



BNAR Guidance: What REALTORS® Should Do Regarding Radioactivity Concerns

BNAR recognizes that the reports of radioactive contamination in some Niagara County properties are unprecedented and understandably concerning for our members and their clients. After consulting with BNAR legal counsel, **our recommendation is not to create a new disclosure form at this time. Instead, REALTORS® should use the existing New York State Property Condition Disclosure Statement (PCDS), ask appropriate questions, and encourage buyers to conduct their own professional due diligence.**

What REALTORS® should do now

1. Use the existing New York State Property Condition Disclosure Statement.

The PCDS, updated effective July 1, 2025, already asks questions that may apply to radioactive contamination because radioactive waste or material would generally fall under the category of a **hazardous or toxic substance**.

In particular, REALTORS® should pay close attention to:

- **Question 20: Was the property ever the site of a landfill?**
- **Question 24: Has the property been tested for radon? If so, the report should be attached.**
- **Question 25: Has any hazardous or toxic substance been spilled, leaked, or otherwise released on or from the property?**
- **Question 26: Has the property been tested for hazardous or toxic substances?**

The PCDS also gives the seller space to provide **additional information or attach additional documentation**.

2. Ask the seller questions—and document what you learn.

The PCDS is based on the **seller's actual knowledge**. REALTORS® should make reasonable inquiries with their sellers so they understand whether the seller is aware of:

- Any testing for radioactive materials or other hazardous substances;
- Any notices received from the NYSDEC or another governmental agency;
- Any environmental testing or reports;
- Any known contamination or remediation involving the property; or
- Any other information that could be relevant to the property's condition.

If the seller provides additional information or documentation, that information should be appropriately disclosed to prospective buyers.

3. Don't tell buyers that a property is "safe."

The PCDS is **not an environmental inspection**, and REALTORS® are not environmental testing professionals.

If there are concerns about radioactive materials—or any other environmental condition—don't speculate, interpret test results, or make assurances about whether a property is safe.

Instead, encourage the buyer to obtain appropriate independent professional advice and testing.

4. Encourage buyers to do their own due diligence.

The PCDS specifically advises buyers to:

- Have the property independently inspected;
- Consider environmental testing when appropriate; and
- Review available public records concerning the property.

Buyers should be encouraged to consult qualified environmental professionals when there is a potential concern about radioactive or other hazardous materials.

5. If you're dealing with a property in an affected area, involve your broker and legal counsel.

Because this is an evolving situation, REALTORS® should **not try to navigate unusual disclosure questions on their own.**

If you have a listing or buyer involved with a property where radioactive contamination is known, suspected, or has been reported:

Talk to your broker and, when appropriate, legal counsel early in the transaction.

The bottom line for REALTORS®

Don't create your own radioactive-disclosure form. Don't try to determine whether a property is safe. Don't speculate about contamination.

Instead:

Use the existing PCDS → Ask the seller appropriate questions → Disclose known information → Encourage independent professional testing → Consult your broker/legal counsel when there is a specific concern.

Direct your client's to known government agency websites on the [New York State Page](#)

BNAR will continue to monitor the situation and provide additional guidance as more information becomes available.

Thank you,