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

4524--A

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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-REMEDIATION 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.

LBD09753-06-0

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

A. "ASSESSOR" MEANS A PERSON WHO CONDUCTS MOLD ASSESSMENT AS DEFINED IN THIS SECTION AND WHO IS LICENSED UNDER THIS ARTICLE AS A MOLD ASSESSMENT TECHNICIAN OR MOLD ASSESSMENT CONSULTANT.

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

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

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

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

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

G. "FACILITY" MEANS ANY INSTITUTIONAL, COMMERCIAL, PUBLIC, GOVERNMENTAL, INDUSTRIAL OR RESIDENTIAL BUILDING.

H. "MANAGING AGENT" MEANS A COMPANY OR INDIVIDUAL THAT MANAGES A RESIDENTIAL OR COMMERCIAL BUILDING FOR AN OWNER.

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

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

K. "MOLD REMEDIATION PROTOCOL" OR "MOLD REMEDIATION WORK ANALYSIS" MEANS A DOCUMENT, PREPARED BY A LICENSED MOLD ASSESSMENT TECHNICIAN FOR A CLIENT, THAT SPECIFIES THE ESTIMATED QUANTITIES AND LOCATIONS OF MATERIALS TO BE REMEDIATED AND THE PROPOSED REMEDIATION METHODS AND CLEARANCE CRITERIA FOR EACH TYPE OF REMEDIATION IN EACH TYPE OF AREA FOR A MOLD REMEDIATION PROJECT.

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

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

N. "REMEDIATOR" MEANS A PERSON WHO CONDUCTS MOLD REMEDIATION AS DEFINED IN THIS SECTION AND WHO IS CREDENTIALED UNDER THIS ARTICLE AS A MOLD REMEDIATION CONTRACTOR.

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

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

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

S 32-0102. CREDENTIALS; GENERAL CONDITIONS.

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

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

3. CERTIFICATION. AN APPLICANT FOR THE LICENSE SHALL SUBMIT PROOF OR CERTIFICATION BY THE AMERICAN COUNCIL FOR ACCREDITED CERTIFICATION OR ANY OTHER NATIONALLY RECOGNIZED, THIRD-PARTY ACCREDITED CERTIFYING BODY THAT OPERATES INDEPENDENTLY OF TRAINING ORGANIZATIONS AND INDUSTRY TRADE ASSOCIATIONS. AN APPLICANT FOR LICENSE RENEWAL SHALL SUBMIT PROOF OF CONTINUED CERTIFICATION BY THE AMERICAN COUNCIL FOR ACCREDITED CERTIFICATION OR ANY OTHER NATIONALLY RECOGNIZED, THIRD-PARTY ACCREDITED CERTIFYING BODY THAT OPERATES INDEPENDENTLY OF TRAINING ORGANIZATIONS AND INDUSTRY TRADE ASSOCIATIONS.

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

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

B. SCHEDULING AND REGISTRATION. ANNUALLY, THE DEPARTMENT SHALL PUBLISH A SCHEDULE OF EXAMINATION DATES AND LOCATIONS. REGISTRATION FOR EXAMINATION DATE AND LOCATION MUST BE SUBMITTED BY MAILING, FAXING, OR E-MAILING A REGISTRATION FORM TO THE DEPARTMENT AND MUST BE RECEIVED BY THE DEPARTMENT NO LATER THAN FIVE WORKING DAYS BEFORE THE EXAMINATION DATE. INFORMATION ON THE EXAMINATION SCHEDULE AND ASSISTANCE WITH REGISTRATION IS AVAILABLE BY CONTACTING THE DEPARTMENT. ENTRANCE INTO THE EXAMINATION SITE WILL BE ALLOWED ONLY UPON PRESENTATION OF A VALID PHOTO IDENTIFICATION.

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

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

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

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

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

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

S 32-0103. EXCEPTIONS AND EXEMPTIONS.

1. EXCEPTIONS. THIS ARTICLE SHALL NOT APPLY TO:

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

(1) ROUTINE CLEANING;

(2) THE DIAGNOSIS, REPAIR, CLEANING, OR REPLACEMENT OF PLUMBING, HEATING, VENTILATION, AIR CONDITIONING, ELECTRICAL, OR AIR DUCT SYSTEMS OR APPLIANCES;

(3) COMMERCIAL OR RESIDENTIAL REAL ESTATE INSPECTIONS; AND

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

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

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

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

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

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

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

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

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

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

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

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

6. SUPERVISED EMPLOYEE EXEMPTION. AN EMPLOYEE OF A LICENSE HOLDER IS NOT REQUIRED TO BE LICENSED UNDER THIS ARTICLE TO PERFORM MOLD ASSESSMENT OR MOLD REMEDIATION WHILE SUPERVISED BY THE LICENSE HOLDER.

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

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

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

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

9. FEE EXEMPTION FOR DEPARTMENT EMPLOYEES. EMPLOYEES OF THE DEPARTMENT WHO ENGAGE IN MOLD-RELATED ACTIVITY AS A CONDITION OF THEIR EMPLOYMENT SHALL BE EXEMPT FROM EXAMINATION FEES AND CREDENTIALING FEES UNDER THIS ARTICLE. FEE-EXEMPTED CREDENTIALS SHALL BE RESTRICTED FOR USE ONLY IN REQUIRED DEPARTMENTAL DUTIES, AND THE CREDENTIALS WILL INDICATE THE RESTRICTION. AN EMPLOYEE WHO IS NO LONGER REQUIRED TO POSSESS A CREDENTIAL AS A CONDITION OF EMPLOYMENT SHALL IMMEDIATELY RETURN THAT CREDENTIAL TO THE DEPARTMENT FOR CLOSURE. AN INDIVIDUAL WHO TERMINATES EMPLOYMENT WITH THE DEPARTMENT SHALL IMMEDIATELY RETURN ALL UNEXPIRED CREDENTIALS TO THE DEPARTMENT FOR CLOSURE. THE DEPARTMENT MAY IMPOSE AN ADMINISTRATIVE PENALTY OR TAKE OTHER DISCIPLINARY ACTION AGAINST ANY EMPLOYEE OR FORMER EMPLOYEE WHO USES A FEE-EXEMPT CREDENTIAL TO ENGAGE IN A MOLD-RELATED ACTIVITY THAT IS NOT A REQUIRED DEPARTMENTAL DUTY.

S 32-0104. CONFLICT OF INTEREST AND DISCLOSURE REQUIREMENT.

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

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

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

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

3. THIS SECTION DOES NOT APPLY TO A LICENSE HOLDER EMPLOYED BY A SCHOOL DISTRICT WORKING ON A PROJECT FOR THAT SCHOOL DISTRICT.

S 32-0105. MOLD ASSESSMENT TECHNICIAN; LICENSING REQUIREMENTS.

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

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

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

B. COLLECT SAMPLES FOR MOLD ANALYSIS DURING AN INITIAL MOLD ASSESSMENT;

C. PREPARE A MOLD ASSESSMENT REPORT; AND

D. COLLECT SAMPLES DURING A POST-REMEDIATION MOLD ASSESSMENT.

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

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

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

A. IF THE APPLICATION IS FOR AN INITIAL LICENSE:

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

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

(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 CERTIFICATION PURSUANT TO SUBDIVISION THREE OF SECTION 32-0102 OF THIS ARTICLE.

6. RESPONSIBILITIES. A LICENSED MOLD ASSESSMENT TECHNICIAN SHALL:

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

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

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

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

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

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

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

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

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

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

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

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

1. SCOPE. THESE GENERAL WORK PRACTICES ARE MINIMUM REQUIREMENTS AND DO NOT CONSTITUTE COMPLETE OR SUFFICIENT SPECIFICATIONS FOR MOLD ASSESSMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

A. AT LEAST ONE NATIONALLY RECOGNIZED ANALYTICAL METHOD FOR USE WITHIN EACH REMEDIATED AREA IN ORDER TO DETERMINE WHETHER THE MOLD CONTAMINATION IDENTIFIED FOR THE PROJECT HAS BEEN REMEDIATED AS OUTLINED IN THE REMEDIATION PROTOCOL;

B. THE CRITERIA TO BE USED FOR EVALUATING ANALYTICAL RESULTS TO DETERMINE WHETHER THE REMEDIATION PROJECT PASSES CLEARANCE;

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

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

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

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

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

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

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

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

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

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

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

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

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

B. ALL WORK HAS BEEN COMPLETED IN COMPLIANCE WITH THE REMEDIATION PROTOCOL AND REMEDIATION WORK PLAN AND MEETS CLEARANCE CRITERIA SPECIFIED IN THE PROTOCOL.

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

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

B. THE TECHNICIAN SHALL USE ONLY THE ANALYTICAL METHODS AND THE CRITERIA FOR EVALUATING ANALYTICAL RESULTS THAT WERE SPECIFIED IN THE REMEDIATION PROTOCOL, UNLESS CIRCUMSTANCES BEYOND THE CONTROL OF THE TECHNICIAN AND THE REMEDIATION CONTRACTOR NECESSITATE ALTERNATIVE ANALYTICAL METHODS OR CRITERIA. THE CONSULTANT SHALL PROVIDE TO THE CLIENT WRITTEN DOCUMENTATION OF THE NEED FOR ANY DEVIATION FROM THE REMEDIATION PROTOCOL AND THE ALTERNATIVE ANALYTICAL METHODS AND CRITERIA SELECTED, AND SHALL OBTAIN APPROVAL FROM THE CLIENT FOR THEIR USE, BEFORE PROCEEDING WITH THE POST-REMEDIATION ASSESSMENT.

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

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

A. A DESCRIPTION OF RELEVANT WORKSITE OBSERVATIONS;

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

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

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

E. COPIES OF ALL PHOTOGRAPHS THE CONSULTANT TOOK; AND

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

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

S 32-0110. DUTY OF PROPERTY OWNER.

IF A PROPERTY OWNER SELLS THE PROPERTY, THE PROPERTY OWNER SHALL PROVIDE TO THE BUYER A COPY OF EACH CERTIFICATE OF MOLD DAMAGE REMEDIATION ISSUED FOR THE PROPERTY UNDER THIS SECTION DURING THE FIVE YEARS PRECEDING THE DATE THE PROPERTY OWNER SELLS THE PROPERTY.

S 32-0111. COMPLIANCE; INSPECTIONS AND INVESTIGATIONS.

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

2. A DEPARTMENT REPRESENTATIVE, UPON PRESENTING A DEPARTMENT IDENTIFICATION CARD, SHALL HAVE THE RIGHT TO ENTER AT ALL REASONABLE TIMES ANY AREA OR ENVIRONMENT, INCLUDING BUT NOT LIMITED TO ANY CONTAINMENT AREA, BUILDING, CONSTRUCTION SITE, STORAGE OR OFFICE AREA, OR VEHICLE TO REVIEW RECORDS, TO QUESTION ANY PERSON, OR TO LOCATE, IDENTIFY, OR ASSESS AREAS OF MOLD GROWTH FOR THE PURPOSE OF INSPECTION AND INVESTIGATION FOR COMPLIANCE WITH THIS ARTICLE.

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

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

FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION, INCLUDING FOR AN ANONYMOUS COMPLAINT IF THE COMPLAINANT PROVIDES SUFFICIENT INFORMATION.

DEPARTMENT REPRESENTATIVES SHALL INVESTIGATE COMPLAINTS BY THE PUBLIC REGARDING VIOLATIONS OF THE PROVISIONS OF THIS TITLE.

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

THE DEPARTMENT MAY ISSUE AN ADMINISTRATIVE PENALTY AS DESCRIBED IN SECTION 32-0113 OF THIS ARTICLE, DENY AN APPLICATION, SUSPEND, SUSPEND WITH PROBATIONARY TERMS, OR REVOKE A LICENSE OF A PERSON WHO VIOLATES ANY PROVISION UNDER THIS TITLE. IN ADDITION, THE DEPARTMENT MAY ISSUE AN ADMINISTRATIVE PENALTY, DENY AN APPLICATION, SUSPEND, SUSPEND WITH PROBATIONARY TERMS, OR REVOKE A LICENSE OF A PERSON WHO:

1. FAILS TO COMPLY WITH THIS ARTICLE;

2. HAS FRAUDULENTLY OR DECEPTIVELY OBTAINED OR ATTEMPTED TO OBTAIN A CREDENTIAL, ID CARD OR APPROVAL, INCLUDING ENGAGING IN MISCONDUCT OR DISHONESTY DURING THE STATE LICENSING EXAMINATION, SUCH AS CHEATING OR HAVING ANOTHER PERSON TAKE OR ATTEMPT TO TAKE THE EXAMINATION FOR THAT PERSON;

3. DUPLICATES OR ALLOWS ANOTHER PERSON TO DUPLICATE A CREDENTIAL, ID CARD OR APPROVAL;

4. USES A CREDENTIAL ISSUED TO ANOTHER PERSON OR ALLOWS ANY OTHER PERSON TO USE A CREDENTIAL, ID CARD OR APPROVAL NOT ISSUED TO THAT OTHER PERSON;

5. FALSIFIES RECORDS FOR MOLD-RELATED ACTIVITIES THAT THE DEPARTMENT REQUIRES THE PERSON TO CREATE, SUBMIT, OR MAINTAIN; OR

6. IS CONVICTED OF A FELONY OR MISDEMEANOR ARISING FROM MOLD-RELATED ACTIVITY.

S 32-0113. COMPLIANCE; ADMINISTRATIVE PENALTY.

1. IF A PERSON VIOLATES THIS ARTICLE, THE DEPARTMENT MAY ASSESS AN ADMINISTRATIVE PENALTY.

2. THE PENALTY SHALL NOT EXCEED THREE THOUSAND DOLLARS PER VIOLATION. THE DEPARTMENT MAY REDUCE OR ENHANCE PENALTIES AS WARRANTED.

S 2. This act shall take effect immediately.