**DCEO OCD Guidance on HUD Radon Rule**

**(For DCEO OCD Environmental Certifications occurring effective 4/11/2024, or later)**

On 2/27/2024, the Office of Environment and Energy (OEE) of the United States Department of Housing and Urban Development (HUD) provided the “HUD’s Departmentwide Radon Policy Notice” webinar to provide guidance to its Grantees, included DCEO’s Office of Community Development (OCD) for HUD’s State CDBG Grant to Illinois for sub-Granting to non-Direct Entitlement communities, and the CDBG-CV Grant for sub-granting. This webinar served to provide visual guidance to HUD Grantees (and their Subgrantees) on **implementing the new HUD Radon Rule as outlined in HUD CPD Notice 23-103, issued on 01/11/2024, and effective 90 calendar days later on 4/11/2024**.

DCEO OCD subsequently uploaded both the “HUD’s Departmentwide Radon Policy Notice” webinar and HUD CPD Notice 23-103 to its Environmental Materials website located at

<https://dceo.illinois.gov/communitydevelopment/environmentalmaterials.html>. The HUD Radon Rule must be implemented for all Grants awarded by DCEO OCD to communities within its operational territory across Illinois for all State CDBG and CDBG-CV components.

Implementation starts when researching and documenting the “Contamination and Toxic Substances” Compliance Factor found on HUD Categorically Excluded (Subject to 58.5) (i.e., CEST-ER) and Environmental Assessment (i.e., EA-ER) level Environmental Record Review (ERR) forms. The brief steps outlined on this Guidance sheet below are only intended to serve as a supplemental reference to the full HUD Radon Rule and webinar guidance already posted on both the DCEO Environmental Materials website (listed above) and on the HUD Exchange Site Contamination web page <https://www.hudexchange.info/programs/environmental-review/site-contamination/>.

**Key points of the HUD Radon Rule:**

* Addressing the risk of residential radon exposure;
* The Policy falls under HUD’s Contamination regulations at 24 CFR 50.3(i) & 58.5(i)(2), part of the NEPA environmental review of proposed HUD-supported projects;
* The Policy requires consideration of radon gas in buildings as part of proposed HUD projects subject to HUD Contamination regulations;
* **Radon** **testing** is ***not* required**, but **mitigation is required** if the method used to consider radon shows levels at 4.0 pCi/L or greater;
* Cover CDBG-assisted structures that are or are intended to be occupied at least 4 hours per day.

**How to Consider Radon under the HUD Radon Policy Notice:** Refer to slide 8 (of 35) onwards of the “HUD’s Departmentwide Radon Policy Notice” webinar posted on <https://dceo.illinois.gov/communitydevelopment/environmentalmaterials.html>

**Anticipated Radon Rule Impact on State CDBG and CDBG-CV Grants Issued by DCEO’s Office of Community Development**:

**Economic Development** (Program 24, Series 1):

**CDBG ED project ERR’s cleared under a Categorically Excluded Not Subject to 58.5 (i.e., CENST-ER) format**: Consideration under the HUD Radon Policy Notice is not required. The most common types of DCEO CDBG ED projects environmentally cleared under a CENST-ER format are: inventory financing and/or portable equipment purchases.

**CDBG ED project ERR’s cleared under a Categorically Excluded Subject to 58.5 (i.e., CEST-ER) or Environmental Assessment (EA-ER) format**: These types of ED projects typically involve public infrastructure for economic development; non-residential building or land acquisition and/or re-development; and/or a change of ownership or production type or production expansion.

To comply with the HUD Radon Rule, CDBG ED CEST-ER or EA-ER formats must:

* Use one of the HUD-allowed Science-Based Data methods for determining whether or not the CDBG ED project’s county has a radon level less than 4.0 pCi/L. If so, state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG ED CEST-ER or EA-ER format, after the language you’ve already entered for the relevance to the project’s US EPA Envirofacts search results and Phase I and II ESA (if required), and place a copy in the ERR’s supporting documentation;
* If the CDBG ED project’s county has a Science-Based Data radon level of 4.0 pCi/L or higher, then for existing structures on the project’s site, use one of the HUD-allowed testing methods to determine if the site’s actual specific radon level is less than 4.0 pCi/L. Note: Do-it-yourself (DIY) radon testing is not allowed by HUD for CDBG ED projects. If the project site test results for existing structures are less than 4.0 pCi/L, then state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG ED CEST-ER or EA-ER format, and place a copy in the ERR’s supporting documentation;
* If the radon test results are 4.0 pCi/L or higher, the structure(s) proposed for ED funding must have a radon mitigation plan that is clearly stated in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG ED CEST-ER or EA-ER format.

**Mitigation plans must**: Identify the radon level; consider the risk to occupants’ health; describe the radon reduction system that will be installed; whenever possible, establish an ongoing maintenance plan to ensure the system is operating as intended; establish a reasonable timeframe for implementation; and **require post-installation testing**. Where feasible, post-installation testing should be conducted by a licensed radon professional.

Implementation of Radon mitigation plans are subject to on-site or desk monitoring by DCEO and/or HUD staff. The cost for installing radon mitigation equipment in the structure may be paid out of budgeted CDBG ED acquisition, construction, rehabilitation, and/or infrastructure funding.

**Public Infrastructure** (Program 24, Series 2): *For once*, CDBG PI is disproportionately neutrally impacted by a new HUD OEE ERR requirement, as almost all “structures” improved with the State CDBG PI funding DCEO issues to small units of local government Downstate are not intended to be occupied or are occupied by humans at least 4 hours per day. The only exception would be a larger community’s, district’s or cooperative’s water or sewer treatment plant or storm pump station where operators and/or lab workers might routinely be present indoors for 4 hours or more.

To comply with the HUD Radon Rule, CDBG PI CEST-ER or EA-ER formats must also contain some variation of the following phrase in the “Compliance determinations” box for “Contamination and Toxic Substances” under what you’ve already typed in for the relevance to the project’s US EPA Envirofacts search results: “The HUD Radon Policy Notice does not apply to this project, as it does not fund improvements to a structure that is occupied or intended to be occupied by humans at least 4 hours per day.”

**Housing Rehabilitation** (Program 24, Series 3):

To comply with the HUD Radon Rule, CDBG HR Tier 2 CEST-ER formats for each individual single-unit home proposed for CDBG HR assistance must:

* Use one of the HUD-allowed Science-Based Data methods for determining whether or not the CDBG HR project’s county has a radon level less than 4.0 pCi/L. If so, state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG HR Tier 2 CEST-ER, after the language you’ve already entered for the relevance to the project’s US EPA Envirofacts search results, and place a copy in the ERR’s supporting documentation;
* If the CDBG HR project’s county has a Science-Based Data radon level of 4.0 pCi/L or higher, then for that home’s Tier 2 CEST-ER, use one of the HUD-allowed testing methods to determine if the home’s actual specific radon level is less than 4.0 pCi/L. If the home’s test result is less than 4.0 pCi/L, then state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the Tier 2 CEST-ER, and place a copy in the ERR’s supporting documentation;
* If the home’s radon test results are 4.0 pCi/L or higher, the home proposed for CDBG HR rehabilitation must have a radon mitigation plan that is clearly stated in the “Compliance determinations” box for “Contamination and Toxic Substances” on the Tier 2 CEST-ER.

Mitigation plans must: Identify the radon level; consider the risk to occupants’ health; describe the radon reduction system that will be installed; whenever possible, establish an ongoing maintenance plan to ensure the system is operating as intended; establish a reasonable timeframe for implementation; and **require post-installation testing**. Where feasible, post-installation testing should be conducted by a licensed radon professional.

Implementation of Radon mitigation plans are subject to on-site or desk monitoring by DCEO and/or HUD staff. The cost for installing radon mitigation equipment in the home may be paid out of budgeted “14A Rehabilitation Single Unit Residential”.

**Disaster Response** (Program 24, Series 7): No impact as its level of ERR is only Exempt, Box 10.

**CDBG-CV Shelter Construction (SC)** (Program 30, Series 1):

**CDBG-CV Shelter Construction acquisition, construction or rehabilitation project ERR’s cleared under a Categorically Excluded Subject to 58.5 (i.e., CEST-ER) or Environmental Assessment (EA-ER) format**:

To comply with the HUD Radon Rule, CDBG-CV SC CEST-ER or EA-ER formats must:

* Use one of the HUD-allowed Science-Based Data methods for determining whether or not the CDBG-CV SC project’s county has a radon level less than 4.0 pCi/L. If so, state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG-CV SC CEST-ER or EA-ER format, after the language you’ve already entered for the relevance to the project’s US EPA Envirofacts search results and Phase I and II ESA (if required), and place a copy in the ERR’s supporting documentation;
* If the CDBG ED project’s county has a Science-Based Data radon level of 4.0 pCi/L or higher, then for existing structures on the project’s site, use one of the HUD-allowed testing methods to determine if the site’s actual specific radon level is less than 4.0 pCi/L. Note: Do-it-yourself (DIY) radon testing is not allowed by HUD for our CDBG-CV SC projects. If the project site test results for existing structures are less than 4.0 pCi/L, then state that in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CDBG-CV SC CEST-ER or EA-ER format, and place a copy in the ERR’s supporting documentation;
* If the radon test results are 4.0 pCi/L or higher, the structure(s) proposed for CDBG-CV SC funding must have a radon mitigation plan that is clearly stated in the “Compliance determinations” box for “Contamination and Toxic Substances” on the CEST-ER or EA-ER format.

Mitigation plans must: Identify the radon level; consider the risk to occupants’ health; describe the radon reduction system that will be installed; whenever possible, establish an ongoing maintenance plan to ensure the system is operating as intended; establish a reasonable timeframe for implementation; and **require post-installation testing**. Where feasible, post-installation testing should be conducted by a licensed radon professional.

Implementation of Radon mitigation plans are subject to on-site or desk monitoring by DCEO and/or HUD staff. The cost for installing radon mitigation equipment in the structure may be paid out of budgeted CDBG-CV SC acquisition, construction and/or rehabilitation funding.

**CDBG-CV Healthy Houses** (Program \_\_, Series \_\_): **TBD**.