



Councilmember Mary M. Cheh

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To require disclosure of information related to the operation of demand response generating sources to the District Department of Environment, to prohibit emergency generators from being used as demand response generating sources, to require that demand response generating sources implement lowest achievable emissions rate technology, to require disclosure by residential property owners to potential tenants or purchasers of any known information about elevated levels of radon, and to require disclosure by residential property owners to potential tenants of any known information about the substantial presence of indoor mold.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Air Pollution Disclosure and Reduction Act of 2013”.

TITLE I. DEMAND RESPONSE GENERATING SOURCES.

Sec. 101. Definitions.

For the purposes of this section, the term:

(1) “Demand response generating source” means a stationary generator subject to an agreement or obligation to provide power in response to power grid needs, economic signals from competitive wholesale electric markets, or special retail rates.

(2) “Lowest achievable emission rate technology” means technology that achieves the lowest achievable emission rate as determined by the District Department of the Environment in accordance with Chapters 1-8 of Title 20 of the District of Columbia Municipal Regulations (20 DCMR §§ 1-8).

Sec. 102. Disclosure required.

1 Any person who owns or operates an internal combustion engine as a demand response  
2 generating source shall track and submit an annual report disclosing the total number of hours,  
3 including the dates and times of operation, that the source operated the preceding year. The  
4 report shall be submitted to the District Department of the Environment by January 30, 2016, and  
5 annually on January 1 thereafter.

6 Sec. 103. Limitation on the use of generators as demand response sources.

7 (a) No person shall construct or operate an internal combustion engine as a demand  
8 response generating source unless the source implements, at a minimum, lowest achievable  
9 emission rate technology.

10 (b) Emergency or back-up generators shall not be used as demand response generating  
11 sources.

12 (c) Nothing in this section shall prevent the District Department of Environment from  
13 denying an application for or renewal of a permit for a demand response generating source to  
14 protect air quality in the District.

15 Sec. 104. Enforcement.

16 Any person found by the District Department of Environment to be in violation of  
17 sections 102 or 103 shall be subject to the civil penalties available under Chapter 1 of Title 20 of  
18 the District Code of Municipal Regulations (20 DCMR § 1).

19 Sec. 105. Rules.

20 The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act,  
21 approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may establish  
22 regulations to enforce and implement this title.

23 TITLE II. INDOOR AIR QUALITY DISCLOSURE.

1           Sec. 201. Definitions.

2           For the purposes of this title, the term

3           (1) “Dwelling unit” means a building or structure used or designed to be used, in whole  
4 or in part, as a living or sleeping place for one or more persons.

5           (2) “Elevated levels of radon” means radon concentrations at or in excess of the United  
6 States Environmental Protection Agency’s recommended radon action level.

7           (3) “Indoor mold” means any living or dead fungi or related products or parts, including  
8 spores, hyphae, and mycotoxins, on an interior surface or in a ventilation system.

9           (4) “Substantial presence of indoor mold” means the detectable presence of indoor mold  
10 in such amounts and types as to:

11                   (A) Be capable of significantly adversely affecting human health after minimal  
12 exposure;

13                   (B) Render a dwelling unit unsafe or unfit for human occupancy under section  
14 108.1 of Title 12G of the District Code of Municipal Regulations (12G DCMR § 108.1); or

15                   (C) Violate standards promulgated by the District Department of the Environment  
16 pursuant to section 204(2).

17           Sec. 202. Disclosure of indoor radon hazards required.

18           (a) Beginning January 1, 2015, an owner of a residential property shall disclose to  
19 tenants:

20                   (1) Information known to the owner about the presence of elevated levels of radon  
21 in the property, including the existence, results, and types of any radon tests or inspections and  
22 any mitigation measures implemented; or

23                   (2) For dwelling units at or below the ground level where no information is

1 known about the presence of radon, notification that elevated levels of radon may be present and  
2 may place occupants at the risk of developing radon-induced lung cancer.

3 (b)(1) Beginning January 1, 2015, a seller of an interest in a residential property that  
4 includes a dwelling unit at or below the ground level shall disclose to the purchaser:

5 (A) Information known to the seller about the presence of elevated levels  
6 of radon in the dwelling unit, including the existence, results, and types of any radon tests or  
7 inspections and any mitigation measures implemented; or

8 (B) Where no information is known about the presence of radon in the  
9 dwelling unit, notification that elevated levels of radon may be present and may place occupants  
10 at the risk of developing radon-induced lung cancer.

11 (2) With the exception of transfers made by a person of newly constructed  
12 residential property that has not been inhabited, this subsection shall not apply to transfers listed  
13 in section 2(b) of the Residential Real Property Seller Disclosure, Funeral Services Date Change,  
14 and Public Service Commission Independent Procurement Authority Act of 1998, effective April  
15 20, 1999 (D.C. Law 12-263; D.C. Official Code § 42-1301(b)).

16 (c) The disclosures and notifications required by this section shall be in writing and shall  
17 be signed by the tenant or purchaser before a change in occupancy or contract for possession or  
18 purchase is executed.

19 Sec. 203. Disclosure of indoor mold hazards required.

20 (a) Beginning January 1, 2015, owners of residential properties shall disclose to tenants  
21 any information known to the owner about the substantial presence of indoor mold in the  
22 property, including the existence and results of any indoor mold tests or inspections and any  
23 mitigation measures implemented.

1 (b) The disclosure required by this section shall be in writing and shall be signed by the  
2 tenant before a change in occupancy or contract for possession is executed.

3 Sec. 204. Rules.

4 (a) The Mayor, pursuant to Title I of the District of Columbia Administrative  
5 Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*),  
6 may establish regulations to enforce and implement this title, including standard radon and  
7 indoor mold disclosure and notice forms. The Mayor may incorporate indoor mold and radon  
8 hazard disclosure into a unified disclosure form.

9 (b) The District Department of the Environment is authorized to promulgate regulations  
10 that define standards for determining when a substantial presence of indoor mold exists, and to  
11 issue formal reports regarding violations of those standards at the request of residential property  
12 owners or tenants.

### 13 TITLE III. FISCAL IMPACT STATEMENT AND EFFECTIVE DATE.

#### 14 Sec. 1. Fiscal impact statement.

15 The Council adopts the fiscal impact statement in the committee report as the fiscal  
16 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
17 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### 18 Sec. 2. Effective date.

19 This act shall take effect following approval by the Mayor (or in the event 1 of veto by  
20 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review  
21 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
22 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
23 Columbia.