

S T A T E O F N E W Y O R K

6091--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 25, 2009

Introduced by M. of A. ROSENTHAL, JAFFEE -- Multi-Sponsored by -- M. of A. CAHILL, JOHN, LANCMAN, WEISENBERG -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing mold assessment and remediation requirements

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The environmental conservation law is amended by adding a new article 32 to read as follows:

ARTICLE 32

MOLD ASSESSMENT AND REMEDIATION REQUIREMENTS

SECTION 32-0101. DEFINITIONS.

32-0102. CREDENTIALS; GENERAL CONDITIONS.

32-0103. EXCEPTIONS AND EXEMPTIONS.

32-0104. CONFLICT OF INTEREST AND DISCLOSURE REQUIREMENT.

32-0105. MOLD ASSESSMENT TECHNICIAN; LICENSING REQUIREMENTS.

32-0106. MOLD REMEDIATION CONTRACTOR; LICENSING REQUIREMENTS.

32-0107. MINIMUM WORK PRACTICES AND PROCEDURES FOR MOLD ASSESSMENT.

32-0108. MINIMUM WORK PRACTICES AND PROCEDURES FOR MOLD REMEDIATION.

32-0109. POST-REMEDICATION ASSESSMENT AND CLEARANCE.

32-0110. DUTY OF PROPERTY OWNER.

32-0111. COMPLIANCE; INSPECTIONS AND INVESTIGATIONS.

32-0112. COMPLIANCE; REPRIMAND, SUSPENSION, REVOCATIONS, PROBATION.

32-0113. COMPLIANCE; ADMINISTRATIVE PENALTY.

S 32-0101. DEFINITIONS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD09753-07-0

1 1. THE FOLLOWING WORDS AND TERMS WITHIN THIS ARTICLE SHALL HAVE THE
2 FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE.

3 A. "ASSESSOR" MEANS A PERSON WHO CONDUCTS MOLD ASSESSMENT AS DEFINED
4 IN THIS SECTION AND WHO IS LICENSED UNDER THIS ARTICLE AS A MOLD ASSESS-
5 MENT TECHNICIAN OR MOLD ASSESSMENT CONSULTANT.

6 B. "COMMERCIAL MOLD REMEDIATION" MEANS THE REMOVAL, CLEANING, SANITIZ-
7 ING, DEMOLITION, OR OTHER TREATMENT, INCLUDING PREVENTIVE ACTIVITIES, OF
8 MOLD OR MOLD-CONTAMINATED MATTER THAT WAS NOT PURPOSELY GROWN AT A
9 LOCATION. PREVENTIVE ACTIVITIES INCLUDE THOSE INTENDED TO PREVENT FUTURE
10 MOLD CONTAMINATION OF A REMEDIATED AREA, INCLUDING APPLYING BIOCIDES OR
11 ANTI-MICROBIAL COMPOUNDS.

12 C. "CONTAINMENT" MEANS A COMPONENT OR ENCLOSURE DESIGNED OR INTENDED
13 TO CONTROL THE RELEASE OF MOLD OR MOLD-CONTAINING DUST OR MATERIALS INTO
14 SURROUNDING AREAS IN THE BUILDING. THE BROAD CATEGORY OF CONTAINMENT
15 INCLUDES SUCH SUB-CATEGORIES AS WALK-IN CONTAINMENT, SURFACE CONTAINMENT
16 (SUCH AS PLASTIC SHEETING), AND CONTAINMENT DEVICES (SUCH AS WALL-MOUNT-
17 ED GLOVE BOXES).

18 D. "CONTAINMENT AREA" MEANS AN AREA THAT HAS BEEN ENCLOSED TO CONTROL
19 THE RELEASE OF MOLD OR MOLD-CONTAINING DUST OR MATERIALS INTO SURROUND-
20 ING AREAS.

21 E. "CREDENTIAL" MEANS A LICENSE, REGISTRATION, OR ACCREDITATION ISSUED
22 UNDER THIS ARTICLE.

23 F. "EMPLOYEE" MEANS AN INDIVIDUAL WHO IS PAID A SALARY, WAGE, OR
24 REMUNERATION BY ANOTHER PERSON OR ENTITY FOR SERVICES PERFORMED AND OVER
25 WHOM THE PERSON OR ENTITY EXERTS SUPERVISION OR CONTROL AS TO THE PLACE,
26 TIME, AND MANNER OF THE INDIVIDUAL'S WORK.

27 G. "FACILITY" MEANS ANY INSTITUTIONAL, COMMERCIAL, PUBLIC, GOVERN-
28 MENTAL, INDUSTRIAL OR RESIDENTIAL BUILDING.

29 H. "MANAGING AGENT" MEANS A COMPANY OR INDIVIDUAL THAT MANAGES A RESI-
30 DENTIAL OR COMMERCIAL BUILDING FOR AN OWNER.

31 I. "MOLD ASSESSMENT REPORT" MEANS A DOCUMENT PREPARED BY A LICENSED
32 MOLD ASSESSMENT TECHNICIAN FOR A CLIENT THAT DESCRIBES ANY OBSERVATIONS
33 MADE, MEASUREMENT TAKEN, AND LOCATIONS AND ANALYTICAL RESULTS OF SAMPLES
34 TAKEN BY AN ASSESSMENT CONSULTANT OR BY AN ASSESSMENT TECHNICIAN DURING
35 A MOLD ASSESSMENT. AN ASSESSMENT REPORT CAN BE EITHER A STAND-ALONE
36 DOCUMENT OR A PART OF A MOLD MANAGEMENT PLAN OR MOLD REMEDIATION PROTO-
37 COL.

38 J. "MOLD MANAGEMENT PLAN" MEANS A DOCUMENT PREPARED BY A LICENSED MOLD
39 ASSESSMENT CONSULTANT FOR A CLIENT THAT PROVIDES GUIDANCE ON HOW TO
40 PREVENT AND CONTROL INDOOR MOLD GROWTH AT A LOCATION.

41 K. "MOLD REMEDIATION PROTOCOL" OR "MOLD REMEDIATION WORK ANALYSIS"
42 MEANS A DOCUMENT, PREPARED BY A LICENSED MOLD ASSESSMENT TECHNICIAN FOR
43 A CLIENT, THAT SPECIFIES THE ESTIMATED QUANTITIES AND LOCATIONS OF MATE-
44 RIALS TO BE REMEDIATED AND THE PROPOSED REMEDIATION METHODS AND CLEAR-
45 ANCE CRITERIA FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF AREA FOR A
46 MOLD REMEDIATION PROJECT.

47 L. "MOLD REMEDIATION WORK PLAN" MEANS A DOCUMENT, PREPARED BY A
48 LICENSED MOLD REMEDIATION CONTRACTOR THAT PROVIDES SPECIFIC INSTRUCTIONS
49 AND/OR STANDARD OPERATING PROCEDURES FOR HOW A MOLD REMEDIATION PROJECT
50 WILL BE PERFORMED.

51 M. "MOLD REMEDIATION WORKER" MEANS AN EMPLOYEE OF THE MOLD REMEDIATION
52 CONTRACTOR WHO ENGAGES IN ANY MOLD-RELATED ACTIVITY RESTRICTED ONLY
53 UNDER SUPERVISION OF A LICENSED MOLD REMEDIATION CONTRACTOR.

54 N. "REMIEDIATOR" MEANS A PERSON WHO CONDUCTS MOLD REMEDIATION AS
55 DEFINED IN THIS SECTION AND WHO IS CREDENTIALLED UNDER THIS ARTICLE AS A
56 MOLD REMEDIATION CONTRACTOR.

1 O. "SUPERVISE" MEANS TO DIRECT AND EXERCISE CONTROL OVER THE ACTIV-
2 ITIES OF A PERSON BY BEING PHYSICALLY PRESENT AT THE JOB SITE OR, IF NOT
3 PHYSICALLY PRESENT, ACCESSIBLE BY TELEPHONE WITHIN TEN MINUTES AND ABLE
4 TO BE AT THE SITE WITHIN ONE HOUR OF BEING CONTACTED.

5 P. "WORK ANALYSIS" MEANS A MOLD REMEDIATION PROTOCOL.

6 Q. "WORK PLAN" MEANS A MOLD REMEDIATION WORK PLAN.

7 S 32-0102. CREDENTIALS; GENERAL CONDITIONS.

8 1. A PERSON MUST BE LICENSED IN COMPLIANCE WITH THIS ARTICLE TO ENGAGE
9 IN MOLD ASSESSMENT OR MOLD REMEDIATION UNLESS SPECIFICALLY EXEMPTED
10 UNDER SECTION 32-0103 OF THIS ARTICLE.

11 2. AGE REQUIREMENT. EACH INDIVIDUAL APPLYING TO BE LICENSED UNDER THIS
12 ARTICLE MUST BE AT LEAST EIGHTEEN YEARS OLD AT THE TIME OF APPLICATION.

13 3. CERTIFICATION. AN APPLICANT FOR THE LICENSE SHALL SUBMIT PROOF OR
14 CERTIFICATION BY THE AMERICAN COUNCIL FOR ACCREDITED CERTIFICATION OR
15 ANY OTHER NATIONALLY RECOGNIZED, THIRD-PARTY ACCREDITED CERTIFYING BODY
16 THAT OPERATES INDEPENDENTLY OF TRAINING ORGANIZATIONS AND INDUSTRY TRADE
17 ASSOCIATIONS. AN APPLICANT FOR LICENSE RENEWAL SHALL SUBMIT PROOF OF
18 CONTINUED CERTIFICATION BY THE AMERICAN COUNCIL FOR ACCREDITED CERTIF-
19 ICATION OR ANY OTHER NATIONALLY RECOGNIZED, THIRD-PARTY ACCREDITED
20 CERTIFYING BODY THAT OPERATES INDEPENDENTLY OF TRAINING ORGANIZATIONS
21 AND INDUSTRY TRADE ASSOCIATIONS.

22 4. DEPARTMENT EXAMINATION. AN APPLICANT FOR AN INITIAL LICENSE MUST
23 PASS THE DEPARTMENT LICENSING EXAMINATION IN THAT AREA OF LICENSURE WITH
24 A SCORE OF AT LEAST SEVENTY PERCENT CORRECT BEFORE APPLYING FOR THE
25 LICENSE. ALL APPLICANTS MUST PASS THE DEPARTMENT LICENSING EXAMINATION
26 WITHIN SIX MONTHS OF EARNING CERTIFICATION PURSUANT TO SUBDIVISION THREE
27 OF THIS SECTION.

28 A. RE-EXAMINATION. AN INDIVIDUAL IS PERMITTED TO TAKE TWO RE-EXAMINA-
29 TIONS AFTER FAILING AN INITIAL EXAMINATION. AN INDIVIDUAL WHO FAILS BOTH
30 RE-EXAMINATIONS MUST SUBMIT A NEW APPLICATION FOR THE STATE EXAMINATION.

31 B. SCHEDULING AND REGISTRATION. ANNUALLY, THE DEPARTMENT SHALL PUBLISH
32 A SCHEDULE OF EXAMINATION DATES AND LOCATIONS. REGISTRATION FOR EXAMINA-
33 TION DATE AND LOCATION MUST BE SUBMITTED BY MAILING, FAXING, OR E-MAIL-
34 ING A REGISTRATION FORM TO THE DEPARTMENT AND MUST BE RECEIVED BY THE
35 DEPARTMENT NO LATER THAN FIVE WORKING DAYS BEFORE THE EXAMINATION DATE.
36 INFORMATION ON THE EXAMINATION SCHEDULE AND ASSISTANCE WITH REGISTRATION
37 IS AVAILABLE BY CONTACTING THE DEPARTMENT. ENTRANCE INTO THE EXAMINATION
38 SITE WILL BE ALLOWED ONLY UPON PRESENTATION OF A VALID PHOTO IDENTIFICA-
39 TION.

40 C. A FEE OF TWENTY-FIVE DOLLARS IS REQUIRED FOR ANY EXAMINATION OR
41 RE-EXAMINATION. THE DEPARTMENT MUST RECEIVE THE REQUIRED FEES NO LATER
42 THAN FIVE WORKING DAYS BEFORE THE EXAMINATION.

43 5. APPLICATIONS. EACH APPLICATION FOR APPROVAL FOR LICENSING SHALL BE
44 PROVIDED BY THE DEPARTMENT. EACH APPLICATION FOR APPROVAL MUST PROVIDE
45 ALL REQUIRED INFORMATION. AN APPLICANT FOR AN INITIAL LICENSE MUST
46 SUBMIT THE COMPLETE APPLICATION TO THE DEPARTMENT WITHIN SIX MONTHS OF
47 OBTAINING CERTIFICATION PURSUANT TO SUBDIVISION THREE OF THIS SECTION,
48 OR MUST SUCCESSFULLY PASS THE DEPARTMENT LICENSING EXAMINATION BEFORE
49 SUBMITTING A NEW INITIAL APPLICATION.

50 6. TERM AND EXPIRATION. A. ALL LICENSES ISSUED ON OR AFTER JANUARY
51 FIRST, TWO THOUSAND ELEVEN, SHALL BE VALID FOR TWO YEARS AND EXPIRE ON
52 THE SECOND ANNIVERSARY OF THE EFFECTIVE DATE OF THE LICENSE.

53 B. FEES COMMENSURATE WITH A TWO-YEAR LICENSE MUST BE INCLUDED WITH ANY
54 APPLICATION FOR A LICENSE THAT WILL EXPIRE ON THE SECOND ANNIVERSARY OF
55 ITS EFFECTIVE DATE OF THE LICENSE.

1 C. A LICENSE HOLDER IS IN VIOLATION OF THIS ARTICLE IF THE HOLDER
2 PRACTICES WITH LAPSED QUALIFICATIONS.

3 7. CONDITION OF ISSUANCE. NO IDENTIFICATION (ID) CARD OR APPROVAL
4 ISSUED UNDER THIS ARTICLE SHALL BE SOLD, ASSIGNED, OR TRANSFERRED. ID
5 CARDS ISSUED BY THE DEPARTMENT MUST BE PRESENT AT THE WORKSITE ANY TIME
6 AN INDIVIDUAL IS ENGAGED IN MOLD-RELATED ACTIVITIES. THE DEPARTMENT
7 RETAINS THE RIGHT TO CONFISCATE AND REVOKE ANY ID CARD OR APPROVAL THAT
8 HAS BEEN ALTERED.

9 S 32-0103. EXCEPTIONS AND EXEMPTIONS.

10 1. EXCEPTIONS. THIS ARTICLE SHALL NOT APPLY TO:

11 A. THE FOLLOWING ACTIVITIES WHEN NOT CONDUCTED FOR THE PURPOSE OF MOLD
12 ASSESSMENT OR MOLD REMEDIATION:

13 (1) ROUTINE CLEANING;

14 (2) THE DIAGNOSIS, REPAIR, CLEANING, OR REPLACEMENT OF PLUMBING, HEAT-
15 ING, VENTILATION, AIR CONDITIONING, ELECTRICAL, OR AIR DUCT SYSTEMS OR
16 APPLIANCES;

17 (3) COMMERCIAL OR RESIDENTIAL REAL ESTATE INSPECTIONS; AND

18 (4) THE INCIDENTAL DISCOVERY OR EMERGENCY CONTAINMENT OF POTENTIAL
19 MOLD CONTAMINATION DURING THE CONDUCT OR PERFORMANCE OF SERVICES LISTED
20 IN THIS SUBDIVISION. FOR PURPOSES OF THIS SUBDIVISION, AN EMERGENCY
21 EXISTS IF A DELAY IN MOLD REMEDIATION SERVICES IN RESPONSE TO A WATER
22 DAMAGE OCCURRENCE WOULD INCREASE MOLD CONTAMINATION;

23 B. THE REPAIR, REPLACEMENT, OR CLEANING OF CONSTRUCTION MATERIALS
24 DURING THE BUILDING PHASE OF THE CONSTRUCTION OF A STRUCTURE;

25 C. THE STANDARD PERFORMANCE OF CUSTODIAL ACTIVITIES FOR, PREVENTIVE
26 MAINTENANCE OF, AND THE ROUTINE ASSESSMENT OF PROPERTY OWNED OR OPERATED
27 BY A GOVERNMENTAL ENTITY; OR

28 D. A PEST CONTROL INSPECTION CONDUCTED BY A PERSON REGULATED UNDER
29 ARTICLE THIRTY-THREE OF THIS CHAPTER.

30 2. MINIMUM AREA EXEMPTION. A PERSON IS NOT REQUIRED TO BE LICENSED
31 UNDER THIS ARTICLE TO PERFORM MOLD REMEDIATION IN AN AREA IN WHICH THE
32 MOLD CONTAMINATION FOR THE PROJECT AFFECTS A TOTAL SURFACE AREA OF LESS
33 THAN TWENTY-FIVE CONTIGUOUS SQUARE FEET.

34 3. RESIDENTIAL PROPERTY EXEMPTION. AN OWNER, OR A MANAGING AGENT OR
35 EMPLOYEE OF AN OWNER, IS NOT REQUIRED TO BE LICENSED UNDER THIS ARTICLE
36 TO PERFORM MOLD ASSESSMENT OR MOLD REMEDIATION ON A RESIDENTIAL PROPERTY
37 WHICH IS OWNED BY THAT PERSON, AND WHICH HAS FEWER THAN SIX RESIDENTIAL
38 DWELLING UNITS. THIS EXEMPTION APPLIES REGARDLESS OF THE TOTAL SURFACE
39 AREA WITHIN THE RESIDENTIAL PROPERTY THAT IS AFFECTED BY MOLD GROWTH.
40 THIS EXEMPTION DOES NOT APPLY TO A MANAGING AGENT OR EMPLOYEE WHO
41 ENGAGES IN THE BUSINESS OF PERFORMING MOLD ASSESSMENT OR MOLD REMEDI-
42 ATION FOR THE PUBLIC.

43 4. FACILITY EXEMPTION. AN OWNER OR TENANT, OR A MANAGING AGENT OR
44 EMPLOYEE OF AN OWNER OR TENANT, IS NOT REQUIRED TO BE LICENSED UNDER
45 THIS ARTICLE TO PERFORM MOLD ASSESSMENT OR MOLD REMEDIATION ON PROPERTY
46 OWNED OR LEASED BY THE OWNER OR TENANT. THIS EXEMPTION DOES NOT APPLY:

47 A. IF THE MANAGING AGENT OR EMPLOYEE ENGAGES IN THE BUSINESS OF
48 PERFORMING MOLD ASSESSMENT OR MOLD REMEDIATION FOR THE PUBLIC;

49 B. IF THE MOLD REMEDIATION IS PERFORMED IN AN AREA IN WHICH THE MOLD
50 CONTAMINATION AFFECTS A TOTAL SURFACE AREA OF TWENTY-FIVE CONTIGUOUS
51 SQUARE FEET OR MORE; OR

52 C. TO A PERSON EXEMPT UNDER SUBDIVISION THREE OF THIS SECTION.

53 5. CONSTRUCTION AND IMPROVEMENT EXEMPTION. A PERSON IS NOT REQUIRED TO
54 BE LICENSED UNDER THIS ARTICLE TO PERFORM MOLD ASSESSMENT OR MOLD REME-
55 DIATION IN A ONE-FAMILY OR TWO-FAMILY DWELLING THAT THE PERSON
56 CONSTRUCTED OR IMPROVED IF THE PERSON PERFORMS THE MOLD ASSESSMENT OR

1 MOLD REMEDIATION AT THE SAME TIME THE PERSON PERFORMS THE CONSTRUCTION
2 OR IMPROVEMENT OR AT THE SAME TIME THE PERSON PERFORMS REPAIR WORK ON
3 THE CONSTRUCTION OR IMPROVEMENT. THIS EXEMPTION APPLIES REGARDLESS OF
4 THE TOTAL SURFACE AREA THAT IS AFFECTED BY MOLD GROWTH. THIS EXEMPTION
5 DOES NOT APPLY IF THE PERSON ENGAGES IN THE BUSINESS OF PERFORMING MOLD
6 ASSESSMENT OR MOLD REMEDIATION FOR THE PUBLIC. FOR PURPOSES OF THIS
7 SUBDIVISION, "IMPROVE" MEANS "TO BUILD, CONSTRUCT, OR ERECT A NEW BUILD-
8 ING OR STRUCTURE OR A NEW PORTION OF A BUILDING OR STRUCTURE THAT IS
9 ATTACHED TO AN EXISTING BUILDING OR STRUCTURE" AND "IMPROVEMENT" MEANS
10 "A BUILDING OR STRUCTURE, OR A PORTION OF A BUILDING OR STRUCTURE, THAT
11 WAS BUILT, CONSTRUCTED, OR ERECTED AS AN ATTACHMENT TO AN EXISTING
12 BUILDING OR STRUCTURE AFTER THE CONSTRUCTION OR ERECTION OF THE EXISTING
13 BUILDING OR STRUCTURE."

14 6. SUPERVISED EMPLOYEE EXEMPTION. AN EMPLOYEE OF A LICENSE HOLDER IS
15 NOT REQUIRED TO BE LICENSED UNDER THIS ARTICLE TO PERFORM MOLD ASSESS-
16 MENT OR MOLD REMEDIATION WHILE SUPERVISED BY THE LICENSE HOLDER.

17 7. EXCEPTIONS FOR LICENSED PROFESSIONALS. ALL PERSONS ENGAGED IN
18 MOLD-RELATED ACTIVITIES MUST BE LICENSED AS OUTLINED IN THIS ARTICLE,
19 EXCEPT THAT THOSE PROFESSIONALS CURRENTLY LICENSED BY THE STATE IN
20 ANOTHER FIELD (INCLUDING, BUT NOT LIMITED TO, MEDICINE, ARCHITECTURE, OR
21 ENGINEERING) WHO PROVIDE TO A MOLD LICENSEE ONLY CONSULTATION RELATED TO
22 THAT OTHER FIELD ARE NOT REQUIRED TO BE SEPARATELY LICENSED UNDER THIS
23 ARTICLE. IN SUCH A CASE, THE RESPONSIBILITY FOR THE PROJECT OR ACTIVITY
24 REMAINS WITH THE MOLD LICENSEE.

25 8. LOSS OF EXEMPTION. A PERSON WHO IS PERFORMING MOLD REMEDIATION
26 UNDER THE LICENSING EXEMPTIONS OF SUBDIVISION TWO OR FOUR OF THIS
27 SECTION AND IDENTIFIES ADDITIONAL MOLD SUCH THAT THE TOTAL MOLD CONTAM-
28 INATION AFFECTS A TOTAL SURFACE AREA OF TWENTY-FIVE CONTIGUOUS SQUARE
29 FEET OR MORE SHALL:

30 A. IMMEDIATELY CEASE ALL REMEDIATION WORK AND IMPLEMENT EMERGENCY
31 CONTAINMENT IF NECESSARY; AND

32 B. ADVISE THE PERSON REQUESTING THE REMEDIATION THAT THE EXEMPTION
33 UNDER SUBDIVISION TWO OR FOUR OF THIS SECTION HAS BEEN LOST AND THAT ANY
34 ADDITIONAL MOLD REMEDIATION AND POST-REMEDICATION ASSESSMENT IN THE AREA
35 MUST BE DONE BY A PERSON LICENSED OR REGISTERED UNDER THIS ARTICLE.

36 9. FEE EXEMPTION FOR DEPARTMENT EMPLOYEES. EMPLOYEES OF THE DEPARTMENT
37 WHO ENGAGE IN MOLD-RELATED ACTIVITY AS A CONDITION OF THEIR EMPLOYMENT
38 SHALL BE EXEMPT FROM EXAMINATION FEES AND CREDENTIALING FEES UNDER THIS
39 ARTICLE. FEE-EXEMPTED CREDENTIALS SHALL BE RESTRICTED FOR USE ONLY IN
40 REQUIRED DEPARTMENTAL DUTIES, AND THE CREDENTIALS WILL INDICATE THE
41 RESTRICTION. AN EMPLOYEE WHO IS NO LONGER REQUIRED TO POSSESS A CREDEN-
42 TIAL AS A CONDITION OF EMPLOYMENT SHALL IMMEDIATELY RETURN THAT CREDEN-
43 TIAL TO THE DEPARTMENT FOR CLOSURE. AN INDIVIDUAL WHO TERMINATES EMPLOY-
44 MENT WITH THE DEPARTMENT SHALL IMMEDIATELY RETURN ALL UNEXPIRED
45 CREDENTIALS TO THE DEPARTMENT FOR CLOSURE. THE DEPARTMENT MAY IMPOSE AN
46 ADMINISTRATIVE PENALTY OR TAKE OTHER DISCIPLINARY ACTION AGAINST ANY
47 EMPLOYEE OR FORMER EMPLOYEE WHO USES A FEE-EXEMPT CREDENTIAL TO ENGAGE
48 IN A MOLD-RELATED ACTIVITY THAT IS NOT A REQUIRED DEPARTMENTAL DUTY.
49 S 32-0104. CONFLICT OF INTEREST AND DISCLOSURE REQUIREMENT.

50 1. CONFLICT OF INTEREST. A. A LICENSEE SHALL NOT PERFORM BOTH MOLD
51 ASSESSMENT AND MOLD REMEDIATION ON THE SAME PROJECT.

52 B. A PERSON SHALL NOT OWN AN INTEREST IN AN ENTITY THAT PERFORMS MOLD
53 ASSESSMENT SERVICES AND AN ENTITY THAT PERFORMS MOLD REMEDIATION
54 SERVICES ON THE SAME PROJECT.

55 2. DISCLOSURE REQUIREMENT. AT THE TIME OF APPLICATION FOR LICENSING,
56 AN APPLYING COMPANY THAT IS NOT SOLELY OWNED, SHALL DISCLOSE TO THE

1 DEPARTMENT THE NAME, ADDRESS, AND OCCUPATION OF EACH PERSON THAT HAS AN
2 OWNERSHIP INTEREST OF TEN PERCENT OR MORE IN THE COMPANY. A LICENSEE
3 SHALL REPORT TO THE DEPARTMENT WITHIN TEN DAYS ANY CHANGE RELATED TO A
4 PERSON WHO HAS AN OWNERSHIP INTEREST OF TEN PERCENT OR MORE INCLUDING
5 ADDITIONS TO OR DELETIONS FROM ANY LIST OF SUCH PERSONS PREVIOUSLY
6 SUPPLIED TO THE DEPARTMENT AND ANY CHANGES IN THE NAMES, ADDRESSES, OR
7 OCCUPATIONS OF ANY PERSONS ON SUCH A LIST.

8 3. THIS SECTION DOES NOT APPLY TO A LICENSE HOLDER EMPLOYED BY A
9 SCHOOL DISTRICT WORKING ON A PROJECT FOR THAT SCHOOL DISTRICT.
10 S 32-0105. MOLD ASSESSMENT TECHNICIAN; LICENSING REQUIREMENTS.

11 1. LICENSING REQUIREMENT. UNLESS EXEMPTED UNDER SECTION 32-0103 OF
12 THIS ARTICLE, AN INDIVIDUAL MUST BE LICENSED AS A MOLD ASSESSMENT TECH-
13 NICIAN TO PERFORM ACTIVITIES LISTED UNDER SUBDIVISION TWO OF THIS
14 SECTION.

15 2. SCOPE. AN INDIVIDUAL LICENSED UNDER THIS SECTION IS AUTHORIZED TO
16 DETERMINE THE LOCATION AND EXTENT OF MOLD OR SUSPECTED MOLD PRESENT IN A
17 FACILITY. A MOLD ASSESSMENT TECHNICIAN IS LICENSED TO:

18 A. RECORD VISUAL OBSERVATIONS AND TAKE ON-SITE MEASUREMENTS, INCLUDING
19 TEMPERATURE, HUMIDITY, AND MOISTURE LEVELS, DURING AN INITIAL OR
20 POST-REMEDICATION MOLD ASSESSMENT;

21 B. COLLECT SAMPLES FOR MOLD ANALYSIS DURING AN INITIAL MOLD ASSESS-
22 MENT;

23 C. PREPARE A MOLD ASSESSMENT REPORT; AND

24 D. COLLECT SAMPLES DURING A POST-REMEDICATION MOLD ASSESSMENT.

25 3. QUALIFICATIONS. IN ADDITION TO THE REQUIREMENTS FOR ALL APPLICANTS
26 LISTED IN SECTION 32-0102 OF THIS ARTICLE, AN APPLICANT MUST BE A HIGH
27 SCHOOL GRADUATE OR HAVE OBTAINED A GENERAL EDUCATION DEVELOPMENT (GED)
28 CERTIFICATE.

29 4. FEES. THE FEES FOR A MOLD ASSESSMENT TECHNICIAN LICENSE SHALL BE
30 TWO HUNDRED DOLLARS.

31 5. APPLICATIONS AND RENEWALS. APPLICATIONS FOR LICENSES SHALL BE
32 SUBMITTED AS REQUIRED BY SUBDIVISION FIVE OF SECTION 32-0102 OF THIS
33 ARTICLE. AN APPLICANT SHALL INCLUDE THE FOLLOWING INFORMATION WITH THE
34 APPLICATION:

35 A. IF THE APPLICATION IS FOR AN INITIAL LICENSE:

36 (1) A COPY OF A HIGH SCHOOL DIPLOMA OR GED CERTIFICATE;

37 (2) A COPY OF CERTIFICATION AS DESCRIBED IN SUBDIVISION THREE OF
38 SECTION 32-0102 OF THIS ARTICLE; AND

39 (3) PROOF OF SUCCESSFULLY PASSING THE STATE LICENSING EXAMINATION WITH
40 A SCORE OF AT LEAST SEVENTY PERCENT CORRECT; OR

41 B. IF THE APPLICATION IS FOR RENEWAL OF A LICENSE, A COPY OF CERTIF-
42 ICATION PURSUANT TO SUBDIVISION THREE OF SECTION 32-0102 OF THIS ARTI-
43 CLE.

44 6. RESPONSIBILITIES. A LICENSED MOLD ASSESSMENT TECHNICIAN SHALL:

45 A. PERFORM ONLY ACTIVITIES ALLOWED UNDER SUBDIVISION TWO OF THIS
46 SECTION;

47 B. COMPLY WITH MOLD SAMPLING PROTOCOLS ACCEPTED AS INDUSTRY STANDARDS;

48 C. UTILIZE THE SERVICES OF A LABORATORY THAT IS LICENSED BY THE
49 DEPARTMENT TO PROVIDE ANALYSIS OF MOLD SAMPLES; AND

50 D. PROVIDE TO THE CLIENT A MOLD ASSESSMENT REPORT FOLLOWING AN INITIAL
51 (PRE-REMEDICATION) MOLD ASSESSMENT.

52 S 32-0106. MOLD REMEDIATION CONTRACTOR; LICENSING REQUIREMENTS.

53 1. LICENSING REQUIREMENTS. UNLESS EXEMPTED UNDER SECTION 32-0103 OF
54 THIS ARTICLE, AN INDIVIDUAL MUST BE LICENSED AS A MOLD REMEDIATION
55 CONTRACTOR TO PERFORM ACTIVITIES LISTED UNDER SUBDIVISION TWO OF THIS
56 SECTION.

2. SCOPE. AN INDIVIDUAL LICENSED UNDER THIS SECTION MAY PERFORM MOLD REMEDIATION AND SUPERVISE REGISTERED MOLD REMEDIATION WORKERS PERFORMING MOLD REMEDIATION. IN ADDITION, A LICENSED MOLD REMEDIATION CONTRACTOR IS LICENSED TO PROVIDE MOLD REMEDIATION SERVICES INCLUDING:

A. PREPARING A MOLD REMEDIATION WORK PLAN PROVIDING INSTRUCTIONS FOR THE REMEDIATION EFFORTS TO BE PERFORMED FOR A MOLD REMEDIATION PROJECT; AND

B. CONDUCTING AND INTERPRETING THE RESULTS OF ACTIVITIES RECOMMENDED IN A WORK PLAN DEVELOPED UNDER PARAGRAPH A OF THIS SUBDIVISION.

3. QUALIFICATIONS. IN ADDITION TO THE REQUIREMENTS FOR ALL APPLICANTS LISTED IN SECTION 32-0102 OF THIS ARTICLE, AN APPLICANT MUST MEET AT LEAST ONE OF THE FOLLOWING EDUCATION AND/OR EXPERIENCE REQUIREMENTS:

A. A BACHELOR'S DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY WITH A MAJOR IN A NATURAL OR PHYSICAL SCIENCE, ENGINEERING, ARCHITECTURE, BUILDING CONSTRUCTION, OR BUILDING SCIENCES AND AT LEAST ONE YEAR OF EXPERIENCE EITHER IN AN ALLIED FIELD OR AS A GENERAL CONTRACTOR IN BUILDING CONSTRUCTION;

B. AT LEAST SIXTY COLLEGE CREDIT HOURS WITH A GRADE OF C OR BETTER IN THE NATURAL SCIENCES, PHYSICAL SCIENCES, ENVIRONMENTAL SCIENCES, BUILDING SCIENCES, OR A FIELD RELATED TO ANY OF THOSE SCIENCES, AND AT LEAST THREE YEARS OF EXPERIENCE IN AN ALLIED FIELD OR AS A GENERAL CONTRACTOR IN BUILDING CONSTRUCTION;

C. A HIGH SCHOOL DIPLOMA OR GENERAL EDUCATION DEVELOPMENT (GED) CERTIFICATE, PLUS AT LEAST FIVE YEARS OF EXPERIENCE IN AN ALLIED FIELD OR AS A GENERAL CONTRACTOR IN BUILDING CONSTRUCTION; OR

D. CERTIFICATION AS AN INDUSTRIAL HYGIENIST, A PROFESSIONAL ENGINEER, A PROFESSIONAL REGISTERED SANITARIAN, A CERTIFIED SAFETY PROFESSIONAL, OR A REGISTERED ARCHITECT, WITH AT LEAST ONE YEAR OF EXPERIENCE EITHER IN AN ALLIED FIELD OR AS A GENERAL CONTRACTOR IN BUILDING CONSTRUCTION.

4. FEES. THE FEE FOR A MOLD REMEDIATION CONTRACTOR LICENSE IS FIVE HUNDRED DOLLARS.

5. APPLICATIONS AND RENEWALS. APPLICATIONS SHALL BE SUBMITTED AS REQUIRED BY SUBDIVISION FIVE OF SECTION 32-0102 OF THIS ARTICLE. AN APPLICANT SHALL INCLUDE THE FOLLOWING IN THE APPLICATION PACKAGE:

A. IF THE APPLICATION IS FOR AN INITIAL LICENSE:

(1) VERIFIABLE EVIDENCE THAT THE APPLICANT MEETS AT LEAST ONE OF THE QUALIFICATIONS UNDER PARAGRAPH C OF SUBDIVISION THREE OF THIS SECTION;

(2) A COPY OF A CERTIFICATION AS DESCRIBED IN SUBDIVISION THREE OF SECTION 32-0102 OF THIS ARTICLE;

(3) PROOF OF SUCCESSFULLY PASSING THE STATE LICENSING EXAMINATION WITH A SCORE OF AT LEAST SEVENTY PERCENT CORRECT; OR

B. IF THE APPLICATION IS FOR RENEWAL OF A LICENSE, A COPY OF A CERTIFICATION AS DESCRIBED IN SUBDIVISION THREE OF SECTION 32-0102 OF THIS ARTICLE.

6. RESPONSIBILITIES. THE MOLD REMEDIATION CONTRACTOR SHALL BE RESPONSIBLE FOR:

A. SUPERVISING MOLD REMEDIATION WORKERS AS DEFINED IN SECTION 32-0101 OF THIS ARTICLE;

B. ACCURATELY INTERPRETING FIELD NOTES, DRAWINGS, AND REPORTS RELATING TO MOLD ASSESSMENTS;

C. ADVISING CLIENTS ABOUT OPTIONS FOR MOLD REMEDIATION;

D. COMPLYING WITH STANDARDS FOR PREPARING MOLD REMEDIATION WORK PLANS;

E. PROVIDING TO A CLIENT A MOLD REMEDIATION WORK PLAN FOR THE PROJECT BEFORE THE MOLD REMEDIATION PREPARATION WORK BEGINS;

1 F. INQUIRING OF THE CLIENT WHETHER ANY KNOWN OR SUSPECTED HAZARDOUS
2 MATERIALS, INCLUDING LEAD-BASED PAINT AND ASBESTOS, ARE PRESENT IN THE
3 PROJECT AREA;

4 G. SIGNING AND DATING EACH MOLD REMEDIATION WORK PLAN THAT HE OR SHE
5 PREPARES ON THE COVER PAGE. THE COVER PAGE SHALL ALSO INCLUDE HIS OR HER
6 LICENSE NUMBER AND LICENSE EXPIRATION DATE. HE OR SHE MUST ALSO INITIAL
7 THE WORK PLAN ON EVERY PAGE THAT ADDRESSES THE SCOPE OF WORK AND ON ALL
8 DRAWINGS RELATED TO THE REMEDIATION WORK;

9 H. ENSURING THAT ALL INDIVIDUALS ARE PROVIDED WITH, TESTED FOR AND
10 TRAINED IN THE CORRECT USE OF PERSONAL PROTECTION EQUIPMENT REQUIRED
11 UNDER SUBDIVISION THREE OF SECTION 32-0108 OF THIS ARTICLE;

12 I. PROVIDING TO THE PROPERTY OWNER A COMPLETED CERTIFICATE OF MOLD
13 DAMAGE REMEDIATION NOT LATER THAN THE TENTH DAY AFTER THE REMEDIATION
14 PROJECT IS COMPLETE; AND

15 J. ASSURING THAT THE CERTIFICATE OF MOLD DAMAGE REMEDIATION MUST
16 INCLUDE A STATEMENT BY A LICENSED MOLD ASSESSMENT TECHNICIAN (NOT THE
17 LICENSED MOLD REMEDIATION CONTRACTOR) THAT BASED ON VISUAL, PROCEDURAL,
18 AND ANALYTICAL EVALUATION, THE MOLD CONTAMINATION IDENTIFIED FOR THE
19 PROJECT HAS BEEN REMEDIATED AS OUTLINED IN THE MOLD REMEDIATION PROTOCOL
20 AND THE UNDERLYING CAUSE OF THE MOLD HAS BEEN REMEDIATED SO THAT SUCH
21 TECHNICIAN IS REASONABLY CERTAIN THAT THE MOLD WILL NOT RETURN FROM THE
22 SAME CAUSE.

23 S 32-0107. MINIMUM WORK PRACTICES AND PROCEDURES FOR MOLD ASSESSMENT.

24 1. SCOPE. THESE GENERAL WORK PRACTICES ARE MINIMUM REQUIREMENTS AND DO
25 NOT CONSTITUTE COMPLETE OR SUFFICIENT SPECIFICATIONS FOR MOLD ASSESS-
26 MENT.

27 2. PURPOSE. THE PURPOSE OF A MOLD ASSESSMENT IS TO DETERMINE THE
28 SOURCES, LOCATIONS AND EXTENT OF MOLD GROWTH IN A BUILDING, TO DETERMINE
29 THE CONDITION OR CONDITIONS THAT CAUSED THE MOLD GROWTH, AND TO ENABLE
30 THE ASSESSMENT TECHNICIAN TO PREPARE A MOLD REMEDIATION PROTOCOL.

31 3. MOLD REMEDIATION PROTOCOL. AN ASSESSMENT TECHNICIAN SHALL PREPARE A
32 MOLD REMEDIATION PROTOCOL THAT IS SPECIFIC TO EACH REMEDIATION PROJECT
33 AND PROVIDE THE PROTOCOL TO THE CLIENT BEFORE THE REMEDIATION BEGINS.
34 THE MOLD REMEDIATION PROTOCOL MUST SPECIFY:

35 A. THE ROOMS OR AREAS WHERE THE WORK WILL BE PERFORMED;

36 B. THE ESTIMATED QUANTITIES OF MATERIALS TO BE CLEANED OR REMOVED;

37 C. THE METHODS TO BE USED FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF
38 AREA;

39 D. THE PERSONAL PROTECTION EQUIPMENT (PPE) TO BE USED BY REMEDIATORS.
40 A MINIMUM OF AN N-95 RESPIRATOR IS RECOMMENDED DURING MOLD-RELATED
41 ACTIVITIES WHEN MOLD GROWTH COULD OR WOULD BE DISTURBED. USING PROFES-
42 SIONAL JUDGMENT, A TECHNICIAN MAY SPECIFY ADDITIONAL OR MORE PROTECTIVE
43 PPE IF HE OR SHE DETERMINES THAT IT IS WARRANTED;

44 E. THE PROPOSED TYPES OF CONTAINMENT, AS THAT TERM IS DEFINED IN PARA-
45 GRAPH C OF SUBDIVISION ONE OF SECTION 32-0101 OF THIS ARTICLE AND AS
46 DESCRIBED IN SUBDIVISION FIVE OF THIS SECTION, TO BE USED DURING THE
47 PROJECT IN EACH TYPE OF AREA; AND

48 F. THE PROPOSED CLEARANCE PROCEDURES AND CRITERIA, AS DESCRIBED IN
49 THIS SECTION, FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF AREA.

50 4. BUILDING OCCUPANTS. A MOLD ASSESSMENT CONSULTANT SHALL CONSIDER
51 WHETHER TO RECOMMEND TO A CLIENT THAT, BEFORE REMEDIATION BEGINS, THE
52 CLIENT SHOULD INFORM BUILDING OCCUPANTS OF MOLD-RELATED ACTIVITIES THAT
53 WILL DISTURB OR WILL HAVE THE POTENTIAL TO DISTURB AREAS OF MOLD CONTAM-
54 INATION.

55 5. CONTAINMENT REQUIREMENTS. CONTAINMENT MUST BE SPECIFIED IN A MOLD
56 REMEDIATION PROTOCOL WHEN THE MOLD CONTAMINATION AFFECTS A TOTAL SURFACE

1 AREA OF TWENTY-FIVE CONTIGUOUS SQUARE FEET OR MORE FOR THE PROJECT.
2 CONTAINMENT IS NOT REQUIRED IF ONLY PERSONS WHO ARE LICENSED UNDER THIS
3 ARTICLE OCCUPY THE BUILDING IN WHICH THE REMEDIATION TAKES PLACE AT ANY
4 TIME DURING THE REMEDIATION PROJECT. THE CONTAINMENT SPECIFIED IN THE
5 REMEDIATION PROTOCOL MUST PREVENT THE SPREAD OF MOLD TO AREAS OF THE
6 BUILDING OUTSIDE THE CONTAINMENT UNDER NORMAL CONDITIONS OF USE. IF
7 WALK-IN CONTAINMENT IS USED, SUPPLY AND RETURN AIR VENTS MUST BE
8 BLOCKED, AND AIR PRESSURE WITHIN THE WALK-IN CONTAINMENT MUST BE LOWER
9 THAN THE PRESSURE IN BUILDING AREAS ADJACENT TO THE CONTAINMENT.

10 6. DISINFECTANTS, BIOCIDES AND ANTIMICROBIAL COATINGS. AN ASSESSMENT
11 TECHNICIAN WHO INDICATES IN A REMEDIATION PROTOCOL THAT A DISINFECTANT,
12 BIOCIDES, OR ANTIMICROBIAL COATING WILL BE USED ON A MOLD REMEDIATION
13 PROJECT SHALL INDICATE A SPECIFIC PRODUCT OR BRAND ONLY IF IT IS REGIS-
14 TERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE
15 INTENDED USE AND IF THE USE IS CONSISTENT WITH THE MANUFACTURER'S LABEL-
16 ING INSTRUCTIONS. A DECISION BY AN ASSESSMENT CONSULTANT TO USE SUCH
17 PRODUCTS MUST TAKE INTO ACCOUNT THE POTENTIAL FOR OCCUPANT SENSITIVITIES
18 AND POSSIBLE ADVERSE REACTIONS TO CHEMICALS THAT HAVE THE POTENTIAL TO
19 BE OFF-GASSED FROM SURFACES COATED WITH SUCH PRODUCTS.

20 7. CLEARANCE PROCEDURES AND CRITERIA. IN THE REMEDIATION PROTOCOL FOR
21 THE PROJECT, THE ASSESSMENT TECHNICIAN SHALL SPECIFY:

22 A. AT LEAST ONE NATIONALLY RECOGNIZED ANALYTICAL METHOD FOR USE WITHIN
23 EACH REMEDIATED AREA IN ORDER TO DETERMINE WHETHER THE MOLD CONTAM-
24 INATION IDENTIFIED FOR THE PROJECT HAS BEEN REMEDIATED AS OUTLINED IN
25 THE REMEDIATION PROTOCOL;

26 B. THE CRITERIA TO BE USED FOR EVALUATING ANALYTICAL RESULTS TO DETER-
27 MINE WHETHER THE REMEDIATION PROJECT PASSES CLEARANCE;

28 C. THAT POST-REMEDICATION ASSESSMENT SHALL BE CONDUCTED WHILE WALK-IN
29 CONTAINMENT IS IN PLACE, IF WALK-IN CONTAINMENT IS SPECIFIED FOR THE
30 PROJECT; AND

31 D. THE PROCEDURES TO BE USED IN DETERMINING WHETHER THE UNDERLYING
32 CAUSE OF THE MOLD IDENTIFIED FOR THE PROJECT HAS BEEN REMEDIATED SO THAT
33 SUCH TECHNICIAN IS REASONABLY CERTAIN THAT THE MOLD WILL NOT RETURN FROM
34 THE SAME CAUSE.

35 S 32-0108. MINIMUM WORK PRACTICES AND PROCEDURES FOR MOLD REMEDIATION.

36 1. SCOPE. THESE GENERAL WORK PRACTICES ARE MINIMUM REQUIREMENTS AND DO
37 NOT CONSTITUTE COMPLETE OR SUFFICIENT SPECIFICATIONS FOR A MOLD REMEDI-
38 ATION PROJECT. MORE DETAILED REQUIREMENTS DEVELOPED BY AN ASSESSMENT
39 TECHNICIAN FOR A PARTICULAR PROJECT SHALL TAKE PRECEDENCE OVER THE
40 PROVISIONS OF THIS SECTION.

41 2. REMEDIATION WORK PLAN. A REMEDIATION CONTRACTOR SHALL PREPARE A
42 MOLD REMEDIATION WORK PLAN THAT IS SPECIFIC TO EACH PROJECT, FULFILLS
43 ALL THE REQUIREMENTS OF THE MOLD REMEDIATION PROTOCOL AND PROVIDES
44 SPECIFIC INSTRUCTIONS AND/OR STANDARD OPERATING PROCEDURES FOR HOW A
45 MOLD REMEDIATION PROJECT WILL BE PERFORMED. THE REMEDIATION CONTRACTOR
46 SHALL PROVIDE THE MOLD REMEDIATION WORK PLAN TO THE CLIENT BEFORE SITE
47 PREPARATION WORK BEGINS.

48 3. PERSONAL PROTECTIVE EQUIPMENT (PPE) REQUIREMENTS. IF AN ASSESSMENT
49 TECHNICIAN SPECIFIES IN THE MOLD REMEDIATION PROTOCOL THAT PPE IS
50 REQUIRED FOR THE PROJECT, THE REMEDIATION CONTRACTOR SHALL PROVIDE THE
51 SPECIFIED PPE TO ALL EMPLOYEES WHO ENGAGE IN REMEDIATION ACTIVITIES AND
52 WHO WILL, OR ARE ANTICIPATED TO, DISTURB OR REMOVE MOLD CONTAMINATION,
53 WHEN THE MOLD AFFECTS A TOTAL SURFACE AREA FOR THE PROJECT OF 25 CONTIG-
54 UOUS FEET OR MORE. THE RECOMMENDED MINIMUM PPE IS AN N-95 RESPIRATOR.
55 EACH EMPLOYEE WHO IS PROVIDED PPE MUST RECEIVE TRAINING ON THE APPROPRI-
56 ATE USE AND CARE OF THE PROVIDED PPE.

1 4. CONTAINMENT REQUIREMENTS. THE CONTAINMENT SPECIFIED IN THE REMEDI-
2 ATION PROTOCOL MUST BE USED ON A MOLD REMEDIATION PROJECT WHEN THE MOLD
3 AFFECTS A TOTAL SURFACE AREA OF TWENTY-FIVE CONTIGUOUS SQUARE FEET OR
4 MORE FOR THE PROJECT. CONTAINMENT IS NOT REQUIRED IF ONLY PERSONS WHO
5 ARE LICENSED UNDER THIS ARTICLE OCCUPY THE BUILDING IN WHICH THE REMEDI-
6 ATION TAKES PLACE AT ANY TIME DURING THE REMEDIATION PROJECT. THE
7 CONTAINMENT, WHEN CONSTRUCTED AS DESCRIBED IN THE REMEDIATION WORK PLAN
8 AND UNDER NORMAL CONDITIONS OF USE, MUST PREVENT THE SPREAD OF MOLD TO
9 AREAS OUTSIDE THE CONTAINMENT. IF WALK-IN CONTAINMENT IS USED, SUPPLY
10 AND RETURN AIR VENTS MUST BE BLOCKED, AND AIR PRESSURE WITHIN THE WALK-
11 IN CONTAINMENT MUST BE LOWER THAN THE PRESSURE IN BUILDING AREAS ADJA-
12 CENT TO THE CONTAINMENT.

13 5. NOTICE SIGNS. SIGNS ADVISING THAT A MOLD REMEDIATION PROJECT IS IN
14 PROGRESS SHALL BE DISPLAYED AT ALL ACCESSIBLE ENTRANCES TO REMEDIATION
15 AREAS. THE SIGNS SHALL BE AT LEAST EIGHT INCHES BY TEN INCHES IN SIZE
16 AND SHALL BEAR THE WORDS "NOTICE: MOLD REMEDIATION PROJECT IN PROGRESS"
17 IN BLACK ON A YELLOW BACKGROUND. THE TEXT OF THE SIGNS MUST BE LEGIBLE
18 FROM A DISTANCE OF TEN FEET.

19 6. REMOVAL OF CONTAINMENT. NO PERSON SHALL REMOVE OR DISMANTLE ANY
20 WALK-IN CONTAINMENT STRUCTURES OR MATERIALS FROM A PROJECT SITE PRIOR TO
21 RECEIPT BY THE LICENSED MOLD REMEDIATION CONTRACTOR OVERSEEING THE
22 PROJECT OF A WRITTEN NOTICE FROM A LICENSED MOLD ASSESSMENT TECHNICIAN
23 THAT THE PROJECT HAS ACHIEVED CLEARANCE AS DESCRIBED UNDER SECTION
24 32-0109 OF THIS ARTICLE.

25 7. DISINFECTANTS, BIOCIDES AND ANTIMICROBIAL COATINGS. DISINFECTANTS,
26 BIOCIDES AND ANTIMICROBIAL COATINGS MAY BE USED ONLY IF THEIR USE IS
27 SPECIFIED IN A MOLD REMEDIATION PROTOCOL, IF THEY ARE REGISTERED BY THE
28 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE INTENDED USE AND
29 IF THE USE IS CONSISTENT WITH THE MANUFACTURER'S LABELING INSTRUCTIONS.
30 IF A PROTOCOL SPECIFIES THE USE OF SUCH A PRODUCT BUT DOES NOT SPECIFY
31 THE BRAND OR TYPE OF PRODUCT, A REMEDIATION CONTRACTOR MAY SELECT THE
32 BRAND OR TYPE OF PRODUCT TO BE USED, SUBJECT TO THE OTHER PROVISIONS OF
33 THIS SUBDIVISION. A DECISION BY AN ASSESSMENT TECHNICIAN OR REMEDIATION
34 CONTRACTOR TO USE SUCH A PRODUCT MUST TAKE INTO ACCOUNT THE POTENTIAL
35 FOR OCCUPANT SENSITIVITIES AND POSSIBLE ADVERSE REACTIONS TO CHEMICALS
36 THAT HAVE THE POTENTIAL TO BE OFF-GASSED FROM SURFACES COATED WITH THE
37 PRODUCT.

38 S 32-0109. POST-REMEDIATION ASSESSMENT AND CLEARANCE.

39 1. CLEARANCE CRITERIA. FOR A REMEDIATION PROJECT TO ACHIEVE CLEARANCE,
40 A LICENSED MOLD ASSESSMENT TECHNICIAN SHALL CONDUCT A POST-REMEDIATION
41 ASSESSMENT USING VISUAL, PROCEDURAL, AND ANALYTICAL METHODS. IF WALK-IN
42 CONTAINMENT IS USED DURING REMEDIATION, THE POST-REMEDIATION ASSESSMENT
43 SHALL BE CONDUCTED WHILE THE WALK-IN CONTAINMENT IS IN PLACE. THE POST-
44 REMEDIATION ASSESSMENT SHALL DETERMINE WHETHER:

45 A. THE WORK AREA IS FREE FROM ALL VISIBLE MOLD AND WOOD ROT; AND

46 B. ALL WORK HAS BEEN COMPLETED IN COMPLIANCE WITH THE REMEDIATION
47 PROTOCOL AND REMEDIATION WORK PLAN AND MEETS CLEARANCE CRITERIA SPECI-
48 FIED IN THE PROTOCOL.

49 2. UNDERLYING CAUSE OF MOLD. POST-REMEDIATION ASSESSMENT SHALL, TO THE
50 EXTENT FEASIBLE, DETERMINE THAT THE UNDERLYING CAUSE OF THE MOLD HAS
51 BEEN REMEDIATED SO THAT IT IS REASONABLY CERTAIN THAT THE MOLD WILL NOT
52 RETURN FROM THAT REMEDIATED CAUSE.

53 3. ANALYTICAL METHODS. A. THE ASSESSMENT TECHNICIAN SHALL PERFORM A
54 VISUAL, PROCEDURAL, AND ANALYTICAL EVALUATION IN EACH REMEDIATED AREA IN
55 ORDER TO DETERMINE WHETHER THE MOLD CONTAMINATION IDENTIFIED FOR THE
56 PROJECT HAS BEEN REMEDIATED AS OUTLINED IN THE REMEDIATION PROTOCOL.

1 B. THE TECHNICIAN SHALL USE ONLY THE ANALYTICAL METHODS AND THE CRITE-
2 RIA FOR EVALUATING ANALYTICAL RESULTS THAT WERE SPECIFIED IN THE REMEDI-
3 ATION PROTOCOL, UNLESS CIRCUMSTANCES BEYOND THE CONTROL OF THE TECHNI-
4 CIAN AND THE REMEDIATION CONTRACTOR NECESSITATE ALTERNATIVE ANALYTICAL
5 METHODS OR CRITERIA. THE CONSULTANT SHALL PROVIDE TO THE CLIENT WRITTEN
6 DOCUMENTATION OF THE NEED FOR ANY DEVIATION FROM THE REMEDIATION PROTO-
7 COL AND THE ALTERNATIVE ANALYTICAL METHODS AND CRITERIA SELECTED, AND
8 SHALL OBTAIN APPROVAL FROM THE CLIENT FOR THEIR USE, BEFORE PROCEEDING
9 WITH THE POST-REMEDATION ASSESSMENT.

10 C. WHERE VISUAL INSPECTION REVEALS DEFICIENCIES SUFFICIENT TO FAIL
11 CLEARANCE, ANALYTICAL METHODS NEED NOT BE USED.

12 4. PASSED CLEARANCE REPORT. AN ASSESSMENT TECHNICIAN WHO DETERMINES
13 THAT REMEDIATION HAS BEEN SUCCESSFUL SHALL ISSUE A WRITTEN PASSED CLEAR-
14 ANCE REPORT TO THE CLIENT AT THE CONCLUSION OF EACH MOLD REMEDIATION
15 PROJECT. THE REPORT MUST INCLUDE THE FOLLOWING:

16 A. A DESCRIPTION OF RELEVANT WORKSITE OBSERVATIONS;

17 B. THE TYPE AND LOCATION OF ALL MEASUREMENTS MADE AND SAMPLES
18 COLLECTED AT THE WORKSITE;

19 C. ALL DATA OBTAINED AT THE WORKSITE, INCLUDING TEMPERATURE, HUMIDITY,
20 AND MATERIAL MOISTURE READINGS;

21 D. THE RESULTS OF ANALYTICAL EVALUATION OF THE SAMPLES COLLECTED AT
22 THE WORKSITE;

23 E. COPIES OF ALL PHOTOGRAPHS THE CONSULTANT TOOK; AND

24 F. A CLEAR STATEMENT THAT THE PROJECT HAS PASSED CLEARANCE.

25 5. FINAL STATUS REPORT. IF THE MOLD ASSESSMENT CONSULTANT DETERMINES
26 THAT REMEDIATION HAS NOT BEEN SUCCESSFUL AND CEASES TO BE INVOLVED WITH
27 THE PROJECT BEFORE THE PROJECT PASSES CLEARANCE, THE CONSULTANT SHALL
28 ISSUE A WRITTEN FINAL STATUS REPORT TO THE CLIENT AND TO THE REMEDIATION
29 CONTRACTOR OR COMPANY PERFORMING THE PROJECT. THE STATUS REPORT MUST
30 INCLUDE THE ITEMS LISTED IN PARAGRAPHS A, B, C, D, AND E OF SUBDIVISION
31 FOUR OF THIS SECTION AND ANY CONCLUSIONS THAT THE CONSULTANT HAS DRAWN.

32 S 32-0110. DUTY OF PROPERTY OWNER.

33 IF A PROPERTY OWNER SELLS THE PROPERTY, THE PROPERTY OWNER SHALL
34 PROVIDE TO THE BUYER A COPY OF EACH CERTIFICATE OF MOLD DAMAGE REMEDI-
35 ATION ISSUED FOR THE PROPERTY UNDER THIS SECTION DURING THE FIVE YEARS
36 PRECEDING THE DATE THE PROPERTY OWNER SELLS THE PROPERTY.

37 S 32-0111. COMPLIANCE; INSPECTIONS AND INVESTIGATIONS.

38 1. THE DEPARTMENT MAY INSPECT OR INVESTIGATE THE BUSINESS PRACTICES OF
39 ANY PERSONS INVOLVED WITH MOLD-RELATED ACTIVITY FOR COMPLIANCE WITH THIS
40 ARTICLE.

41 2. A DEPARTMENT REPRESENTATIVE, UPON PRESENTING A DEPARTMENT IDENTIFI-
42 CATION CARD, SHALL HAVE THE RIGHT TO ENTER AT ALL REASONABLE TIMES ANY
43 AREA OR ENVIRONMENT, INCLUDING BUT NOT LIMITED TO ANY CONTAINMENT AREA,
44 BUILDING, CONSTRUCTION SITE, STORAGE OR OFFICE AREA, OR VEHICLE TO
45 REVIEW RECORDS, TO QUESTION ANY PERSON, OR TO LOCATE, IDENTIFY, OR
46 ASSESS AREAS OF MOLD GROWTH FOR THE PURPOSE OF INSPECTION AND INVESTI-
47 GATION FOR COMPLIANCE WITH THIS ARTICLE.

48 3. A DEPARTMENT REPRESENTATIVE CONDUCTING OFFICIAL DUTIES IS NOT
49 REQUIRED TO NOTIFY IN ADVANCE OR SEEK PERMISSION TO CONDUCT INSPECTIONS
50 OR INVESTIGATIONS. IT IS A VIOLATION FOR ANY PERSON TO INTERFERE WITH,
51 DENY, OR DELAY AN INSPECTION OR INVESTIGATION CONDUCTED BY A DEPARTMENT
52 REPRESENTATIVE. A DEPARTMENT REPRESENTATIVE SHALL NOT BE IMPEDED OR
53 REFUSED ENTRY IN THE COURSE OF OFFICIAL DUTIES BY REASON OF ANY REGULA-
54 TORY OR CONTRACTUAL SPECIFICATION.

55 4. A PERSON WHO BELIEVES THAT ANY PROVISION UNDER THIS TITLE HAS BEEN
56 VIOLATED MAY FILE A WRITTEN COMPLAINT WITH THE DEPARTMENT. THE COMPLAINT

1 FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL
2 CONDUCT AN INVESTIGATION, INCLUDING FOR AN ANONYMOUS COMPLAINT IF THE
3 COMPLAINANT PROVIDES SUFFICIENT INFORMATION.
4 DEPARTMENT REPRESENTATIVES SHALL INVESTIGATE COMPLAINTS BY THE PUBLIC
5 REGARDING VIOLATIONS OF THE PROVISIONS OF THIS TITLE.
6 S 32-0112. COMPLIANCE; REPRIMAND, SUSPENSION, REVOCATIONS, PROBATION.
7 THE DEPARTMENT MAY ISSUE AN ADMINISTRATIVE PENALTY AS DESCRIBED IN
8 SECTION 32-0113 OF THIS ARTICLE, DENY AN APPLICATION, SUSPEND, SUSPEND
9 WITH PROBATIONARY TERMS, OR REVOKE A LICENSE OF A PERSON WHO VIOLATES
10 ANY PROVISION UNDER THIS TITLE. IN ADDITION, THE DEPARTMENT MAY ISSUE AN
11 ADMINISTRATIVE PENALTY, DENY AN APPLICATION, SUSPEND, SUSPEND WITH
12 PROBATIONARY TERMS, OR REVOKE A LICENSE OF A PERSON WHO:
13 1. FAILS TO COMPLY WITH THIS ARTICLE;
14 2. HAS FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO OBTAIN A
15 CREDENTIAL, ID CARD OR APPROVAL, INCLUDING ENGAGING IN MISCONDUCT OR
16 DISHONESTY DURING THE STATE LICENSING EXAMINATION, SUCH AS CHEATING OR
17 HAVING ANOTHER PERSON TAKE OR ATTEMPT TO TAKE THE EXAMINATION FOR THAT
18 PERSON;
19 3. DUPLICATES OR ALLOWS ANOTHER PERSON TO DUPLICATE A CREDENTIAL, ID
20 CARD OR APPROVAL;
21 4. USES A CREDENTIAL ISSUED TO ANOTHER PERSON OR ALLOWS ANY OTHER
22 PERSON TO USE A CREDENTIAL, ID CARD OR APPROVAL NOT ISSUED TO THAT OTHER
23 PERSON;
24 5. FALSIFIES RECORDS FOR MOLD-RELATED ACTIVITIES THAT THE DEPARTMENT
25 REQUIRES THE PERSON TO CREATE, SUBMIT, OR MAINTAIN; OR
26 6. IS CONVICTED OF A FELONY OR MISDEMEANOR ARISING FROM MOLD-RELATED
27 ACTIVITY.
28 S 32-0113. COMPLIANCE; ADMINISTRATIVE PENALTY.
29 1. IF A PERSON VIOLATES THIS ARTICLE, THE DEPARTMENT MAY ASSESS AN
30 ADMINISTRATIVE PENALTY.
31 2. THE PENALTY SHALL NOT EXCEED THREE THOUSAND DOLLARS PER VIOLATION.
32 THE DEPARTMENT MAY REDUCE OR ENHANCE PENALTIES AS WARRANTED.
33 S 2. This act shall take effect immediately.