines that the ~~person~~**employee** has a potential
268 conflict of interest, the Radiation Program Manager shall assign an alternate ~~person~~**employee** to
269 review, or assist in the review, of any application for which a conflict of interest may exist.

270

271 [END OF RULE]