

**Inquiry:** #2009-03

**Subject:** Radon mitigation pertaining to additions, alterations and repairs

**Code:** 2009 Residential Energy Code chapter 1322  
Minnesota State Statute 326B

**Submitted By:** (Multiple inquires to the CCLD)

**Approved By:** Stephen Hernick, State Building Official

**Issue Date:** August 2009

**Question:** Does the phrase “new residential construction” referenced in Minnesota Rules 1322.2100 to 1322.2103 for radon controls apply to additions, alterations, and repairs to a single family dwelling?

**Answer: No.** Minnesota Statute 326B.106, subdivision 6 requires that, “The commissioner of labor and industry shall adopt rules for radon control as part of the State Building Code for all new residential buildings.”

The scoping provision in Minnesota rule 1322.2101 states that, “The purpose of parts 1322.2101 to 1322.2103 is to establish requirements for radon-resistant construction in new residential construction built to the requirements of Minnesota Rules, chapter 1305 or 1309.

The legislature used the phrase “new residential buildings” in the authorizing statute. The Department can not and did not intend to adopt rule beyond the scope of the authorizing statute. This phrase refers to a totally new structure and not to only a portion of a structure. It was not the intent of the rule to cause an unreasonable financial burden on homeowners by installing radon mitigation controls to a new portion of a structure, only to have those measures not meet the intent of the rule when completed, nor was it the intention to require radon mitigation in the existing portion of the building.