

National Radon Dialogue Meeting

March 26, 2010

1:00 - 3:45 pm EST

Draft Meeting Summary

Action Items:

- Set up a working group to help guide EPA's Device Evaluation Study
- Webinar or conference call to coordinate efforts on improving Q/A with SRR, PAB, NRSB, EPA (Jani), states, training centers, and committees

Participants:

AARST: Peter Hendrick, Phil Jenkins

AARST Standards Consortium: Gary Hodgden

CRCPD: Clark Eldridge (Florida), Chrys Kelley (Colorado), Mike Pyles (Pennsylvania), Bob Stillwell (Maine)

EPA: Tom Kelly, Larainne Koehler, Bill Long, Jani Palmer, Lou Witt

NEHA/NRPP: Heidi Shaw, Bruce Snead (PAB)

ASTM: Steve Mawn

Other: Justin Bangs (Cadmus), Stacie Smith (CBI – *Facilitator*)

Introductions and Welcome

Participants introduced themselves, including names and affiliations. CBI outlined the agenda for the meeting.

Check-in on communication, coordination, and conflict resolution

The facilitator invited participants to share any feedback on how communication had been going among the key Radon groups, or any concerns they might have about interactions among them.

Bill Long offered his perspective on communication. He was appreciative of everyone's willingness to convene, as he understood that it was not ideal to meet by phone. He was pleased with the current state of open and frank communication amongst many of the key Radon stakeholders, especially around the recent activity on the Hill, and believed the NRD had forged good talks between the EPA, states, and industry. He also added that standard-setting ideas and activities had been gaining traction. He also said he appreciated Mike Gilley in his new role, and believed Mike has carried forward the spirit of good communications and interest-based negotiations.

Peter Hendrick agreed with these comments and added that he continued to see cooperation between the private sector and state programs in individual states like Oregon, Kansas, Iowa, and Kentucky. He noted that there have been stronger state radon policies passing, building on the successes from work that came out from Illinois a few years ago. The Illinois data was in and

was very supportive, and other States are more likely to duplicate successful programs. He added that having individuals in the field was being duplicated in other states now.

The NEHA representative commented that while NEHA, as a national organization, does not get too involved with state issues, she had been very impressed when a representative from EPA's investigative office had contacted NEHA for information during a case to prosecute poor practitioners for environmental violations in Colorado. She viewed this as very positive step, especially in Colorado, where they could use regulations in asbestos to crack down on a contractor who also had a number radon violations.

A comment was made that it was unfortunate that Bill Bell was not part of the Dialogue or willing to join the call, because it would have been great to have the leadership E-25 there, as it would have added to the conversation. Similarly it would have been beneficial to have the other proficiency program present.

There was also a clarification made about the new name for this group – given the proliferation of processes containing the word “stakeholder”, this group would now be known as the National Radon Dialogue.

A state representative asked for clarification on a note he received stating that EPA Headquarters would be revising how they will distribute funding to the states. EPA responded that they were vulnerable in how they divided out radon money, as they were probably not adhering to statutes like they should be. They were in the process of doing a step-by-step analysis of this, and no final decisions had been made. EPA added that it was in the very early stages, and they were still talking to the different regions and fleshing out options. Overall, there could be a potentially different allocation methodology and management process of how headquarters and regions would share responsibility. EPA stated its goal was preserving region autonomy but also having headquarters more involved. Apparently, an e-mail from an EPA region which mentioned this process along with an unrelated point about recording the number of test kits distributed and returned had led to a misunderstanding that EPA would distribute money based on test kits, which is not the case.

Updates on on-going activities

Harmonization of ASTM E-2121 and AARST's RMS

Gary Hodgden presented a general update on the on-going harmonization efforts. He commented that since it was a process involving all volunteers, it was moving very slowly but going well. He noted that EPA standards judge systems based on when they were installed, so they were experiencing language issues (affecting diagnostic issues.) Steve Mawn of ASTM agreed that the progress was slow and steady, and added that there had been more harmony in the last year or so.

Gary also referred to a document that had been sent to the group, with updates on a number of other AARST Standards Consortium activities. He mentioned that the measurement standards would be published within the week.

CRCPD blind testing project

Stacie Smith presented information on the CRCPD blind testing project as Bill Bell was not in attendance. She noted that Bill had directed her to report that there was “no reportable information.” This felt disappointing to members of the group, as a notable gap in communication.

A state participant then shared some updates on the project: that Ray Johnson had been selected as the contractor to coordinate the project. He informed the group that detectors had been submitted, but did not have more information about the project. Another participant stated that he was glad to be informed of this, as he had been unaware of who was selected.

Q/A for Professionals Working group update

Stacie noted that Josh Kerber was not able to join the call, but had sent an update on activities related to Q/A. The update noted that Q/A was an ongoing effort for NEHA and AARST, who were looking for immediate ways to upgrade and add procedures to improve quality assurance. This ongoing work was being fueled by volunteers and volunteered time and therefore was a slow process. The report also noted that there were other things happening in terms of individuals in communities that could help in addition to what AARST was doing as well.

Participants were asked about potential next steps, and particularly whether there was anything else this group, or members of this group, might do to help move this forward.

One participant mentioned that Shawn Price had great ideas about this from a holistic point of view, including asking: what should the states do? What should the labs do? Shawn is close to having a proposal, and he wanted to get Shawn into the conversation with this group. Many participants agreed that this was a good idea with the only problem being timing. Another participant suggested that Josh and Shawn could co-chair a group and put it on the portal as a discussion item.

A regulatory state member stressed that Q/A was a big issue during inspections. People are mandated to send in a QA/QC program. His state had them write their own plans for what they were going to be certified in, but this didn't work, so they decided that they were going to write a standardized procedure for each device that practitioners would be offered. Most use these now. Others agreed with the benefits of a standard program. One person added that if it was easier, than more people would do it.

It was noted that QA/QC was really lacking in the training programs and should be enhanced. One participant responded to say that the training centers tried to provide resources for QA/QC and would welcome any models developed by states or others.

One participant suggested that people should be required to submit and implement QA plans, as well. He added that usually when they get a QA plan from a lab, they don't fill it out completely.

Another participant added that in Pennsylvania they could get violators on the QA package because they signed it, and a signed document would hold up in court. Also they could de-certify them if they didn't adhere to the Q/A document that they signed.

A participant noted that some of the challenges were that people came from different states. He would try to give them QA/QC resources to get them to do what they were supposed to do, such as working with manufacturers. He suggested that training centers should offer these resources as well.

Many in the group inquired how the process was done in Pennsylvania and which documents the Pennsylvania QA program was based on. Mike Pyles explained that they used a mixture of two EPA documents. The state of Pennsylvania could not reference EPA protocol, because there weren't any regulations. So they reviewed the documents, and wrote their own based on what they found so that people could sign it; it could then be enforced because people had committed to using it. Pennsylvania did this because courts needed Q/A documentation to rule in their favor. They are in the process of putting them online and the same goes for litigation standards as well.

Another participant added that Ohio had done four device-specific QA plans and it might be useful to avoid all states doing different things. Many participants agreed that it would be valuable to have communication about and sharing of models.

It was also noted that CRCPD SR-R committee has been working on suggested state regulations on Q/A guidelines for radon labs and businesses.

An AARST participant stated that there was a proposal before the NEHA PAB that would require certified practitioners to sign a specific QA/QC plan. But following up to ensure it was happening would create an infrastructure problem for a national proficiency program. Someone suggested doing audits by mail, requiring people to send it in, and AARST responded that this was an option that PAB was looking into. Gary suggested that the AARST Consortium would be happy to serve as a forum or assist wherever the energy is.

The suggestion was made to set up a webinar to further discuss Q/A issues. The group found that the following people should be included in the discussion: SRR, PAB, NRSB, EPA (Jani), states, training centers, and committees. One participant noted that time would be an issue, and the suggestion was made that a smaller group should discuss this first to compare different issues in a more efficient manner.

Stacie pointed out that this topic was first discussed a year and half ago, and there wasn't much going on. Now it seemed there was momentum from a lot of different places. She suggested getting that energy coordinated to find consistency and make it into a big wave.

Update on EPA's Long Term Strategy (LTS)

Bill Long gave an update on their long-term strategy, which consisted of the three scenarios. Scenario one looked at strategies and objectives for the Radon program given existing resources and existing authority, and two and three were about the potential of more resources and authority. The Inspector General's office asked EPA to look at limitations, which happened to be resources (funding) and legal authority. EPA took in broad stakeholder input on all three scenarios. Bill stated that EPA can publically release only the first scenario about existing resources and existing authority. The other two scenarios cover new authority and resources, and Bill explained the limitations of releasing such information from the Executive branch. Bill also explained, however, that that process of discussing scenarios 2 and 3 greatly helped the EPA think about available options, as well as informed the other stakeholders.

One participant stated he needed to consider how this could play out in terms of disappointment to stakeholders, who were vocal about the other scenarios. He noted that many people have a misunderstanding of how things work in Washington, with expectations that EPA can be up on the hill advocating for change. It would be important to think through how to announce this.

Bill welcomed input on how to get the message out to stakeholders that their advice on scenarios two and three was very helpful in shaping EPA's thinking about how it would respond to increased resources and authority, and that it was better to have this problem than to have missed the opportunity for that input. And, he noted that the input process did help to educate a lot of people about how things work in Washington, and about EPA's commitment to action. However, he still needed input on how to communicate this effectively to stakeholders.

One participant stated that hearing Bill explain it, she understood, but had concerns about others who wouldn't hear it from EPA. There was a lot of negative chatter about why the states should be involved in the scenario discussions, and whether anything would come from them. If the other sessions go away, states might roll their eyes and feel that, as expected, their effort was ignored.

Bill clarified that EPA is not ignoring the outcomes from the other scenarios, they are using them internally, but just cannot release them publically. Bill asked the group, as leaders, to help spread the word among their constituents about this, and noted that he is happy to talk to anyone individually on the EPA's situation.

A participant stated that it would be helpful for EPA to be clear that the objectives and strategies developed for the other scenarios are being used and are not lost.

Another participant stated that he felt that CRCPD and AARST needed to step up and be partners in explaining this to their constituents and members. It has to be realistically recognized that EPA can not create authority for themselves. It falls upon us to take leadership and be advocates in Washington for radon, or else it's not going to happen.

A participant commented that if EPA is left to handle this themselves, stakeholders will vilify them. He reiterated that it is the responsibility of the radon partners to get this message across, which could be a basis for taking action. EPA has these limitations, which is the truth; so people on the outside will need to step up to help change that.

Tom explained that within government, there is an overt culture and an open culture operating with visible and invisible constraints. EPA asked for help imagining a future for the radon program without any constraints. However, nothing suggested that we had the ability to make that future happen. He hopes people aren't being naïve, and thinking that if they suggest something to EPA, it can simply make it happen. In order for them to create momentum for a different future, it's not EPA's role to find the pressure points, but everybody that participated in that conversation. Everyone is now armed with that imagination to make things happen. Perhaps that conversation had some unseen influence over the current Senate bill. But it was important for people to understand that federal agencies can't directly and publically advocate for filling their unmet needs - if every federal program said how much they needed, there would be no control in the federal government.

Participants stated that if the bill is filed in the Senate soon, it will help create more opportunities for the radon community to push for this future.

Bill concluded by thanking the group for their advice and ideas on this topic, and committed to following up with a few people for further input. He clarified again that he brought this topic to the group because he didn't want to just leave this incomplete, and wanted to be sure to honor the input and efforts people had put into the process.

New activities and next steps

New Standard on Model Code for Radon Reduction Features in 1- and 2-Family Dwellings – Gary

Gary explained that the process of developing this new standard is moving forward; there are no objections so far. There has been a lot of outreach and transparency, including 50 different volunteers. Dave Kapturowski was the only volunteers to chair. Gary provided a list of names of the participants. He had been concerned about, but was able to find volunteers for,

homebuilders, architects, and ICC headquarters working in standards. He also had someone from overseas (Romania).

A participant responded positively to the list of participants, and mentioned meeting the previous day with one of them, Andrew Harris, a builder at a larger regional building company, who is well versed in radon as well as construction. The participant was impressed with Andrew, and wanted to share that Andrew seemed to prefer modifying 1465 to creating a new standard, and that Andrew was not concerned that 1465 wasn't in code language, as it wasn't unusual for codes to reference ANSI standards.

Another participant asked why the focus shouldn't be changing 1465. Gary responded that 1465 was too long and complex, and that they want a simplified code that people could follow. There have been attempts to revise the standard, but it is difficult to go into a local jurisdiction and get that implemented. It needs a lot of work. There is a need for a model code that could be adopted that would be a replacement for Appendix F, in more simplified language and formatting. The end result of a code is different from 1465, which would be focused on what people should do.

Several participants agreed that this would make sense and be valuable.

Current Legislative activities – Bill

Bill gave a broad overview of the draft bill that is currently being developed in the Senate by Amy Klobuchar, the senior Senator from Minnesota, which has to do with increasing radon action. It is a broad approach largely having to do with draft bill that AARST developed a year and a half ago. It was focused primarily on states, requiring action plans, reworking EPA grants, HUD funding, and more standards on quality. There was an interesting approach to driving action in the real estate transaction. Innovative approaches in regards to the purchase agreement phase of a home sale, similar to the lead bill.

Bill stated that many on the call have been involved in commenting on the draft from the perspective of their organizations. The latest news is that they are reworking the bill in response to a strong reaction from realtors. They had a better conversation with the builders, so most of the reworking is due to realtor feedback.

Peter added that the bill is still in the formation stages. It requests more funding for the states, action on the HUD side, including government backed mortgages. It's a complicated bill, and the American Lung Association (ALA) is working on it. It is a long way from finished, as there has been push back from the National Association of Realtors (NAR). He would also like to note that the first draft is not the AARST bill, but rather it has been rewritten to what they think will work.

A participant noted that NAR has been happy to cooperate on radon but was opposed to disclosure laws. Another noted support for the bill from realtors and state legislators in Illinois and Kansas, and clarified that there was a sense of realism that certain things, like required

testing, wouldn't survive. It was noted that radon didn't have a very large national advocacy presence. .

New EPA Device Study – Jani Palmer

Jani Palmer joined the group for this call in order to talk about a new device study that EPA was going to do. She stated that EPA planned on doing a device study in order to assure the public that radon devices were effective for measuring the radon risk in their homes. She noted the value of designing the study in a transparent and collaborative way, so that the results would be acceptable and useful to a broad range of radon stakeholders. Jani asked the Dialogue group to help her develop ideas/advice on which groups should be involved in this process – her initial thinking was something like 6-8 people from different disciplines.

Bill expanded by stating that EPA's initial thinking is mirroring the studies done when EPA was running the proficiency program, so that they could do a comparison of device effectiveness then and now. He also clarified that this project was motivated in part as a response to the OIG report saying that EPA is unable to provide assurance that radon testing devices are accurate and reliable. A replication of the previous study design would be the simplest to do. Bill also noted that this study was intended to be a small sampling that would provide a snapshot of device accuracy, rather than a full-scale, fully statistically powerful, or long-term study.

Jani further clarified that the intent to mirror the study design from the earlier EPA studies was a starting point, but that the advice and input of the radon stakeholders would shape the final design, and that they were open to considering other ideas as well.

A state participant asked whether there would be any information coming out of the study that would be useful to states. For example, would it list specific names of companies whose devices were found to be accurate or inaccurate? Jani stated that this would be one of the topics for the stakeholders to help decide, after looking at the pros and cons. The state participant felt strongly that naming the labs/participants was important. Another participant feared that the data set for the study would be too small to provide statistically valid results that could allow EPA to say in a blanket way with confidence that any given device is or is not accurate.

Participants agreed that that getting broad stakeholder involvement in the study design would be helpful and lead to an interesting discussion, as this is a volatile subject. It would be important to clarify upfront what the results from the study would mean.

Phil Jenkins volunteered to join the work group. He recalled a big Consumer Reports study in the 1990s, which was poorly designed. He noted that a weak study design could make a bad laboratory look good and a good laboratory look bad, and it may bring out legal battles. If you name names, you can put someone out of business.

A participant suggested including only certified laboratories in the study, and ensuring a representative from one was in the working group. Bill Long stated the need for state representation, and requested that the states in this dialogue group reach out and find representatives for this working group. Chrysta Kelley volunteered to participate.

A state participant asked for more clarification of the goal of the study. EPA reiterated that they wanted to assemble data sufficient to reassure the public that current radon devices were accurate and reliable.

Jani agreed to write up an overview and request for workgroup participants to send out widely, and asked the stakeholders to assist in passing it along.

Recharging of Electrets – Peter

Peter explained that AARST had recently issued a statement (which was sent to the dialogue participants prior to the meeting) stating that recharged electrets constitute a new device, and therefore need to be labeled and undergo independent certification. The NEHA-NRPP Policy Advisory Board (PAB) was currently taking up this matter. Several participants spoke up to agree with the position that, once recharged by another entity, the device was no longer a Radalact product, and were therefore unevaluated and uncalibrated devices. They stated that, from a physics standpoint, there was real reason to be concerned that a recharged device would perform differently than the original product. Several participants agreed that if they are to be recharged, electrets should be re-labeled by the company doing the recharging, and that they should seek certification from the proficiency programs and states as a new device. A participant stated that there is also an ethical basis and precedence not specific to this device, but it has good grounds. You need to own up to your devices and inform customers that you are recharging. Anyone could say they are a recharger. There are kits people can buy, certainly it is happening in the state of Pennsylvania, and they are not re-labeling the devices.

A participant mentioned that regulated states may agree, but needed something stronger that would hold up in court. Since his state requires devices be used in a manner consistent with the manufacturers recommendations, he suggested that there needed to be a clear statement from Radalact that recharging electrets was going against the recommendations of the manufacturer, and that the company does not stand behind the effectiveness of devices that have been recharged by other entities. Peter responded that AARST is also looking into the CFRs to see if there is any applicable language on this.

A participant mentioned that it would be helpful to have NRSB in the conversation on this topic, and asked whether the group should reach out again to bring them in.

There was a request that, as leaders from different areas in radon, participants could sign on to a statement or try and raise this issue in their different arenas by making a statement or taking a position. There needs to be some comment to the proficiency programs on this matter.

The meeting was adjourned around 3:45 pm.