

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
1	Brian Chapman		Resident	General	DC should have reviewed other states who successfully regulated mold with years under their belt.	The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The proposed rules have been drafted in accordance with these standards, including the mold statutes and regulations in Texas, Florida, Louisiana, Maryland, and New York.
2	Brian Chapman		Resident	General	If you want this to be successful, these regulations need to be properly written without any loopholes. Your team should investigate Texas mold regulations, along with the other states who have experience under their belt.	The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The proposed rules have been drafted in accordance with these standards, including the mold statutes and regulations in Texas, Florida, Louisiana, Maryland, and New York.
3	Brian Chapman		Resident	Preamble	[25 square feet is s]ignificantly too small of a surface space. Someone with enough common sense would use 1part of bleach to 10 parts of water to kill the microbial growth. Not to mention I'm assuming commercial facilities will be next on the list, and there are too many lobbyist who will fight this square footage. You also haven't mentioned liner feet, which mold can grow on pipe insulation and under vinyl baseboard covers.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
4	Brian Chapman		Resident	3200.2(1)	"ALL" is giving an indication all properties including commercial and federal facilities must abide by the new regulation.	As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. However, while the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3.
5	Brian Chapman		Resident	3201.3	DC has been well known to have commercial space on the first level of a residential building, does this comment apply to the first level of the facility even though the remaining portion is residential?	As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. The first level space zoned as commercial is exempt from the threshold because it is not a dwelling unit or common area of a dwelling unit.
6	Brian Chapman		Resident	3202.1	Cost needs to be lowered significantly! This is a prime example showing why DC wants to regulate mold.	The Department is lowering the cost of application. However, the current and future proposed cost in the rulemaking is in line with other states and The Department's Lead and Healthy Housing Program. Texas charges \$610 for a mold assessment consultant and \$510 for a mold remediation contractor. Florida charges \$230 for mold assessors and remediators. Louisiana charges \$460 for mold remediators. New York, while not yet effective, charges \$100 for initial licenses. Depending on if the applicant meets certain requirements, the District's Lead and Healthy Homes program charges \$350 or \$450 for a lead-based paint inspector and abatement supervisor license (good for two years). Keep in mind that the Department is statutorily obligated to set the fees "at a minimum, in an amount sufficient to recover the costs of administering [the program.]" § 304(d).
7	Brian Chapman		Resident	3203.1(b)	Missing sampling methods, calibration of the instruments, LPM per type of sampling media. Needs more details, otherwise someone can run a sample for a longer period, higher volume just to generate more air flow on the sample and cause false positives, which can generate a higher payout for the sampler. Different pumps uses different media, and different airflow timing.	These rules only defines the scope of a mold license, not how the assessor shall perform its work. According to § 3204.4(b), all licenses must meet or exceed minimum industry standards when performing work.

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8	Brian Chapman		Resident	3203.1(b)	What type of sampling? There are non-viable and viable mold sampling. Both are very different in cost, and also show different results. Are surface samples required prior to assessment? If this is residential, the mold in air samples can be higher than in a residential building because of their filtering system. Most homes have a MERV rating between 2 to 5, and if the home owner or tenant doesn't change out the filters as often as they should be, this can give a false positive of air samples. Not to mention if the tenant decides to keep the windows open or even open the windows prior to the air sampling, will also significantly raise the numbers and then the landlord will end up with additional issues based solely on the air samples.	This section only defines the scope of a mold license, not how the assessor shall perform its work. According to § 3204.4(b), all licenses must meet or exceed minimum industry standards when performing work. Additionally, the regulations do not require sampling, rather the assessor should use their professional judgment when performing work.
9	Brian Chapman		Resident	3203.1(c)	Knowing most row homes, condos, apartment complexes...etc. all have a below ground living quarter is a prime area to be susceptible to microbial growth as oppose to a unit on the 2 or higher floor level. This also falls back onto the tenant who may not pay attention to their own RH levels, and refused to purchase a dehumidifier in order to keep the RH levels within range of ASHRAE standards.	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
10	Brian Chapman		Resident	3204.1	If this new regulation is only pertaining to residential, it should be rephrased so it doesn't appear DDOE is referring to ALL indoor mold assessments or remediations.	As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. However, while the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3.
11	Brian Chapman		Resident	3204.4(e)	Documents from a physician stating an individual is allergic to certain microbes can be easily made by the individuals PCP.	This section does not relate to documents from a physician, but only documents that licensed mold assessment and remediation professionals create during their work.
12	Brian Chapman		Resident	3204.6	Needs to be detailed to prevent vagueness per contractor.	Section 3204.6 is further expanded according to the definition section, 3299, for terms like "mold assessment report" and "mold remediation protocol." The Department also intends on making publicly available model mold assessment reports to further demonstrate the various documents.
13	Brian Chapman		Resident	3208	A section should be added for when a tenant has any pets in the house that could pose a threat (allergies and or possessive with their space) to the contractor.	This section only applies to notifications between the licensees and the Department. A licensed remediator or assessor is not prohibited from inquiring whether the tenant or property owner has any pets that can pose a threat.
14	Brian Chapman		Resident	3210.1	With this law pertaining to residential housing. The department should have to request access to the individuals home prior to entering their residence. If this is not performed the department can be held liable for any issues the tenant may claim while not on site. This section should be written with more specific details for liability concerns.	As per § 3210.2 and § 3210.3, the Department can enter these types of areas at reasonable times, however a person can deny access to the Department. The Department is not statutorily obligated to consider or promulgate regulations related to the liability concerns mentioned in the comment.
15	Brian Chapman		Resident	3299.1	Relating to "clearance report," I couldn't find information regarding true "clearance" levels when sampling is involved, can you please explain?	No clearance "level" is required. This clearance level is governed by professional standards, adherence to which is assured by the professional's certification. Specific levels will be determined by the mold assessor in the mold remediation protocol (see definition (c)) using his or her professional judgment and meeting minimum industry practices.
16	Brian Chapman		Resident	3299.1	Relating to "clearance report(f)(1)," "All" shouldn't be used in this sentence.	The Department will change the definition to state "All project areas are free from visible mold."
17	Brian Chapman		Resident	3299.1	Relating to "clearance report(f)(3)," what's the clearance?	No clearance "level" is required. This clearance level is governed by professional standards, adherence to which is assured by the professional's certification. Specific levels will be determined by the mold assessor in the mold remediation protocol (see definition (c)) using his or her professional judgment and meeting minimum industry practices.
18	Brian Chapman		Resident	3299.1	Related to "mold analysis(c)," are commonly known as MVOC. MVOC are generally sampled by using a PID or an ultra low air sample. These methods are normally costly, and wouldn't generally be used by a smaller contractor due to the cost and expense of the instruments and instruments calibrations.	The regulations do not require sampling, rather the assessor should use their professional judgment when performing work.

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19	Beverly Sedon	ECS Mid-Atlantic, LLC	Company	General	<p>On most remediation projects for mold, the air handling system is recommended to be cleaned since the system has been cycling elevated spore counts in the air from a substrate source on impacted materials. The regulations do not reference licensure for HVAC contractors who clean the air handling systems/ductwork in situations where the ducts/systems are cleaned as part of reducing mold levels. Or the system itself has been determined to be the source for mold, impacted interior duct lines, coils, etc.</p> <p>On most projects the remediation company subcontracts an HVAC professional to do the duct cleaning, but when the ducts are suspected to have elevated mold, the work efforts may require additional cleaning, line removal, biocides, etc. Should there be specific requirements for licensure of the HVAC professionals or notification that they are cleaning mold impacted surfaces? We generally recommend that they be compliant with the National Air Duct Cleaning Association guidelines.</p>	Assuming HVAC contractors are supervised, as defined in 3299, by a licensed mold remediator, then the HVAC contractor need not be licensed separately. The same exemptions for residential property (i.e. the threshold) and the non-residential property exemption apply for HVAC contractors. Additionally, an HVAC contractor may desire to obtain a license itself.
20	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	General	Where did the twenty-five contiguous square feet threshold level of indoor mold contamination? EPA containments start at 10 sq/ft. Instead of contiguous, use "area affected" (from EPA) "Microbial growth with a total surface area affecting greater than or equal to twenty-five square feet".	<p>The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that one of the purposes of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensurees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).</p> <p>Regarding the term contiguous, the Department will change the term "contiguous" to "affected." The definition will change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation; or in the same room".</p>
21	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	General	Add requirement that individual must be a resident of DC or work for a company that has a current DC business license in order to get a mold license.	The Department will require the listing of a DC business name when applying to become licensed. § 3202.10(b)(5) allows for the Department to require any other information that the Department requires for a complete application. The Department cannot adopt a requirement that only DC residents may be licensed.
22	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	General	Indoor Mold Assessment Professional should be "Licensed Indoor Mold Assessment Professional" or "Licensed Indoor Mold Assessor"	This suggestion is not a substantive one but one of semantics. The Department declines the suggestion.
23	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	General	Indoor Mold Remediation Professional should be "Licensed Indoor Mold Remediation Professional" or "Licensed Indoor Mold Remediation Supervisor"	This suggestion is not a substantive one but one of semantics. The Department declines the suggestion.
24	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	General	Add a requirement for remediation workers "Licensed Indoor Mold Remediator"	The Department is opting to have licensed mold assessors and remediators supervise the work of workers in the place of requiring licensed workers. This is consistent with recognized best practices related to the licensure of mold assessors and remediators.
25	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3201.1(a)(3)	Home Inspectors have been a big problem in the past collecting mold samples.	A commercial or residential real estate inspection that collects mold samples does not fall within the exemption provided by 3201.1(a)(3). Furthermore, to assist with interpreting this subsection, in the second proposed rulemaking the Department is replacing the language in 3201.1(a) with "The following activities when not conducted for the purpose of complying with D.C. Official Code § 8-241.04 (2013 Repl.)."
26	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3201.1(c)	Pest control inspectors sometimes sell themselves as mold professional calling mold a pest.	The law prohibits, and the regulation will also prohibit any person from holding themselves out as a professional in mold assessment or remediation unless they have a license from the Department. This would include pest control inspectors who are marketing themselves as mold professionals.
27	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3201.5	What about abatement workers (DDOE asbestos and lead requires) the assessment should be performed by a licensed individual?	The Department is opting to have licensed mold assessors and remediators supervise the work of workers in the place of requiring licensed workers. This is consistent with recognized best practices related to the licensure of mold assessors and remediators.
28	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3201.6	Replace with; "In such a case, the responsibility of the project or activity shall remain the responsibility of the licensee."	This suggestion is not a substantive one but one of semantics. The Department declines the suggestion.

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29	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3201.7	Take out investigation, maybe change or drop paragraph. Don't want insurance adjuster assuming they are cable of performing investigation/assessment.	An insurance adjuster performing mold assessment or remediation (as opposed to the regulated activities of a licensed insurance adjustor) does not fall within the exemption provided by § 3201.7.
30	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3202.4	It is cheaper get a license in another state and then apply for a DC license for \$50.00. DC accepting approved examinations offered by organizations or states should be temporary (maybe 1 year). Long enough to keep work build up a work force (grandfathering).	In the second proposed rulemaking, the Department has made the cost of applications, including reciprocity applications, the same. To make requirements less burdensome on out-of-state applicants, the Department will not make reciprocity available for a grandfathering period.
31	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3206.6 (properly titled 3202.6)	Take out the word sanitizing. Recognition, Evaluation, and Control of Indoor Mold, AIHA ©2008 18.5.3 Microbial Air Sampling "Although this may appear to be a desirable consequence of cleaning, the goal of mold remediation(2) is to return material surfaces to a satisfactory condition. The goal is not to produce a near-sterile or abiotic condition.(4,26) which may be desirable in an operating room or in a semi-sterile pharmaceutical manufacturing area.	While the goal of mold remediation is not a near-sterile condition, having a mold remediation examination cover sanitizing moldy surfaces will help ensure that licensees are qualified. See Mold Remediation in Schools and Commercial Buildings, EPA 15 (2008), http://www.epa.gov/mold/pdfs/moldremediation.pdf (Method 2).
32	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3206.8 (properly titled 3202.8)	I think an individual at recertification should take a DDOE approved course.	In these second proposed rules, the Department has included training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements), the Department is helping ensure that those who recertify continue education in the field of mold assessment and/or remediation. Additionally, the Department has added language requiring applicants to meet a 24-hour training requirement every two years. This addition will act as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee.
33	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3202.9(a)	two (2)-year associate of science degree	The Department has changed this term to make it more inclusive of all two year collegiate degrees.
34	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3202.9(b)	Certified safety professional has nothing to do with mold. There are all types of professional engineer (structural, electrical, mechanical, environmental, etc...) Most registered architect no nothing about mold. Should add a Board Certified Microbial Consultant CMC (ACAC)	A certified safety professional, architect, and engineer do not automatically qualify for a license, rather they must also have six months of documented relevant field experience, which is generally defined as performing mold remediation and mold assessment (see § 3299.1 for these definitions). Additionally, they must take and pass an approved third-party accreditor examination, which will cover areas of mold assessment or remediation. See § 3202.5 and § 3202.6.
35	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3202.10(c)	I thought it would be more. It not typical of DDOE price schedule.	A renewal application will use fewer Department resources than an initial application.
36	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3202.11(a)	Is this a typo	This is not a typo. However, in the second proposed rulemaking, the Department has made the cost of applications, including reciprocity applications, the same.

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37	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3203.1(a)&(b) Throughout doc.	Validation has become the accepted/standard word used by consultants and accepted by their insurance underwriters. I fear that insurance companies will either raise rate for IH firms performing mold assessment or stop writing policy for IH firms working in DC assessing mold. VALIDATION: Based on visual observation of readily accessible structural materials involved in remediation in the Corridor, XXXX concludes that, overall, at the date and time of the visual post remediation verification assessments (performed September 5, 2014 by XXXXXXX), generally accepted provisions have been applied to remediation in the areas identified in the assessment and subsequently remediated. As of September 5, 2014, remediation has been verified and renovation work inside the XXXXXX Corridor may continue.	In the second proposed rulemaking, the Department has changed the title of the term "clearance report" to "verification report", to be more consistent with industry terminology.
38	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.2	There are individuals who perform work allover that are board certified and carry the designation behind their name that communicates a level of recognized expertise in mold assessment or remediation (Certified Microbial Consultant, etc...).	Once the rules become final, if you hold yourself out as having a level of expertise in mold assessment or remediation, you must be licensed by the Department.
39	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.4(d)	To the extent required by law, keep confidential any personal information regarding a client and/or occupants (including medical conditions) obtained during the course of a mold-related activity;	In the second proposed rulemaking, the Department has changed this language so that, to the extent required by law, all personal information (including medical conditions) are kept confidential.
40	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.5(c)	Can Licensee perform the service and not charge a fee. I would take out for a fee.	In the second proposed rulemaking, the Department has deleted the word "fee".
41	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.6(a)	What if the indoor mold assessment professional doesn't find anything and the owner doesn't want to pay for a report? Would probably only happen in a non-rental property.	This would be covered by the terms of the employment agreement and is therefore beyond the scope of these regulations.
42	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.6(b)	There appears to be some confusion. There are assessments and they are sometimes followed by a written protocol. Assessment report typically has recommendations (which may include a protocol as an attachment or recommend removal following guidelines or recommend having a remediation protocol written). It is what the owner contracts the consultant to perform. A mold management plan is rarely if ever part of a written assessment report.	A mold assessment professional is not required to issue a mold management plan. This rule only states that if assessment data and analysis is included within a mold management plan, that the mold assessment professional is not required to issue a separate document according to § 3204.6(a).
43	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.6(c)	The owner needs to hire consultant to perform both services.	This comment does not provide a specific enough response to the draft to craft a response.
44	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3204.6(d)	clearance or clearance and/or validation The work product typically belongs to the client. The indoor mold remediation professional should request it from the client prior to the start of work.	This comment does not provide a specific enough response to the draft to craft a response.
45	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(a)	provided with appropriate PPE and respiratory protection per OSHA requirements and guidelines	This requirement is already implied as per § 3204.4(b) (meet or exceed the minimum industry standards).
46	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(b)	Should add laboratory qualification requirements.	Many laboratory accreditations exist; therefore, the Department is allowing the best judgment of a certified professional to guide specifics this area. See § 3205.1(b)(1) ("Sampling and analysis shall be performed according to industry best practices.").

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47	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(b)(1)	Industrial hygiene best practices or best practices or technical best practices in lieu of industry best practices In deposition an attorney informed me, after I told him I follow industry standards, that he didn't know that mold was an industry.	The Department will maintain the current language. The term "industry best practices" allows for flexibility in the future for changing best practices and allows it to apply to each step of mold sampling and analysis.
48	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(d) Through out	Negative Pressure Containment	Section 3205.1(d)(2) specifies negative pressure containment in a more detailed fashion.
49	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(d)(2) Through out	Negative Pressure Containment	Section 3205.1(d)(2) specifies negative pressure containment in a more detailed fashion.
50	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(d)(2)	HVAC supply and return diffusers	The Department interprets your suggestion as preferring your language to be inserted in place of the current language in § 3205.1(d)(2). The Department reads its current language as being more easy to read and interpret and meaning the substantially same (if not the same) thing. Accordingly, the Department will keep the language as is.
51	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(d)(3)	Take out! If area is to be reoccupied it could be cross contaminated by abatement. The only time containment should not be used is when the building is going to be raised.	Purposes of containment include protecting the health of workers and building occupants and to keep non-working areas uncontaminated. Indoor mold assessment and remediation professionals will use professional judgment to prevent mold growth from returning after remediation. The Department will maintain the language as proposed. The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards. Specifically, these guidelines and regulations do not require containment in every circumstance.
52	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(g)(1)	Ask Suzanne Blevins, ASTM or equivalent recognized	Many industry-recognized analytical methods exist; therefore, the Department is allowing the best judgment of a certified professional to guide specifics this area.
53	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3205.1(g)(4)	This should be the owner's responsibility prior to put back? It is not always 100% clear to the assessor; the assessor should recommend contracting with a building envelope or mechanical engineer if needed. Most assessor are not capable of this service.	In the second proposed rulemaking, the Department has added a new subparagraph within paragraph (f) of the definition of "verification report" (within § 3299.1, formerly "clearance report") to address this comment, making clear that another professional, other than a licensed indoor mold assessment or remediation professional, can and should fix the source of the moisture problem that caused the mold.
54	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3207.2	coverage for mold remediation and mold-related claims.	The insurance requirements in the Department proposed rules are similar to the insurance requirements in other states mold licensing regulations. Licensees can always elect to carry additional insurance if they deem it to be in their best interest. However, in the second proposed rulemaking, the Department will include a requirement general liability pollution insurance for remediators.
55	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3208.1(a)	This should be the owners responsibility. Are you going to have standard forms?	This will be the responsibility of the licensee. The Department plans on publishing standard forms for licensees to notify the Department of work so the Department can properly conduct oversight over professionals.
56	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3208.1(b)	An Emergency is to limit exposure. The longer you wait the more potential exposure to occupants. If a space contaminated it needs to be abated ASAP. Are you going to have standard forms?	Section 3208.2(c) allows for mold remediation professionals to begin remediation in emergency situations without having to first provide notification to the Department. The Department plans on publishing standard forms for licensees to notify the Department of work so the Department can properly conduct oversight over professionals.
57	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3209.1 (c)	Typically the indoor mold remediation professional never see contract that typically contains money related items, they only the contracted scope of work.	These regulations would require the remediation professional to maintain certain records, including the written contract between the remediation professional or his/her employer and the client, on site at a project for its duration.
58	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3211.3	Not harsh, enough how about 1 year. In DDOE stake-holder meeting contractors ask what's in going to cost me if I don't follow the regulation.	This rule does not encompass the penalty provisions for non-compliance with the regulation. Rather, sometime during or shortly after the Department's promulgation of its second proposed rulemaking, it will publish a schedule of fines, which will generally follow 16 DCMR ch. 32. (classes of infraction and schedule of fines). Also, the re-application is not automatically approved after 90 days, the Department may still decline to issue the license for good cause.

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59	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to certificate of mold damage remediation, cannot always be performed by an assessor. The assessor should make recommendations to bring in another professional that specializes in that field (build envelope PE or Mechanical PE).	In the second proposed rulemaking, the Department has added a new subparagraph within paragraph (f) of the definition of "verification report" (within § 3299.1, formerly "clearance report") to address this comment, making clear that another professional, other than a licensed indoor mold assessment or remediation professional, can and should fix the source of the moisture problem that caused the mold.
60	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to certified safety professional, not needed – not correct	A certified safety professional, architect, and engineer do not automatically qualify for a license, rather they must also have six months of documented relevant field experience, which is generally defined as performing mold remediation and mold assessment (see § 3299.1 for these definitions). Additionally, they must take and pass an approved third-party accreditor examination, which will cover areas of mold assessment or remediation. See § 3202.5 and § 3202.6.
61	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to clearance report (e), replace all with all relevant or relevant. There could be 100s of photographs	In the second proposed rulemaking, the Department has modified this definition to limit the burden on assessment and remediation professionals.
62	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to Clearance report (f)(1), during the validation inspection on Month/day/year all affected areas had no visible suspect mold present.	The Department will give flexibility to the indoor mold assessment professional when making a clear statement that all areas are free from visible mold.
63	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to Clearance report (f)(2), all work validated and completed per the remediation protocol	The Department will give flexibility to the indoor mold assessment professional when making a clear statement that all work has been completed in compliance with the remediation protocol.
64	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to Clearance report (f)(3), the project has been validated. As of month/day/year, remediation has been verified and renovation work inside the work area may continue.	The Department will change the term "clearance" to "verified." Changing the term will more appropriately portray the actual role of the document, where a mold assessor is verifying that work has been completed in accordance with the mold remediation protocol.
65	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Relating to contiguous, can mean adjoining/touching. This not a good word. It is confusing mold does not always grow in a contiguous nature within a functional space or room or dwelling unit	In the second proposed rulemaking, the Department has changed the term "contiguous" to "affected." The definition has change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This change is in accordance with industry standards.
66	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to Dwelling unit, what does this cover/ Dorm rooms, nursing homes, extended stay hotels?	In the second proposed rulemaking, the Department has changed the definition of "dwelling unit" to exclude dorms, hotels, and other non-residential areas.
67	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to emergency, add - Limit Exposure to occupants	The Department will leave the language as is-- the suggested language is redundant.
68	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to indoor mold growth, take out - that was not purposely grown or brought into a building, Add- furnishings	In the second proposed rulemaking, the Department has deleted the language "that was not purposely grown or brought into a building". Furnishings are encompassed by the term "interior surface of a building".
69	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to mold, mycotoxins are a byproduct of mold and I would not try to regulate it.	The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The definition of mold comes from Florida's and Texas' mold assessment and remediation licensing regulations. This definition focuses on protecting public health.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
70	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to mold analysis, fungal volatile organic compounds should be Microbial Volatile Organic Compounds (MVOC's)	In the second proposed rulemaking, the Department has changed the term "fungal volatile organic compounds" to "microbial volatile organic compounds" as this term is more consistent with industry standards.
71	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to mold assessment (a)-(c), (a) The development of a mold remediation protocol; and (b) The development of a mold management plan; are different are different lines of products sold to client in addition to the assessment. Recognition, Evaluation, and Control of Indoor Mold, AIHA ©2008 2.4.1 Common Principles for Assessment of Indoor Mold • Mold growth (colonization) should not be tolerated on indoor building material or furnishings. • Investigations and initial assessment should include a thorough visual inspection. • The extent of the mold growth and water damage should be visually assessed. • Intrusive methods of assessment such as use of a boroscope or creating an opening into a closed cavity may be needed to locate hidden mold.	To help in enforcement efforts for those who are performing the work of a licensed individual, yet are unlicensed, the Department has included multiple activities within the definition of mold assessment
72	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to mold assessment report, The mold management plan is a separate stand-alone document and rarely a part of the mold assessment report.	The definition allows for flexibility in the form and appearance of a mold management plan and a mold assessment report.
73	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to "person": ?	As the term "person" can have multiple definitions depending on the field or its use, the Department is defining the term to help with administration and enforcement abilities.
74	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to professional engineer, DC Licenses PEs	The District of Columbia qualifies as a United States jurisdiction. Thus, they would be considered a professional engineer.
75	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to professional registered sanitarian, NEHA Credential. ... Registered Environmental Health Specialist/Registered Sanitarian (REHS/RS).	In the second proposed rulemaking, the Department has incorporated additional credentials, by changing the definition of professional registered sanitarian to "a sanitarian registered in a United States or Canadian jurisdiction, or by a national organization approved by the Department."
76	Archie M. Barrett, Jr.	Compliance Environmental International, Inc.	Company	3299.1	Related to registered architect, I think DC Licenses Architects?	The District of Columbia is a United States jurisdiction, and, as such, is covered by this definition.
77	Kathy Zeisel	Childrens Law Center	Non-Profit	General	<u>Definition of substantial presence of mold:</u> Regardless of what the threshold is, we think it is important to have a formal definition listed in the definitions section so that it is very clear when we are in litigation.	Under the second proposed rulemaking, section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property"
78	Kathy Zeisel	Childrens Law Center	Non-Profit	General	We have concerns that the size of the square footage is too large. The EPA recommends that remediation of over 10 square feet of mold be done by a professional. Our understanding from the mold professionals is that this is a standard size because it is the size of a ceiling tile.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
79	Kathy Zeisel	Childrens Law Center	Non-Profit	General	We have concerns about the square footage being required to be contiguous. We often see units with large patches of mold that are not contiguous, but still have very significant amounts of mold. We also have concerns that contiguous is defined something other than what it means colloquially because we want the layperson (tenant or landlord) to understand the law easily	In the second proposed rulemaking, the Department has changed the term "contiguous" to "affected." The definition has change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This change is in accordance with industry standards.
80	Kathy Zeisel	Childrens Law Center	Non-Profit	General	Visible mold: We are suggesting that this be defined as mold detectable visually, with equipment or by professional opinion. It is our understanding that visible mold is a term of art that means all detectable mold, not just visual to the naked eye. However, since judges and laypeople will largely be interpreting this law, we want to make sure that it is very clear.	In the second proposed rulemaking, the Department has changed the definition of visible to "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices."

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Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
81	Kathy Zeisel	Childrens Law Center	Non-Profit	General	Events triggering mold remediation: We are also suggesting that you consider incorporating specific events as triggering the need for a professional mold inspection, including standing water for over 24 hours or repeated flooding over a certain period of time in the unit.	The Department is not including triggering events because it is inconsistent with statutory requirements. The Department will not issue mandates through regulations based on industry situations that are not guaranteed to occur. In other words, EPA guidelines state that "[M]old growth will not always occur after 48 hours; this is only a guideline."
82	Kathy Zeisel	Childrens Law Center	Non-Profit	General	Written notice: We request that wherever notices or reports are required, that they be required to be in writing and that they be required to be given to both the landlord and the tenant. Currently, only the client gets it, but it could be confusing about who the client actually is.	The Department seeks to allow the landlord and indoor mold professional to design a solution that best fits each situation, not create an additional procedural burden. The Department will defer to the common usage of the term. A client, as defined in Merriam Webster, is a person who pays a professional for their services. This request is best suited for the Tenant Bill of Rights which is governed by the Office of the Tenant Advocate.
83	Kathy Zeisel	Childrens Law Center	Non-Profit	General	Additional written notice: We are requesting that a provision be added that after the landlord does their visual inspection, the tenant should be provided a written document showing what the landlord inspected, whether mold was found and what their plan is to remediate any mold. The tenant should then have time to respond in writing about whether they disagree and want to hire a professional inspector. We think this is important so that a tenant who disagrees with the landlord about the need for professional remediation has the opportunity to exercise their rights under the law before the landlord remediates without a professional.	The Department seeks to allow the landlord and indoor mold professional to design a solution that best fits each situation, not create an additional procedural burden. The Department is only proposing rules to regulate indoor mold assessment and remediation professionals-- not landlord/property owner and tenant-- as per statutory obligations. This request is best suited for the Tenant Bill of Rights which is governed by the Office of the Tenant Advocate.
84	Kathy Zeisel	Childrens Law Center	Non-Profit	General	Certification organizations: We are requesting that the regs delineate at least some of the acceptable organizations even if it is not a fully inclusive list so that when the regs are final, we can actually really use the law and the licensing/qualification provisions.	As a matter of policy and durability for the future of the licensing program, the District will not include a list of acceptable organizations in the regulations. A list of acceptable organizations will be issued on the Department's website near the time when the regulations become final.
85	Ed Light	Building Dynamics, LLC	Company	General	The statute passed by the Council specifically addresses rental properties, but the draft regs may be broader. Can we assume that there will be no license or performance requirements for condos, commercial buildings, schools, and other non-residential?	As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. However, while the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3
86	Ed Light	Building Dynamics, LLC	Company	General	It appears that the proposed regulations are not applicable during construction. Is that true? Is renovation of unoccupied apartments also excluded?	The proposed regulations are not applicable during the construction of a structure, as per § 3201.1(b). Additionally, § 3201.4 excludes residential property owners from needing a license when the work is performed by the owner and the dwelling unit is unoccupied.
87	Phillip Brown	American University	University	General	I understand DDOE is proposing to have dormitories included within the mold regulations?	In the second proposed rulemaking, the Department has changed the definition of "dwelling unit" to exclude dorms, hotels, and other non-residential areas.
88	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Who (what recognized bodies or organizations) will administer the approved examinations?	The Department will assess what recognized organizations meet the standards as described in § 3202.4-3202.8. A list of acceptable organizations will be issued near the time when the regulations become final.
89	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	What criteria will be used to identify and select recognized bodies and organizations?	The Department will assess what recognized organizations meet the standards as described in § 3202.4-3202.8. A list of acceptable organizations will be issued near the time when the regulations become final.
90	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	What organization(s) will be approved to certify mold assessment and remediation professionals?	The Department will assess what recognized organizations meet the standards as described in § 3202.4-3202.8. A list of acceptable organizations will be issued near the time when the regulations become final.
91	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Will there be provisions for Training Provider approval by DDOE to conduct certification training courses and administer "approved" exams?	In the second proposed rulemaking, the Department has included training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements), the Department is helping ensure that those who recertifying maintain continuing education in the field of mold assessment and/or remediation. Additionally, the Department has added additional language requiring applicants to meet a 24-hour training requirement every two years. This addition will act as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee.

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92	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Organizations such as ACAC have several levels of microbial assessment and remediation professionals. Has DDOE considered the high costs of applying for applicable ACAC exams, obtaining certifications, and maintaining those certifications?	The Department has lowered the cost of application under the second proposed rulemaking. However, the cost proposed in the rulemaking is in line with other states and the Department's Lead and Healthy Housing Program. Texas charges \$610 for a mold assessment consultant and \$510 for a mold remediation contractor. Florida charges \$230 for mold assessors and remediators. Louisiana charges \$460 for mold remediators. New York, while not yet effective, charges \$100 for initial licenses. Depending on if the applicant meets certain requirements, the District's Lead and Healthy Homes program charges \$350 or \$450 for a lead-based paint inspector and abatement supervisor license (good for two years). Keep in mind that the Department is statutorily obligated to set the fees "at a minimum, in an amount sufficient to recover the costs of administering [the program.]" § 304(d).
93	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Will mold assessment and remediation industry standards be referenced?	Since industry standards are voluminous and dynamic, many specific standards will not be referenced. However, according to § 3204.4 all licensees shall meet or exceed the minimum industry standards for mold assessment and remediation and the standards set in the regulations.
94	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	3201.5	Does the supervisor have to be on the job site? Will the supervisor be required to document on-the-job training?	The supervisor is not required to be on the job site as per the definition of supervise or supervision (see § 3299.1), which states the term means "to direct and exercise control over the activities of an individual 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." While the supervisor must ensure that supervisees are performing work using best practices, the supervisor will not be required to document this.
95	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Will there be any provisions for individuals such as remediation workers who are able to perform the work, but not pass a written exam?	The Department is not including provisions for worker licensure. However, workers are prohibited from performing work in certain circumstances, unless they are supervised by the licensee and other requirements in the proposed regulations are met. The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards.
96	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	3200.2	The threshold of 25 square feet of contiguous mold does not correlate with the square foot classifications of small, medium or large by EPA and OSHA. The DC threshold appears arbitrary.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
97	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	Does the regulation apply to federal properties?	According to section 3201 and 3202, a license is required when performing indoor mold assessment and remediation related work, unless certain exception are met, such as (under the second proposed regulations) if work is performed on a total surface area of less than ten affected square feet of indoor mold growth in a residential property or when work is being performed in an outdoor area or a non-residential property. The Department will not include an additional exception for federal properties.
98	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	3205.2(f)	The regulation states that only products such as disinfectants, biocides, and anti-microbial coatings that are registered by EPA and DC can be used. Does DC register such products?	The Department registers these products that are sold in the District of Columbia.

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99	Rush Barnett	Aerosol Monitoring & Analysis, Inc.	Company	General	We suggest that license fees be in line with the Lead-based Paint Activities fees for certification, permitting, and accreditation. The mold licenses are pretty steep at \$400 for initial application.	The Department has lowered the cost of application under the second proposed rulemaking. However, the cost proposed in the rulemaking is in line with other states and the Department's Lead and Healthy Housing Program. Texas charges \$610 for a mold assessment consultant and \$510 for a mold remediation contractor. Florida charges \$230 for mold assessors and remediators. Louisiana charges \$460 for mold remediators. New York, while not yet effective, charges \$100 for initial licenses. Depending on if the applicant meets certain requirements, the District's Lead and Healthy Homes program charges \$350 or \$450 for a lead-based paint inspector and abatement supervisor license (good for two years). Keep in mind that the Department is statutorily obligated to set the fees "at a minimum, in an amount sufficient to recover the costs of administering [the program.]" § 304(d).
100	Aaron Trippler	American Industrial Hygiene Association	Company	General	AIHA does not believe it is possible to define, or set, a single occupational exposure level for mold, due largely to the current state of scientific study in this area. AIHA does not believe it is possible for any single study to accurately delineate levels of exposure to mold or mold by-products that may be harmful to human health.	The Department has not and will not define or set a single exposure level for mold within the proposed regulations.
101	Aaron Trippler	American Industrial Hygiene Association	Company	General	AIHA is concerned about the competency of individuals involved with inspection, assessment, analysis and remediation of mold. This, of course, is of great concern to everyone involved with the issue. AIHA supports efforts to ensure that individuals are properly educated and trained in the occupational and environmental hazards of mold.	The Department's second proposed regulations address proper education and training requirements. Specifically, the Department has included training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements), the Department is helping ensure that those who recertifying maintain continuing education in the field of mold assessment and/or remediation. Additionally, the Department has added additional language requiring applicants to meet a 24-hour training requirement every two years. This addition will act as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee.
102	Aaron Trippler	American Industrial Hygiene Association	Company	General	The proposed regulations authorize the Department to recognize the certification of an independent body as the basis for licensure granted by the District. AIHA urges you to recognize the nationally recognized and accredited American Board of Industrial Hygiene as one of those certification bodies. In addition, AIHA urges the Department to only recognize certifications awarded by nationally recognized accreditation bodies, and not those certifications that may be awarded through attendance of short training courses. Taking this one step further, AIHA recommends the Department consider accredited certifications such as the CIH as automatic acceptance to be awarded a license for mold assessment. There should be no additional mandatory testing or education required for these individuals.	All third-party accredited organizations will be considered presuming they meet the standards in chapter 3202. Even after meeting the accreditation requirements, individuals will still need a completed application, which includes other requirements, as described in § 3202.10.
103	Aaron Trippler	American Industrial Hygiene Association	Company	General	Need for accredited laboratories to analyze mold samples. The proposed regulations authorize individuals to collect samples for mold analysis and that analysis shall be performed according to industry best practices. AIHA recommends the proposed regulations take this one step further and require that analysis only be conducted by laboratories accredited for the appropriate analyses by a nationally recognized accrediting authority, or an accrediting body recognized under the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement. Laboratories accredited by AIHA's Environmental Microbiology Laboratory Accreditation Program (EMLAP) meet this requirement.	Since many accreditation standards exist for laboratories, the Department, instead of recognizing many laboratories, has enumerated standards that a mold assessor must follow when collecting and analyzing samples. See § 3205.1(b).
104	Aaron Trippler	American Industrial Hygiene Association	Company	General	Stakeholder meetings are necessary. While AIHA supports the efforts by the Department to address the on-going issue of mold assessment and remediation, AIHA believes the Department has not provided stakeholders and the public with adequate time to respond to the proposed regulations. Therefore, AIHA requests the Department place these proposed regulations on hold and schedule hearings and/or stakeholder meetings to elicit additional information on the most efficient way to address this issue. The fact that at least one state has repealed its regulations after rushing to adopt licensing is an example of rushing to a solution for a complex problem.	After publication in the District Register and contacting a list of interested parties, the Department gave 30 days for the public to comment on the first proposed regulations. Additionally, the Department has reached out affected stakeholders over the course of several meetings. The Department hosted a public meeting for interested parties to give the Department additional feedback on its proposed regulations. Furthermore, the Department has published the regulations in a second proposed rulemaking, which will give additional time to comment on the regulations before they are final. The Department is grateful for AIHA's comments and welcomes their thoughtful suggestions on how to solicit additional comments beyond the statutory requirements.
105	Aaron Trippler	American Industrial Hygiene Association	Company	General	Avoiding Conflict of Interests. AIHA supports language that would prohibit individuals or companies from performing both mold assessment and mold remediation on the same project.	The Department will not respond to this comment because it is supportive of the rulemaking.

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106	Joe Mulieri	MoldGone LLC	Company	General	MG would like to suggest that the insurance requirements be strengthened to include a requirement that workman's compensation be specific to mold remediation. Such a requirement will ensure that workers are adequately protected.	The insurance requirements in the Department proposed rules are similar to the insurance requirements in other states' mold licensing regulations. Licensees can always elect to carry additional insurance if they deem it to be in their best interest.
107	Joe Mulieri	MoldGone LLC	Company	General	The restriction prohibiting a provider from doing both the assessment and remediation on the same project should be eliminated and is not in the public interest. It will in fact add substantial and unnecessary cost to projects and does not accomplish the goal of regulating potential conflict of interests or unscrupulous behavior out of the process. Many projects involve limited mold infestation scenarios whose cause is readily apparent to an experienced and competent remediation professional, e.g., a burst water-line, a deteriorated toilet wax ring, a bathroom exhaust fan exhausting directly into an attic, blown-in insulation that clogs ventilation soffits, etc. Many of these common scenarios are transparent and can be remediated at a reasonable cost (including full reconstruction and finishing, e.g., painting, re-installation of trim, etc.). Requiring a separate mold professional to provide an evaluation, at a separate cost, can add 25%, 50%, and even 100% additional cost to such a project.	To reduce the likelihood of fraud or a conflict of interest, and consistent with regulations of mold assessment and remediation professionals in other states, the Department is prohibiting the same person from performing assessment and remediation on the same project, as per § 3204.5(a).
108	Joe Mulieri	MoldGone LLC	Company	General	establishing a hard and fast rule that both assessment and remediation cannot be done by the same entity will not safeguard against unscrupulous behavior but will guarantee that District of Columbia customers pay much more than necessary for mold remediation services. Two companies or professionals that always refer to each other, even though no compensation is provided for such referral, by definition becomes compensation in the form of constant referrals. The potential for abuse will always exist and ultimately is mitigated more by the customer internet review which in today's world is a powerful tool in weeding out the "bad actors", and, the second opinion. In our experience, a majority of our customers seek second or third opinions for their projects and that in fact generates a second assessment.	To reduce the likelihood of fraud or a conflict of interest, and consistent with regulations of mold assessment and remediation professionals in other states, the Department is prohibiting the same person from performing assessment and remediation on the same project, as per § 3204.5(a).
109	Joe Mulieri	MoldGone LLC	Company	General	The notice requirements are burdensome and will add unnecessary administrative cost that cannot be recovered and provide no real benefit.	As a matter of policy, and as consistent with regulations in Texas for mold assessment and remediation professionals, the notice requirement will assist the Department in ensuring that licensees are meeting the standards set by these proposed rules.
110	Joe Mulieri	MoldGone LLC	Company	General	MG is a full service company and thus provides assessments, evaluations, and estimates for many potential projects and provides estimates at no charge to the prospective customer. The estimate contains many of the components identified in the NPRM and by definition identifies areas exceeding the 25 sq. ft. threshold.	The comment is non-substantive and does not require a response.
111	Joe Mulieri	MoldGone LLC	Company	General	Under the provisions of the NPRM MG would be required to submit a notice for practically every project it reviews.	The comment is non-substantive and does not require a response.
112	Joe Mulieri	MoldGone LLC	Company	General	The reality in the field is that in many cases full diagnosis of the cause of many mold situations doesn't become apparent until remediation is underway, e.g., the unknown drain pipe behind a wall. Requiring notice to the department for every proposed remediation project, with a start date that may change on little or short notice, or, that doesn't even occur because the property owner cancels at the last minute is unreasonable and unworkable. It will simply punish the providers that struggle to comply (and can't because the requirement is so burdensome and unrealistic) while the "bad actors" will simply not file anything. Again, we believe the answer is a stringent and rigorous licensing process that examines the applicant for core competency and subject knowledge, proof of field experience or equivalent, a background check, and other necessary documentation.	While the Department will maintain a notification requirement, in the second proposed rulemaking, the Department has changed the specifics of the requirement to better accommodate changes in the field. This will make the notification requirement less burdensome. All licensees will be required to comply with the notification requirement, and the Department's enforcement efforts will aim at preventing non-compliance.
113	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Zeisel, Nakia Waggoner	Non-Profit	General	Unfortunately, the threshold of 25 contiguous square feet that DDOE proposes is far too high. This threshold is at the core of the Act, and the future success of the law depends heavily on this policy choice. We urge DDOE to follow the direction of the United States Environmental Protection Agency and find that 10 square feet of detectable, non-contiguous mold is sufficient to require professional assessment and remediation and to trigger the private enforcement remedies set forth in the Act.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).

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Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
114	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	We are concerned that setting the threshold at this level will seriously undermine the Act's goal of eliminating the health hazards of indoor mold in residential properties. To ensure the goals of the Act are fulfilled, DDOE should adopt a threshold requiring professional remediation for 10 square feet or more of detectable, non-contiguous indoor mold growth.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). Regarding the term "detectable," the Department is choosing the word "visible." However, in the second proposed rulemaking, the term has been redefined: "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices." Regarding the term contiguous/non-contiguous, the Department will change the term "contiguous" to "affected." The definition will change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation".
115	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Mold above the threshold not only requires professional assessment and remediation, but triggers the following important remedies for tenants: <input type="checkbox"/> Landlords must disclose mold above the threshold to prospective tenants, unless the mold is professionally remediated (D.C. Code § 42-3502.22(b)(1)(K)); <input type="checkbox"/> A professional mold assessment finding mold above the threshold creates a rebuttable presumption of a Housing Code/Property Maintenance Code violation (id. § 8-241.05(a)); and <input type="checkbox"/> A finding that there is mold above the threshold also allows a court to reimburse assessment costs paid by a tenant, as well as award attorney's fees and court costs, and – in a situation of bad faith by a landlord – treble damages (id.).	These comments address statutory requirements that are self implementing and do not need to be addressed in this rulemaking.
116	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Tenants with mold below the threshold still will be entitled to demand remediation. But if landlords are allowed to remediate mold on their own, without a professional, they or their maintenance staff too often apply slipshod, unprofessional repairs, painting over mold and expecting the problem to disappear, or scraping mold and cutting out damaged materials without any containment, potentially allowing spores to spread throughout the unit. These were exactly the problems under existing law that motivated the Council to enact comprehensive legislation	District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). The Department is required under the statute to establish a threshold below which professional remediation is not required.
117	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	This focus on tenants living with indoor mold in their homes distinguishes the District's legislation from that in Texas. In order to achieve the goals set forth by the Council, DDOE must set a threshold that allows for meaningful enforcement of the law by tenants, many of whom lack the means to wage an extended legal fight in court. The standard set by DDOE should be clear for landlords and tenants, easily-administrable by both private parties and the courts, and – where DDOE has discretion – weigh in favor of requiring professional assessment and remediation in order to protect human health.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). Furthermore, the Department will change the term "contiguous" to "affected." The definition will change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation".
118	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	In setting the threshold for indoor mold contamination, the Act directs DDOE to consider applicable standards set by the federal Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA), D.C. Code § 8-241.02. The standards from both of these agencies support setting the threshold at 10 total square feet of detectable, non-contiguous mold.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). Furthermore, the Department will change the term "contiguous" to "affected." The definition will change from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation".

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119	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The EPA guidelines are more directly on point and the best guideline for DDOE to follow. EPA's mission, like DDOE's, is to protect human health and the environment, including in the home. OSHA, by contrast, focuses on safety in the workplace. Following these distinct missions, EPA's guidelines focus on the home, while OSHA's standards focus on mold in the workplace. The greater amount of exposure in the home - where individuals sometimes may spend up to 24 hours per day compared to an 8-hour day in the workplace - added to the higher prevalence of individuals such as children and the elderly who are particularly vulnerable to the health effects of mold justifies EPA's tighter standards. Tenants in the District dealing with indoor mold growth in their homes should benefit from the greater protections in the EPA guidelines, requiring professional assessment and remediation for mold greater than 10 total square feet.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
120	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Judges in D.C. Superior Court similarly have required professional remediation in situations where the proposed threshold may not have been met clearly, and cooperative landlords have agreed to professional remediation and temporary relocation in such situations. If DDOE sets the threshold for indoor mold contamination at 25 contiguous square feet, this will be a step backwards for tenants, rather than the leap forward intended by the Council.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
121	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Based on our experience working with clients experiencing problems with indoor mold, we do not believe a requirement of 25 contiguous square feet of visible mold will capture many cases in which indoor mold growth is pervasive and is affecting the health of the occupants. This is not what the Council intended or envisioned when it enacted the Act. We urge DDOE instead to adopt a threshold of 10 square feet of detectable, non-contiguous mold.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). The Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This definition is more in line with industry standards.
122	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Further weakening the proposed threshold is the requirement that the visible mold growth be "contiguous." We fear this requirement has the potential to be extremely limiting and also is likely to generate confusion. In ordinary parlance, contiguous means sharing a common border or touching, e.g. the 48 contiguous states. ¹³ The proposed regulations instead define contiguous as "in close proximity; neighboring." The definition itself is confusing and potentially contradictory – in close proximity suggests different areas of mold must be close but not necessarily adjoining or touching, while neighboring suggests different areas of mold indeed must be touching.	The Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This definition is more in line with industry standards.
123	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Even the phrase "close proximity" is not clear on its face. If patches of mold are six inches apart are they in close proximity, and therefore contiguous? What if they are twelve inches apart? This basic lack of clarity inevitably will lead to confusion by landlords, tenants, contractors, and the courts. While there undoubtedly will be many cases where the threshold clearly is or is not met, we suspect there will be many more cases where no one knows for sure. This lack of certainty is particularly problematic because the law relies on private enforcement, starting with a landlord making an initial visual inspection to determine if the threshold is met.	The Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This definition is more in line with industry standards.
124	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	More to the point, requiring different areas of mold to be adjoining or even nearby in order to be counted together has the potential to undermine the threshold significantly. Mold does not grow contiguously, but instead tends to appear in patches. In our experience, it is not uncommon for tenants with serious indoor mold growth to experience smaller areas of visible mold throughout the apartment rather than in one, contiguous area.	The Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This definition is more in line with industry standards.

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125	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy	Non-Profit	General	To avoid the confusion and limiting effects likely to result, we urge DDOE to eliminate any requirement that indoor mold growth be contiguous – however that term is defined – in order to meet the threshold.	The Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This definition is more in line with industry standards.
126	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	To ensure that mold detected through various means is captured, we suggest three simple changes. First, the term visible should be replaced with "detectable," but then defined further to focus on visible or otherwise detectable mold. Second, the phrase "exposed to view" found in the current definition for "visible" should be eliminated, because it is too limiting. For example, if a tenant peels back a carpet to reveal an area of mold visible to the naked eye, a landlord might respond this mold was not "exposed to view" and therefore does not count. Finally, the definition also should allow for the possibility that an indoor mold assessment professional is able to identify mold growth that is not immediately seen by the naked eye. We suggest the following changes: Visible Detectable - exposed to view; capable of being seen with the naked eye; or detectable by professionally-recognized detection devices or by the professional opinion of an indoor mold assessment professional. We note this change also would require revisions in two other places to replace the term "visible" with detectable.	in the second proposed rulemaking, the term has been "visible" has been redefined: "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices."
127	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Both EPA and OSHA guidelines suggest another circumstance in which there is a strong presumption of possible mold growth: where building materials have been wet for more than 48 hours. In addition, both OSHA and EPA recommend professional assessment whenever the water source that caused the damage leading to mold growth is contaminated with sewage, chemical, or biological pollutants. We urge DDOE to require professional assessment if either of these conditions are met. This requirement could be added to section 3201.2: 3201.2 A license shall not be required under this chapter to perform mold assessment or remediation in a residential property containing a total surface area of less than twenty-five contiguous square feet (25 ft.2) of indoor mold growth, except that only a licensee may perform mold assessment in a residential property containing a total surface area of 10 square feet of detectable mold or more that has remained wet for more than 48 hours, or where the water source of any water damage, leaks, or intrusions was contaminated with sewage, or chemical or biological pollutants. Similar language should be added to section 3206.2 and section 3206.6 (re-numbered to 3206.7 in our attached redline).	The Department will not issue mandates through regulations based on industry situations that are not guaranteed to occur. In other words, EPA guidelines state that "[M]old growth will not always occur after 48 hours; this is only a guideline."
128	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The proposed regulations explain in background comments – which will not be codified – that the threshold is being set at 25 contiguous square feet, and then refer to that number throughout. But the phrase "indoor mold contamination" is never defined in the regulations themselves.	Under the second proposed rulemaking, Section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property" The Department is not required to explicitly define "indoor mold contamination." Additionally, the threshold amount is mentioned throughout the regulations. Related to the threshold, the Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
129	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	To ensure the regulations are clear and bring them into harmony with the statute, we suggest defining the term "indoor mold contamination": Indoor mold contamination – the presence of at least 10 square feet of detectable mold. The phrase "indoor mold contamination" then can be used throughout the regulations when the threshold is mentioned.	Under the second proposed rulemaking, Section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property" The Department is not required to explicitly define "indoor mold contamination." Additionally, the threshold amount is mentioned throughout the regulations. Related to the threshold, the Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).

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130	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	We suggest that any notifications provided should be given to both the property owner and any affected tenants. We also suggest that the regulations require a landlord to provide the results of the initial visual inspection to the tenant in writing when the landlord asserts the threshold for indoor mold contamination is not met, so that the tenant will have an opportunity to bring in an indoor mold assessment professional for a second opinion before any remediation work is begun.	The Department is only requiring notifications from the indoor mold professional to the Department-- this will help ensure licensees follow proper work practices. Any other communications from the licensee will be to his/her client, so as not to create an unnecessary regulatory burden on indoor mold professionals. Interactions between landlords and tenants are best governed by the Tenant's Bill of Rights. Please direct such comments to the Office of the Tenant Advocate
131	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	We propose the addition of a new section 3206.8: 3206.8 If, following the visual inspection described in § 3206.3, the property owner determines that indoor mold growth less than ten square feet (10 ft.2) is present, the property owner shall provide written notice of this determination to any affected tenant(s) within five days. If any affected tenant wishes to dispute this determination by hiring an indoor mold assessment professional, the tenant shall provide written notice of this decision to the property owner within five days. Any tenant exercising this right shall be provided with seven days to complete the indoor mold assessment. During the time period described in this section, the property owner's requirement to remediate the conditions at the property within 30 days shall be temporarily suspended.	The Department is only requiring notifications from the indoor mold professional to the Department-- this will help ensure licensees follow proper work practices. Any other communications from the licensee will be to his/her client, so as not to create an unnecessary regulatory burden on indoor mold professionals. Interactions between landlords and tenants are best governed by the Tenant's Bill of Rights. Please direct such comments to the Office of the Tenant Advocate
132	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	Wherever notice is required to DDOE or the client, it also should be provided to the property owner and any affected tenant(s) of the affected property. We suggest making this change in sections 3201.8(c), 3204.6(a), (c), (d), 3204.7(a), (b), 3205.1(c), and 3205.2(a).	The Department is only requiring notifications from the indoor mold professional to the Department-- this will help ensure licensees follow proper work practices. Any other communications from the licensee will be to his/her client, so as not to create an unnecessary regulatory burden on indoor mold professionals. Interactions between landlords and tenants are best governed by the Tenant's Bill of Rights. Please direct such comments to the Office of the Tenant Advocate
133	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	DDOE also can add the following definition of affected tenant(s) to make clear who must be notified: Affected tenant(s) – Any tenant(s) occupying any and all units in which indoor mold growth is found; where indoor mold growth is found in the common areas of a residential property, all tenant(s) at the property are considered affected, but any required notice relating to the common areas may be posted in a conspicuous area in the common areas of the property in English and Spanish.	The Department is only requiring notifications from the indoor mold professional to the Department-- this will help ensure licensees follow proper work practices. Any other communications from the licensee will be to his/her client, so as not to create an unnecessary regulatory burden on indoor mold professionals. Interactions between landlords and tenants are best governed by the Tenant's Bill of Rights. Please direct such comments to the Office of the Tenant Advocate
134	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman,	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	3204.4, which requires professionals to maintain the confidentiality of a client's information such as medical conditions, should be extended to protect the client, tenant, or owner of the residential property.	The Department will change the language of § 3204.4(d) so that it applies to these entities.
135	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	3206.4 The visual inspection described in § 3206.3 shall be performed before taking any steps to clean, scrape, remove, paint over, or otherwise remediate any indoor mold growth.	The Department will include similar language to this in its next proposed rulemaking.
136	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	3206.3 (b)--new paragraph-- Surrounding units for the above, if an initial visual inspection reveals indoor mold growth or underlying conditions causing indoor mold growth (flooding, water intrusion, water damage, or water leaks) that are likely to have affected surrounding units.	"Surrounding units" are encompassed in § 3206.3(a), which states that a visual inspection should assess the "extent of water damage . . . and affected building materials"-- meaning a visual inspection could include multiple areas or units within one building."
137	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The regulations should include the word "written" whenever reports are mentioned to make clear that all reports must be written. We have suggested various places for this change in the attached redline of the regulations.	These reports are defined as "documents," implying that they are written in some form. The Department will leave the language as is.
138	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The recordkeeping requirements for mold professionals in section 3209 could be strengthened by specifying that other documents – such as the initial mold assessment, mold remediation protocol, mold remediation plan, and mold clearance report – for a period of time following the completion of a project.	Since the Department is only licensing indoor mold professionals (individuals), and not businesses that typically maintain these records for long periods of time, the Department has elected recordkeeping requirements for licensed individuals at the project site.

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139	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	We also believe that the recordkeeping requirements should be expanded to include requirements for landlords to keep mold-related records for at least 3 years.	Since the Department is only licensing individuals, and not businesses that typically maintain these records for long periods of time, the Department has elected recordkeeping requirements for licensed individuals at the project site. The Department seeks to minimize its intermeddling with the relationship of a landlord/property owner and tenant. The Department is only proposing rules to regulate indoor mold assessment and remediation professionals-- not landlord/property owner and tenant--per statutory obligations.
140	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	While we certainly understand the need to include general guidelines so that future changes can be made, it would be helpful if DDOE could specify now that certain widely-recognized accreditations will be sufficient. This could be in the form of a letter from the Director, as opposed to incorporating the specifics into the regulations themselves.	As a matter of policy and durability for the future of the licensing program, the District will not include a list of acceptable organizations in the regulations. A list of acceptable organizations will be issued on the Department's website near the time when the regulations become final.
141	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	In addition, the regulations should include a requirement that all licensed professionals take a short training session on the requirements of the Act and its implementing regulations.	In § 3206.7, which includes standards the Department may consider when approving third-party examinations, the Department has included a paragraph that will have the Department consider if the provided examination includes discussion and questions on the District mold statute and these regulations.
142	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The ACAC also draws a distinction between certification for a supervisor/contractor versus a worker. Requiring a more limited certification for workers is preferable to allowing a single supervisor to work offsite with up to 10 workers (and potentially multiple projects at once) under his supervision, see 32 DCMR § 3204.5(j), which could allow a supervisor to use day laborers or other untrained workers to complete a project.	The Department is opting to have licensed mold assessors and remediators supervise the work of workers in the place of requiring licensed workers. This is consistent with Florida's regulations related to the licensure of mold assessors and remediators.
143	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	we believe that the level of detail provided regarding safe work practices in regulations governing another environmental hazard – lead – provide a model for DDOE to follow here.	Mold poses different health risks compared to lead, as such different work practices are appropriate when assessing and remediating mold compared to lead.
144	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	section 3205.1(d) does not require containment whatsoever if only licensees and their supervisees will occupy the building during remediation. This is presumably because the workers should be wearing the required protective equipment at all times while in the building. However, failure to follow containment practices still can lead to cross-contamination for residents when they return. As noted above, both the EPA and OSHA recommend varying levels of containment starting at 10 total square feet of visible mold.	The Department has revised § 3205.1(d) to specify containment when mold affects a total surface area of more than 10 square feet. This would be more in line with EPA and OSHA standards. However, the Department will allow for professional flexibility, so that if they believe containment is not necessary, they can opt to not require it but will have to specify in the remediation protocol why containment is not necessary.
145	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	The regulations refer separately to a clearance report and a Certificate of Mold Remediation, but we cannot discern the different roles each plays. We also found the regulations somewhat confusing as to the role of the indoor mold assessment professional versus the indoor mold remediation professional in providing the Certificate. To ensure quality control, we assume DDOE intends for a mold assessor – rather than the remediator who performed the actual work – to provide final clearance on a project. The role of both sets of professionals in issuing these two sets of documents should be clarified.	The Department has clarified these roles in the second promulgated rulemaking. Specifically, the Department has clarified the role of the indoor mold assessment professional and the indoor mold remediation professional pertaining to verification report (previously "clearance report"), which incorporates the former "certificate of mold remediation."
146	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	General	we suggest that DDOE strengthen and further specify the penalties that unlicensed and licensed mold professionals will face for violations of the Act and its implementing regulations. The current regulations subject licensees to a 90-day suspension period for violations; we suggest increasing this period to one year to provide a sufficient disincentive. It also would be helpful to specify or cross-reference to fines that could be imposed for violations by licensees and unlicensed parties alike. It is particularly important that unlicensed parties feel that the penalty for operating without a license is not worth the risk.	This rule does not encompass the penalty provisions for non-compliance with the regulation. Rather, sometime during or shortly after making the Department's rulemaking final, it will publish a schedule of fines, which will generally follow 16 DCMR ch. 32. (classes of infraction and schedule of fines). In addition, although a mold assessor or remediator whose certification has been revoked or denied may reapply after 90 days, this does not mean that the certification will be automatically reinstated at that time. DDOE may deny the reapplication for good cause.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
147	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	Preamble	Change "Under the authority granted by the Act the Department has established a threshold of 25 square feet of contiguous mold as the concentration above which a landlord must enlist the services of a mold professional. " to "Under the authority granted by the Act, the Department has established a threshold of 10 square feet of mold as the concentration for indoor mold contamination, above which a landlord must enlist the services of a mold professional. "	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
148	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	Preamble	The term "mold professional" is used twice (here and in Section 3201). It should be defined as including indoor mold assessment and remediation professionals.	In the second proposed rulemaking, the Department has defined the term mold professional to include "indoor mold assessment and indoor mold remediation professionals."
149	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3200.2	Change "This chapter establishes (1) a licensing program for indoor mold assessment and remediation professionals performing work on all properties in the District of Columbia, (2) a twenty-five contiguous square feet threshold level of indoor mold contamination for residential property, and (3) guidelines for indoor mold assessment and remediation below the threshold level." to "This chapter establishes (1) a licensing program for indoor mold assessment and remediation professionals performing work on all properties in the District of Columbia, (2) a ten square feet threshold level for indoor mold contamination in residential properties, and (3) guidelines for indoor mold assessment and remediation below the threshold level."	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
150	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3201.2	Change "A license shall not be required under this chapter to perform mold assessment or remediation in a residential property containing a total surface area of less than twenty-five contiguous square feet (25 ft.2) of indoor mold growth." to "A license shall not be required under this chapter to perform mold assessment or remediation in a residential property containing a total surface area of less than ten square feet (10 ft.2) of indoor mold growth, except that only a licensee may perform mold assessment in a residential property containing a total surface area of 10 square feet or more that has remained wet for more than 48 hours, or where the water source of any water damage, leaks, or intrusions was contaminated with sewage, or chemical or biological pollutants."	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). The Department will not issue mandates through regulations based on industry situations that are not guaranteed to occur. In other words, EPA guidelines state that "[M]old growth will not always occur after 48 hours; this is only a guideline."
151	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3201.8	Change "An individual who is performing mold assessment or remediation under the licensing exemption(s) of § 3201.2 and identifies additional mold such that the mold affects a total surface areas of twenty-five contiguous square feet (25 ft.2) or more shall:" to "An individual who is performing mold assessment or remediation under the licensing exemption(s) of § 3201.2 and identifies additional mold such that the mold affects a total surface area of ten square feet (10 ft.2) or more, constituting indoor mold contamination, shall."	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
152	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3201.8	Change "Advise the person requesting the assessment or remediation that the exemption under § 3201.2 is no longer applicable and that any additional work in the area shall be conducted by a person licensed under this chapter." to "Advise the person requesting the assessment or remediation, as well as the property owner and any affected tenant(s), that the exemption under § 3201.2 is no longer applicable and that any additional work in the area shall be conducted by a person licensed under this chapter."	The Department seeks to govern the activities of mold professionals. Interactions between landlords and tenants are best governed by the Tenant's Bill of Rights. Please direct such comments to the Office of the Tenant Advocate
153	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia	Non-Profit	3202.10 (b)(4),(5)	Change "(4) Proof that the applicant meets the insurance requirement, as specified in § 3207; and (5) Any other information that the Department requires for a complete application." to "(4) The insurance requirement, as specified in § 3207; and Any other information that the Department requires for a complete application."	In the second proposed rulemaking, the Department has made this correction according to your comment.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

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154	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Waggoner	Non-Profit	3203.1(a)	Include a hyphen between "post" and "remediation".	In the second proposed rulemaking, the Department has made this correction according to your comment.
155	Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	the District of Columbia, Legal Counsel for the Elderly, Kathy Waggoner	Non-Profit	3203.1(j)	Include a comma after "Remediation".	In the second proposed rulemaking, this paragraph has been deleted; no applicable correction can be made.
156	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.3	Change "All persons using such names or titles as referenced in § 3204.2 shall have readily available their name and license number or the name and license number of the individual(s) who are an employee of that person and who are also licensed by the Department." to "All persons using such names or titles as referenced in § 3204.2 shall have readily available their names and license numbers and the names and license numbers of their Department-licensed employees."	To make the day-to-day affairs less burdensome for licensed mold assessors and remediators and since the Department is only licensing individuals and not business, the Department is not requiring persons using such names or titles as referenced in § 3204.2 to have both their name and license number and the name and license number of their Department-licensed employees. For instance, a non-licensed worker can drive around his/her company's van, which states it is involved in the business of mold remediation, yet he/she does not need to personally have a license-- however, someone within the company must have a license.
157	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.4(d)	insert ", tenant, or property owner" after "client"	In the second proposed rulemaking, the Department has changed the language of § 3204.4(d) so that it applies to these entities.
158	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.4(i)	delete "standard"	In the second proposed rulemaking, the Department has deleted "standard" as the term "best standard practices" may be misleading and "best practices" is more clear for the regulated community.
159	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.5(e)	Change "Provide any information to the Department or client that is false, deceptive, or misleading;" to "Provide any information to the Department, client, affected tenant(s), or property owner that is false, deceptive, or misleading;"	The Department is only proposing rules to regulate indoor mold assessment and remediation professionals- not landlord/property owner and tenant-per statutory obligations. Regardless, this concern raised by this comment is covered by 3204.5(d), (g), and (h), which generally prohibit, among other things, intentionally false statements to any individual. This request is best suited for the Tenant Bill of Rights which is governed by the Office of the Tenant Advocate.
160	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(a)	insert "(a) When conducting a mold assessment, inquire of the affected tenant(s) and property owner as to any known floods, water leaks, water damage, water intrusion or other conditions or events that may have caused indoor mold growth, and, if such causes are known and present, include recommendations regarding the elimination and prevention of these causes in a written mold assessment report, mold remediation protocol, or mold management plan;"	To provide the indoor mold assessment professional flexibility in conducting a mold assessment, the Department is requiring that all licensees shall meet or exceed the minimum industry standards for mold assessment and not requiring the inquiry of affected tenants and property owners.
161	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(a)	(a) becomes (b) and states "When conducting a mold assessment, provide to the client, affected tenant(s), and property owner a written mold assessment report following an initial mold assessment or provide the initial assessment in a written mold remediation protocol or written mold management plan;"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
162	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(c)	Delete "a mold remediation" and insert "affected tenant(s), and property owner a written mold remediation"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
163	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(d)	Change "Within ten (10) days, after successful completion of remediation activities, provide a clearance report to the client or, if an indoor mold assessment professional ceases to be involved with a project before it passes clearance, provide a final status report to the client and the appropriate indoor mold remediation professional;" to "Within ten (10) days after successful completion of remediation activities, provide a written clearance report to the client, affected tenant(s), and property owner, or, if an indoor mold assessment professional ceases to be involved with a project before it passes clearance, provide a written final status report to the client, affected tenant(s), and property owner and the appropriate indoor mold remediation professional;"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.

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164	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(e)	insert "written" after "When issuing a".	These reports are defined as "documents," implying that they are written in some form.
165	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.6(f)	Change "professional's" to "professionals"	In the second proposed rulemaking, the Department has made this correction according to your comment.
166	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.7(a)	Change "Provide to a client a mold remediation" to "Provide to a client, affected tenant(s), and property owner a written"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
167	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3204.7(b)	insert "and owner" after "client"; insert a ", " after "asbestos"	In the second proposed rulemaking, the Department has made this correction consistent with your comment.
168	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(b)(3)	insert ", " after "number"	In the second proposed rulemaking, the Department has made this correction according to your comment.
169	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(c)	Change "indoor mold remediation professional, prepare a mold remediation" to "indoor mold remediation professional, the professional shall prepare a written mold remediation"	The Department will not make this change because the current language in section 3205.1 states that "[i]ndoor mold assessment professionals" are the ones who shall follow these requirements.
170	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(c)	insert ", tenant, and owner" after "client"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
171	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(c)(1)	insert ", including any surrounding units or common areas affected" after "performed"	The term "where the work shall be performed" allows flexibility for the indoor mold assessment professional to include the appropriate areas where work shall be performed, based on industry standards.
172	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(c)(4)	change "would" to "will"	In the second proposed rulemaking, the Department has changed "would" to "will," as this helps clarify the subparagraph.

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173	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(c)(4)	Delete "Using professional judgment,"	In the second proposed rulemaking, the Department has deleted this language to make it consistent with your comment.
174	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(d)	Change 25 sq ft. to 10 sq. ft.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
175	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.1(d)	After "project" insert ", constituting indoor mold contamination,"	This paragraph applies specifically to containment at any licensed mold assessor's project, and does not relate to "indoor mold contamination." Accordingly, the Department will keep the language as proposed.
176	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.2(a)	Insert "written" after "shall prepare a"	These reports are defined as "documents," implying that they are written in some form.
177	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.2(a)	Insert ", affected tenant(s), and property owner" after "work plan to the client"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
178	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.2(b)	Delete ", when the mold affects a total surface area for the project of twenty five contiguous square feet (25 ft. 2) or more". Comment states "Under the regulations, the mold remediation protocol will only come into play if the threshold is exceeded, so there is no need to repeat the threshold here."	This comment is in error. While a residential property owner will be legally required to hire a licensed indoor mold assessment and remediation professional when indoor mold growth exceeds the threshold, any property owner may still elect to have a licensed indoor mold assessment and remediation professional perform work at their property. In this case, the professionals must still follow these regulations. Thus, the mold remediation protocol and other associated documents will come into play if the threshold is not exceeded.
179	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3205.2(c)	Delete " when the mold affects a total surface area of twenty five contiguous square feet (25 ft.2) or more for the project". Comment states "Same comment as above."	This comment is in error -- this paragraph only relates to containment. While a residential property owner will be legally required to hire a licensed indoor mold assessment and remediation professional when indoor mold growth exceeds the threshold, any property owner may still elect to have a licensed indoor mold assessment and remediation professional perform work at their property. In this case, the professionals must still follow these regulations. Thus, containment will come into play if the threshold is not exceeded. However, the Department will revise § 3205.2(c) so that containment is used when mold affects a total surface area of more than 10 square feet. This would be more in line with EPA and OSHA standards. However, the Department will allow for professional flexibility, so that if they believe containment is not necessary, they can opt to not require it but will have to specify in the remediation protocol why containment is not necessary.
180	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206.2	Change 25 contiguous sq ft. to 10 sq. ft.	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

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181	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206.2	Change "when it is equal to or greater than twenty five contiguous square feet" to "when it is equal to or greater than ten square feet (10 ft.2), constituting indoor mold contamination, or when the residential property contains a total surface area of 10 square feet or more that has remained wet for more than 48 hours, or where the water source of any water damage, leaks, or intrusions was contaminated with sewage, or chemical or biological pollutants."	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). The Department will not issue mandates through regulations based on industry situations that are not guaranteed to occur. In other words, EPA guidelines state that "[M]old growth will not always occur after 48 hours; this is only a guideline." Furthermore, language such as "where the water source of any water damage, leaks or intrusions was contaminated with sewage, or chemical or biological pollutants" is quite broad, meaning it could apply to situations where only a splash of sewage from a brief and small flooding of a toilet could lead to these guidelines applying as well. This would lead to a situation when mold is not likely to appear, presuming the tenant/property owner acts quickly to clean the affected area. Accordingly, the Department will not include this language either. Regardless, the guidelines published simultaneously with these regulations specifically address similar situations, in accordance with EPA guidance.
182	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206.3	Change "should" to "shall"	This section incorporates guidance into the chapter according to D.C. Official Code § 8-241.02(a)(4). As per the statute, the Department is issuing guidance for the removal of indoor mold below the threshold and is using the word "should" to indicate it as guidance.
183	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206.3(e)	New paragraph stating "Surrounding units and/or common areas for the above, if an initial visual inspection reveals indoor mold growth or underlying conditions causing indoor mold growth (flooding, water intrusion, water damage, or water leaks) that are likely to have affected these other areas."	The guidance suggests that a visual inspection should be performed to assess the extent of water damage. This implies that the guidance applies to all areas that are impacted by water damage, including surrounding areas.
184	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206	Insert new paragraph 3206.4 to state "The visual inspection described in § 3206.3 shall be performed before taking any steps to clean, scrape, remove, paint over, or otherwise remediate any indoor mold growth."	In the second proposed rulemaking, the Department has included similar language.
185	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206.6	Change "If indoor mold growth equal to or greater than twenty-five contiguous square feet (25 ft.2) is visually identified, the property owner, unless if exempt by § 3201.4, shall hire an indoor mold assessment professional who is licensed pursuant to § 3202 to conduct an indoor mold assessment." to "If indoor mold growth equal to or greater than ten square feet (10 ft.2) is visually identified, constituting indoor mold contamination, or if the residential property contains a total surface area of 10 square feet or more that has remained wet for more than 48 hours, or where the water source of any water damage, leaks, or intrusions was contaminated with sewage, or chemical or biological pollutants, the property owner, unless if exempt by § 3201.4, shall hire an indoor mold assessment professional who is licensed pursuant to § 3202 to conduct an indoor mold assessment and shall provide written notice to any affected tenant(s)."	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b). The Department will not issue mandates through regulations based on industry situations that are not guaranteed to occur. In other words, EPA guidelines state that "[M]old growth will not always occur after 48 hours; this is only a guideline." Furthermore, language such as "where the water source of any water damage, leaks or intrusions was contaminated with sewage, or chemical or biological pollutants" is quite broad, meaning it could apply to situations where only a splash of sewage from a brief and small flooding of a toilet could lead to these guidelines applying as well. This would lead to a situation when mold is not likely to appear, presuming the tenant/property owner acts quickly to clean the affected area. Accordingly, the Department will not include this language either. Regardless, the guidelines published simultaneously with these regulations specifically address similar situations, in accordance with EPA guidance.

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186	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3206	Insert new paragraph 3206.8 to state "If, following the visual inspection described in § 3206.3, the property owner determines that indoor mold growth less than ten square feet (10 ft.2) is present, the property owner shall provide written notice of this determination to any affected tenant(s) within three days. If any affected tenant wishes to dispute this determination by hiring an indoor mold assessment professional, the tenant shall provide written notice of this decision to the property owner within three days. Any tenant exercising this right shall be provided with seven days to complete the indoor mold assessment. During the time period described in this section, the property owner's requirement to remediate the conditions at the property within 30 days shall be temporarily suspended. This suspension does not waive the landlord's obligation to respond as required to any future notice from a tenant."	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
187	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3207.1	Insert "." after "post"	In the second proposed rulemaking, the Department has made this correction according to your comment.
188	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.1	Insert ", owner, and affected tenant(s) in writing" after "Department"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
189	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.1	replace "twenty five contiguous square feet with "ten square feet"	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
190	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.1	After "more" insert ", constituting indoor mold contamination"	Under the second proposed rulemaking, section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property"
191	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.2	Insert ", owner, and affected tenant(s) in writing" after "Department"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
192	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.2	replace "twenty five contiguous square feet with "ten square feet"	The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).
193	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.2	After "more" insert ", constituting indoor mold contamination"	Under the second proposed rulemaking, section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property"

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194	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3208.2(c)	Change "shall provide the Department with notification" to "shall provide the Department, owner, and affected tenant(s) with written notification"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
195	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3211.1(b)	Insert "tenant, owner," after "client,"	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
196	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	Insert new definition "Affected tenant(s) – Any tenant(s) occupying any and all units in which indoor mold growth is found; where indoor mold growth is found in the common areas of a residential property, all tenant(s) occupying a unit in the property are considered affected, but any required notice to affected tenants may be provided by posting the notice in a conspicuous area in the common areas of the property."	The scope of the legislation and the Department's regulations is the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
197	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	Comment to "Certificate of Mold Damage Remediation": "The mold remediation professional is also required to complete part of this certificate"	In the second proposed rulemaking, the Department has clarified these roles. Specifically, the Department has clarified the role of the indoor mold assessment professional and the indoor mold remediation professional pertaining to the certificate of mold remediation.
198	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	For "Clearance report (f)(1)" change "visible" to "detectable"	To ensure that the verification report (formerly "clearance report"), and how it is interpreted, is as specific as possible, the Department is choosing the word "visible." However, in the second proposed rulemaking, the term has been redefined: "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices."
199	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	Delete definition for "Contiguous"	In the second proposed rulemaking, the Department has changed the term "contiguous" to "affected." The definition has changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation".
200	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	Add definition for "Indoor mold contamination -- the presence of at least 10 square feet of detectable mold."	Under the second proposed rulemaking, section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property" The Department is statutorily obligated to set a threshold level of indoor mold contamination that requires professional indoor mold remediation. This level must be established consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. While the first proposed rulemaking threshold of 25 square feet is consistent with these standards, EPA guidance suggests a professional work on jobs 10 sq. ft. or larger. In light of this, and the fact that a purpose of the statute was to improve the health outcomes for tenants in residential areas, in the second proposed rulemaking, the Department has changed the threshold from 25 square feet to 10 square feet. Furthermore, District guidelines for non-licensees (published simultaneously) provide guidance for property owners to clean and remove indoor mold below the stated threshold. See D.C. Code § 8-241.04(b).

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201	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	For "indoor mold growth" change "visible" to "detectable"	To ensure that the verification report (formerly "clearance report"), and how it is interpreted, is as specific as possible, the Department is choosing the word "visible." However, in the second proposed rulemaking, the term has been redefined: "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices."
202	Beth Mellen Harrison, Evan Henley, Jennifer Berger, Kathy Zeisel, Jessica Kleinman, Nakia Waggoner	Legal Aid Society of the District of Columbia, Legal Counsel for the Elderly, Kathy Zeisel, Nakia Waggoner	Non-Profit	3299.1	Change "Visible – exposed to view; capable of being seen with the naked eye." to "Detectable - capable of being seen with the naked eye; or detectable by professionally-recognized detection devices or by the professional opinion of an indoor mold assessment professional.	To ensure that the verification report (formerly "clearance report"), and how it is interpreted, is as specific as possible, the Department is choosing the word "visible." However, in the second proposed rulemaking, the term has been redefined: "capable of being seen with the naked eye, either by a lay person following the guidelines in section 3206 in this Chapter, or by an indoor mold assessment professional following best industry practices."
203	Katalin Peter	District of Columbia Association of REALTORS	Association	General	The Proposed Regulations should aim to be as simple and transparent as possible. If any of the Proposed Regulations are too onerous or burdensome, it will make compliance very difficult for smaller housing providers.	The comment is non-substantive and does not require a response. But the Department strives to address the concerns raised.
204	Katalin Peter	District of Columbia Association of REALTORS	Association	General	DCAR highly recommends using practical experiences of those who have used the program as guidelines on improving the Proposed Regulations.	The Department has been and will continue to be in consultation with impacted stakeholders to improve this proposed draft regulations and related areas.
205	Katalin Peter	District of Columbia Association of REALTORS	Association	General	The Proposed Regulations make no mention of the disclosure exception in the Air Quality Amendment Act if mold is properly remediated (which, DCAR understands as housing providers adhering to and following the standards set forth below). If this issue could be addressed in a Guidance Document, that would be extremely helpful as well.	The scope of legislation and the Department's regulations is on the conduct of mold assessors and remediators. These regulations are not intended to govern the specific conduct between landlords and tenants. The Office of Tenant Advocate provides valuable resources to guide those interactions.
206	Katalin Peter	District of Columbia Association of REALTORS	Association	General	What, if any, are the testing requirements for properties?	Since industry standards are voluminous and dynamic, many specific standards will not be referenced. However, according to § 3204.4 all licensees shall meet or exceed the minimum industry standards for mold assessment and remediation and the standards set in the regulations. In essence, whether a property has been remediated is up to the professional judgment of the licensed (and accredited) indoor mold assessment and remediation professional. This is the purpose behind the mold remediation protocol, the mold remediation work plan, and the verification report (formerly the "clearance report"). Assessment and remediation guidelines for non-licensees layout the procedure for the identification of mold and its remediation.
207	Katalin Peter	District of Columbia Association of REALTORS	Association	General	it is critical that they are flexible enough to ensure the District will have an adequate number of such individuals. If the Proposed Regulations only lend themselves to a few people obtaining certification, it will become very difficult for housing providers to find a mold remediation professional. We encourage the District to actively work with the private sector in addressing this issue.	The Department has been and will continue to be in consultation with impacted stakeholders to improve this proposed draft regulations and its practical implementation throughout the District.
208	Katalin Peter	District of Columbia Association of REALTORS	Association	General	Clear and specific objective criteria for definitions, particularly, are key.	The Department is unable to respond to this comment as the comment does not make specific recommendations.
209	Katalin Peter	District of Columbia Association of REALTORS	Association	General	DDOE could also focus on outreach and education for helping the public understand the Proposed Regulations. DCAR would be happy to participate in any such efforts.	The Department acknowledges that a guidance document explaining how the statute interacts with the regulations may be helpful for all interested parties, particularly property owners, tenants, and indoor mold assessment and remediation professionals.

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210	Katalin Peter	District of Columbia Association of REALTORS	Association	General	DCAR notes the importance of ensuring the District's standards for remediation are in line with what is federally allowed by the Environmental Protection Agency (EPA). If the EPA allows local governments to take a less stringent approach as long as it could be done safely, then DCAR would encourage the District to do so.	The EPA has not issued regulations specifically pertaining to the assessment and remediation of mold. However, the EPA has promulgated guidance related to the assessment and remediation of mold in commercial and school buildings. The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold.
211	Katalin Peter	District of Columbia Association of REALTORS	Association	General	Regarding the threshold for work performance, a number of our members are concerned that if one could have several small spots of mold which in the aggregate could become 25 square feet. If a single spot less than 25 square feet can be handled without a licensed professional, why not handle each small spot in the same way? The threshold for a professional could be larger than 25 square feet if it translates to adding up the square footage.	In the second proposed rulemaking, the Department changed the term "contiguous" to "affected." The definition changed from "in close proximity; neighboring" to "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation". This change is more in line with industry standards. The Department has determined based on policy, and the purpose of the statute, which has a focus on residential property and mold's health effects on tenants, to lower the threshold to ten square feet and change the term and definition of "contiguous" to "affected," as explained above. Doing this follows the spirit of the Act and meets statutory requirements that the Department set mold assessment and remediation standards consistent with applicable EPA guidelines relating to the assessment and remediation of mold. As the presence of moldy materials increases, so does the potential for exposure and the need to limit the spread of mold-containing dusts and worker exposures.
212	Katalin Peter	District of Columbia Association of REALTORS	Association	General	If a property has an unexpected incident such as a rain related flood or a washing machine/hot water failure, it is possible to very suddenly have 25 square feet of mold. It seems unreasonable in such circumstances to ask landlords to effectively quarantine their properties for force majeure or equivalent. Could DDOE add a "force majeure" clause to account for such circumstances?	The Department will not specifically add a "force majeure" clause, however, the proposed regulations do not require property owners to quarantine their properties. Instead, if mold is greater than 10 square feet (over the threshold), then an indoor mold assessment and remediation professional can perform work in emergency situations. An emergency is defined in § 3299.1 as "a situation in which water damage has occurred and a delay in mold remediation would allow indoor mold growth to increase." This allows the professionals to perform work without a delay.
213	Katalin Peter	District of Columbia Association of REALTORS	Association	General	if a landlord has insurance for mold remediation, can the landlord simply defer to the insurance company?	The proposed regulations will license indoor mold assessment and remediation professionals. As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. Unless a property is owner occupied, see § 3201.4, a residential property owner must use an indoor mold assessment and remediation professional to address mold from property (under the second proposed rulemaking) when it is greater than ten affected square feet, regardless of the insurance company's recommendation. While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3.
214	Katalin Peter	District of Columbia Association of REALTORS	Association	3200.3	Could DDOE do a Guidance Document regarding these particular obligations?	The Department acknowledges that a guidance document explaining how the statute interacts with the regulations may be helpful for all interested parties, particularly property owners, tenants, and indoor mold assessment and remediation professionals.
215	Katalin Peter	District of Columbia Association of REALTORS	Association	3202.4	Does this mean that a mold remediation company could devise a test for its own folks and certify itself? When can the public expect this list to come out?	All entities that meet the standards promulgated in § 3206 will be considered for approval. Additionally, in the Department's next proposed rules promulgation, the Department will include training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements), the Department is helping ensure that those who recertifying maintain continuing education in the field of mold assessment and/or remediation. Additionally, the Department is considering adding additional language requiring applicants to meet a 24-hour training requirement every two years. This addition will act as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee. A list of acceptable organizations will be issued on the Department's website near the time when the regulations become final.
216	Katalin Peter	District of Columbia Association of REALTORS	Association	3204.6(a)	Could DDOE provide guidance on an example of an acceptable assessment report?	The Department acknowledges that a guidance document explaining how the statute interacts with the regulations (and applicable documents) may be helpful for all interested parties, particularly property owners, tenants, and indoor mold assessment and remediation professionals.

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217	Katalin Peter	District of Columbia Association of REALTORS	Association	3204.6(d)	Could DDOE provide guidance on an example of an acceptable clearance report?	The Department acknowledges that a guidance document explaining how the statute interacts with the regulations (and applicable documents) may be helpful for all interested parties, particularly property owners, tenants, and indoor mold assessment and remediation professionals.
218	Katalin Peter	District of Columbia Association of REALTORS	Association	3205	Overall, this section strikes our members as too onerous. While DCAR does not have the expertise to determine exactly which section could be simplified, we would ask DDOE to at least reconsider some of the standards.	The Department has been and will continue to be in consultation with impacted stakeholders to improve this proposed draft regulations and related areas. However, the Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards.
219	Katalin Peter	District of Columbia Association of REALTORS	Association	3205.1(e)	There is no mention of specific cleanup or biocide products to kill mold, or other living organisms known to cause mold and DCAR believes it might be helpful to provide a product list.	The Department is not statutorily obligated to create such a list, but realizes it may be helpful for property owners and indoor mold remediation professionals. Having said that, no official list of products exists and the Department creating a list in the future will be determined by Department resources and obligations.
220	Katalin Peter	District of Columbia Association of REALTORS	Association	3208.1	This section is unclear as to where the notification needs to be sent, who it needs to be addressed to and in what manner it needs to be sent. Is an email notice sufficient or does it need to be sent to a mailing address? Does there need to be receipt of notice or acknowledgement of receipt? Could this information be specified? DCAR does appreciate the clarity of what information needs to be provided.	The regulations are not the appropriate location for such details. All notifications will be accepted electronically via an online form. The form will be available on the Department's website and licensees will be made aware of this upon receiving their license from the Department.
221	Katalin Peter	District of Columbia Association of REALTORS	Association	3209	DCAR appreciates the Section being spelled out in the Proposed Regulations. Often in Proposed Regulations, this Section is required, yet is not properly spelled out. We would ask if there is a time-limit on how long records need to be kept. After a few years, it might be too onerous to maintain such detailed files.	Section 3209 requires relevant records be kept on-site for the duration of a project. In turn, § 3299.1 defines "project" as "mold related activities at a particular address for which a specific start date and a specific stop date is or will likely be provided." The Department has not proposed regulations regarding recordkeeping outside of this requirement, meaning that indoor mold remediation professionals need only keep relevant documents on site until the project's stop date.
222	Katalin Peter	District of Columbia Association of REALTORS	Association	3210	DDOE should also be required to give reasonable notice before inspection, which should be clarified.	As per § 3210.2 and § 3210.3, the Department can enter these areas at reasonable times. Requiring the Department to give reasonable notice before inspection may hamper enforcement efforts. Regardless, a person can deny access to the Department, per § 3210.3.
223	Katalin Peter	District of Columbia Association of REALTORS	Association	3211.1(b)	DCAR would recommend that this Section should apply if someone has "knowingly misrepresented facts relating to mold-related activity."	The Department will not make this change because it must have the authority to deny a license if an individual has unintentionally misrepresented facts on its application, where the individual does not meet the standards as mentioned in § 3202.10. The Department, as with other programs in the agency, will enforce violations of the rules based on many factors, including the culpability of the violator.
224	Katalin Peter	District of Columbia Association of REALTORS	Association	3211.1(c)	DCAR would recommend that this Section should apply if someone has KNOWINGLY made a false statement or misrepresented material. Otherwise, there should be a compliance assistance period.	The Department will not make this change because it must have the authority to deny a license if an individual has unintentionally misrepresented facts on its application, where the individual does not meet the standards as mentioned in § 3202.10. The Department, as with other programs in the agency, will enforce violations of the rules based on many factors, including the culpability of the violator.
225	Katalin Peter	District of Columbia Association of REALTORS	Association	3211.1(d)	Insert "knowingly" after "Has submitted a"	The Department will not make this change because it must have the authority to deny a license if an individual has unintentionally misrepresented facts on its application, where the individual does not meet the standards as mentioned in § 3202.10. The Department, as with other programs in the agency, will enforce violations of the rules based on many factors, including the culpability of the violator.
226	Katalin Peter	District of Columbia Association of REALTORS	Association	3212.1	If the Notice of Violation and/or Notice of Infraction are intended to serve as warnings, DCAR commends DDOE for using this type of compliance assistance method. Our members intend on following the standards set forth by DDOE, and if they come across a situation where they misunderstood the requirements, the option to remediate without a harsh penalty is crucial.	A Notice of Violation is intended as a warning notification; a Notice of Infraction is a fine for violating laws or regulations. The Department will use its discretion in determining which enforcement mechanism to use on a case-by-case basis.
227	Katalin Peter	District of Columbia Association of REALTORS	Association	3299.1	Will there be a definition set out for what constitutes contamination?	Under the second proposed rulemaking, section 3200.2(2) states that the chapter establishes "a ten affected square feet threshold level of indoor mold contamination for residential property" No other definition will be provided.
228	Katalin Peter	District of Columbia Association of REALTORS	Association	3299.1	The Indoor mold growth definition seems like it could be open to interpretation and may need some more clarification. Particularly, the phrase "has the potential to affect the indoor air quality of the building." This reads as a subjective statement and more objective criteria could be very useful.	In the next rule promulgation, the Department has changed the definition of indoor mold growth to "mold that exists on an interior surface of a building, including common spaces, that was not purposely grown or brought in a building and is visible." This definition is less vague and more objective than the current definition.

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229	Katalin Peter	District of Columbia Association of REALTORS	Association	3299.1	Does the "Mold" definition adhere to the EPA's definition of mold? At first glance, it seems that this would require a much more detailed explanation with some more examples for guidance.	The Department's current definition of mold mirrors Texas' regulations on mold assessment and remediation. However, in the second proposed rulemaking, the Department has changed the definition slightly to include District statutory language from the "indoor mold" definition. The Department acknowledges that a guidance document explaining how the statute interacts with the regulations may be helpful for all interested parties, particularly property owners, tenants, and indoor mold assessment and remediation professionals.
230	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	1. Issue licenses to Certified Industrial Hygienists with an exemption from exams, other documentation, continuing education and fees. CIH is a nationally recognized professional license only awarded to individuals with degrees in the sciences, who pass of a comprehensive exam covering the range of scientific and engineering skills needed to control environmental exposures and document extensive field experience. Continuing education is required to maintain CIH certification.	The Department will not issue licenses based strictly on being a certified industrial hygienist. All individuals applying for a license must meet the requirements as stated in 3202.10. The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards.
231	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	2. License maintenance personnel to remediate mold with an exemption from exams, documentation, continuing education and fees. The majority of mold growth problems are effectively resolved by maintenance workers who are responsible for a variety of tasks and do not specialize in mold. Requiring documentation and fees from them is not practical and will serve to delay or prevent remediation. DC Government should provide educational materials and technical assistance to maintenance personnel remediating mold.	The proposed regulations will license indoor mold assessment and remediation professionals. As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. Unless a property is owner occupied, see § 3201.4, a residential property owner must use an indoor mold assessment and remediation professional to remove mold from property when it is greater than ten square feet. While the Department recommends seeking the advice of a licensed professional, a license is not required if a residential property has less than ten square feet of visible indoor mold growth. Please see § 3206 and the Department's promulgated guidance for remediation for guidance on how to deal with indoor mold growth below 10 square feet. Furthermore, a licensed indoor mold assessment or remediation professional may engage other unlicensed individuals to assist with work, assuming the licensee supervises their work.
232	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	3. Exclude non-residential buildings. DC Council's intent was to address mold issues on residential rental properties. However, the proposed regulations appear to apply to all buildings and should be clearly limited to residential.	While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3.
233	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	4. Exclude renovation. Although new construction is exempted, renovation is not. Mold problems are often resolved during renovation and this work is generally conducted in non-occupied areas.	The proposed regulations are not applicable during the construction of a structure, as per 3201.1(b). Additionally, 3201.4 excludes residential property owners from needing a license when the work is performed by the owner and the dwelling unit is unoccupied.
234	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	5. Exclude water damage evaluation and repair where mold is an incidental issue. Restoration contractors evaluate sites with major water intrusion and mold is a sub-set of the overall damage which they locate and repair. Restoration personnel are typically trained and experienced in mold procedures. In restoration projects, mold status is constantly evolving over time as wet areas develop growth and cavities are accessed. Licensing requirements will inhibit water damage restoration.	As per § 3204.2, a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3. Unless a residential property is owner occupied, see § 3201.4, a residential property owner must use an indoor mold assessment and remediation professional to remove indoor mold growth from property (under the second proposed rulemaking) when it is greater than ten affected square feet. Thus, an unlicensed restoration contractor can not perform mold assessment or mold remediation services on a residential property if it contains ten affected square feet (or more) of indoor mold growth, and is not occupied by the owner.

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235	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	6. Delete mandatory mold testing. U.S. EPA and CDC discourage mold testing and recommend assessment be based on visual inspection and moisture evaluation. The science establishes that air testing is not predictive of either mold growth or health risk. There are no accepted standards for airborne mold and clearance sampling for mold remediation is often subject to false-negative or false-positive conclusions.	This proposed regulations do not require mandatory testing and do not mandate how the assessor shall perform his or her work. According to § 3204.4(b), all licenses must meet or exceed minimum industry standards when performing work. Additionally, the regulations do not require sampling, rather the assessor should use their professional judgment when performing work.
236	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	7. Delete mandatory containment specifications. U.S.EPA has not issued mandatory mold regulations. That Agency has only suggested general guidelines for containment which may be applicable to routine situations and recognizes the need for professional judgment in other cases. It is generally accepted that work should not expose occupants during or after remediation. This is a performance objective requiring site-specific implementation.	In the second proposed rulemaking, the Department has revised § 3205.1(d) to specify containment when mold affects a total surface area of more than 10 square feet. This is in line with EPA and OSHA standards. However, the Department has allowed for professional flexibility, so that if they believe containment is not necessary, they can opt to not require it but will have to specify in the remediation protocol why containment is not necessary.
237	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	8. Delete requirements for issuing formal reports, maintaining records onsite and filing plans and certification with DDOE. Preparing a detailed, comprehensive report is not needed for routine mold remediation. Maintaining onsite records is often not practical for routine projects. Filing plans and clearance certificates for review by DDOE will create delays and uncertainty without significant benefit. These requirements will actually discourage work from being done and create unnecessary costs.	The Department will not delete these requirements. A detailed, comprehensive report is not required for routine mold remediation. Specifically, while the Department recommends consulting with an indoor mold assessment and remediation professional, a license is not required (and the corresponding report) for all non-residential property, for residential property (under the second proposed rulemaking) that has less than ten affected square feet of indoor mold, or when residential property is owner occupied. The ten affected square feet exception means that detailed reports, onsite records, and the notification requirement will not be required for routine mold remediation performed by landlords or property owners. The Department is not requiring the filing of "plans" and "clearance certificates" either. Rather, notification to the Department are only required when indoor mold affects a total surface area of ten affected square feet or more; the notification includes the address of the site, a short description of the building, the building owner, the start date, the anticipated top date, and the name and license number of the indoor mold remediation professional. See § 3208.2(a). The Department aims for such a notification to be made through an on-line system, so notifications can be made via the internet on a cellular phone or a computer.
238	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	9. Delete requirement to stop work where mold in excess of 25 square feet is encountered during remediation. It is very common to encounter additional mold growth as a remediation project progresses. This is best handled by expanding the scope of work without delay following standard remediation procedures. Stopping to notify DDOE will only delay this and cause additional exposure.	The stop work section only applies to "non-licensees". See Section 3201.8. To ensure that an indoor mold assessment and remediation professional handle these issues to protect the health of residential tenants, as is the intent of the statute, the Department is requiring that a licensee perform work on a residential property when (under the second proposed rulemaking) mold meets or exceeds ten affected square feet, presuming no other exceptions exist. Regarding notifications from licensees, section 3208.2(c) allows for mold remediation professionals to begin remediation in emergency situations without having to first provide notification to the Department. In the second proposed rulemaking, the Department has clarified the notification process, particularly to address the notification issue when a professional indoor mold assessment reveals indoor mold growth below the threshold, but remediation reveals mold growth above the threshold. Additionally, the Department has addressed where to direct a notification and when to direct a notification in the event that a start or stop date changes.
239	Lee Foley	American Industrial Hygiene Association Potomac Chapter	Association	General	10. Stop the regulation promulgation process pending a hearing where information on the science and practice of mold remediation can be presented. AIHA Potomac can provide an expert panel to summarize the most current information on the science and field practice of mold remediation. Based on this, DDOE might consider re-drafting their regulations based not on the asbestos model, but more in keeping with the science and minimum statutory requirements.	The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards. While the Department will not stop the rulemaking process, it held a public hearing where interested persons participated. This public hearing helped inform the Department while drafting the second proposed rulemaking.

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240	Shari L. Solomon	CleanHealth Environmental, LLC	Company	Preamble	The language "The Department has determined that all professionals – without respect to the location of the work performed – who perform mold assessment or remediation should be certified and licensed to prevent unscrupulous actors from exploiting a perceived gap in regulatory authority. All persons who offer these services are required to be licensed by the Department" seems to conflict with language in the relation exempting non-residential properties.	Section 8-241.03(a)(1) (statute) gives the Department authority to issue licenses and certifications for conducting indoor mold assessment and remediation in the District. As per § 3204.2 (rulemaking), a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See 3201.3. Unless a residential property is owner occupied, see 3201.4, a residential property owner must use an indoor mold assessment and remediation professional to remove mold from property when (under the second proposed rulemaking) it is greater than ten affected square feet. While the Department recommends seeking the advice of a licensed professional, a license is not required if a residential property has less than ten affected square feet of indoor mold.
241	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3201.3	"non-residential property" conflicts with the Certification and Licensure Program: Purpose and Description Introduction.	Section 8-241.03(a)(1) (statute) gives the Department authority to issue licenses and certifications for conducting indoor mold assessment and remediation in the District. As per § 3204.2 (rulemaking), a person shall not use the name or title of "licensed," "professional," "certified," or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department. While the Department recommends seeking the advice of a licensed professional, non-residential properties are not legally required to use a licensed professional. See § 3201.3. Unless a residential property is owner occupied, see § 3201.4, a residential property owner must use an indoor mold assessment and remediation professional to remove mold from property when it is greater than ten square feet. While the Department recommends seeking the advice of a licensed professional, a license is not required if a residential property has less than ten square feet of mold.
242	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3201.5	Only the Supervisor is licensed? The workers are not? Very problematic! Workers are the ones doing the work. They must have the proper training and knowledge. If there is no worker license, what is the confirmation of their training and knowledge? In Virginia, all individuals needed to be licensed, which required training. In the Maryland law (not yet implemented) the company gets the license but must submit mold certifications for each individual on the job.	As a matter of policy and Department resources, the Department is not including provisions for workers. However, workers are prohibited from performing work, unless they are supervised by the licensee and other requirements in the proposed regulations are met. Licensees are responsible for supervising any person assisting with the licensee's work, ensuring that supervisees are following best standard practices. See § 3204.4(i). The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards.
243	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3202.5(b)(1)	Recommend removing physical sampling from the first sentence. I see the definition used is derived from the IICRC Std. The IICRC definition, second sentence states "If necessary, a sampling plan is developed, and samples are collected and sent to a qualified laboratory for analysis. The subsequent data is interpreted by the (Mold Assessor)". Sampling is not mentioned in the IICRC in the first sentence. It is important that mold sampling not be highlighted as a first step. Visual inspection is the initial step, along with temp, RH, and moisture measurements. Air sampling may follow upon the Assessor's suggestion but not typically necessary.	The regulations do not require sampling, rather the assessor should use their professional judgment when performing work. Section 3202.5(b)(1) only relates to standards the Department shall adhere to when approving mold assessment and remediation examinations conducted by third-parties.
244	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3202.5(b)(2)	This section needs much more detail. See Va reg attached	This section only relates to standards the Department shall adhere to when approving mold assessment and remediation examinations conducted by third-parties. The scope of a license (§ 3203), the licensee's responsibilities (§ 3204), and licensee minimum work practices (§ 3205) provide further specificity as to what it means to be licensed. Additionally, relating in particular to § 3202.5(b)(2), the term "mold remediation" is further defined by § 3299.1, lending further specificity: "the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter."
245	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3202.5(b)(2)	There must be a training requirement. The training is a key component of competency. Va Regs required 16 hours for workers, 24 for supervisors, 24 for mold inspectors. See Va Regulation, Part VII for training requirements.)	In the second proposed rulemaking, the Department has included training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements), the Department is helping ensure that those who recertify maintain continuing education in the field of mold assessment and/or remediation. Additionally, the Department has included additional language requiring applicants to meet a 24-hour training requirement every two years. This addition acts as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee.

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246	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3206.6 (properly labeled 3202.6)	This section needs more detail. See Va Regs attached	This section only relates to standards the Department shall adhere to when approving mold assessment and remediation examinations conducted by third-parties. The scope of a license (§ 3203), the licensee's responsibilities (§ 3204), and licensee minimum work practices (§ 3205) provide further specificity as to what it means to be licensed.
247	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3206.7(b) (properly labeled 3202.7(b))	Add "How the exam is proctored."	The phrase "how the exam is proctored" is vague. The Department will maintain the language in § 3206.7(b), using it to ensure that examinations are properly proctored. However, in the next proposed rulemaking, the Department may include additional standards for how it will determine the overall difficulty of an examination, such as the quality and integrity of the examination.
248	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3202.9(c)	If only Supervisors need licensure, may be reasonable. 2 years more so. But if workers also need licensure, this would be an issue. As I noted prior however, there must be some training/knowledge requirement for workers as well.	As a matter of policy and Department resources, the Department is not including provisions for workers. However, workers are prohibited from performing work, unless they are supervised by the licensee and other requirements in the proposed regulations are met. Licensees are responsible for supervising any person assisting with the licensee's work, ensuring that supervisees are following best standard practices. See § 3204.4(i). In the second proposed rulemaking, the Department has included training standard requirements that the Department can consider when approving certified third-party organizations. By having to either pass an approved examination or recertifying the credential within two years (and these new requirements). The Department is helping ensure that those who recertifying maintain continuing education in the field of mold assessment and/or remediation. Additionally, the Department is considering adding additional language requiring applicants to meet a 24-hour training requirement every two years. This addition acts as a training floor, that the applicant/licensee can meet as part of its third-party accreditation requirements or at the option of the applicant/licensee.
249	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3203.1(h)	Referring to "post-remediation clearance," the proper term is "post remediation verification" methods and criteria.	In the second proposed rulemaking, the Department has changed the title of the current term "clearance report" and similar references to be more consistent with industry standards.
250	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3204.4(b)	Delete the word "minimum"	The Department will not delete the word "minimum" as minimum industry standards are more easily defined that just "industry practices."
251	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3204.6(b)	Why is this provision necessary?	This paragraph allows an indoor mold assessment professional to not produce duplicate information. For instance, a mold assessment report is a document that describes any observations made, measurements taken, and location and analytical results of samples taken. See "mold assessment report" definition in § 3299.1. Meanwhile, a mold remediation protocol, discusses potential remedial methods and mold remediation completion criteria. While an indoor mold assessment professional must provide a mold assessment report to its client, § 3204.6(b) allows a mold assessor to provide the assessment report within a mold remediation protocol without issuing a duplicative (but separate) mold assessment report.
252	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3204.6(d)	Change "clearance report" to "post verification report"	In the second proposed rulemaking, the Department has changed the title of the current term "clearance report" and similar references to be more consistent with industry standards.
253	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3204.7(b)	Professionals are required to do more than inquire." Yes, they must do that but also must know the specific regulatory requirements regarding their industry (e.g., DDOE Lead Regulations, EPA Lead Certified Renovator RRP, DDOE ACM Regs)	The Department's proposed regulations do not supersede any existing District or Federal laws or regulations. Also, an indoor mold assessment or remediation professional's knowledge of relevant industry standards will be reviewed as part of the licensing process. Furthermore, in the second proposed rulemaking, the Department has promulgated an additional standard for training, which will include training on applicable laws and regulations.
254	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3204.7(c)	Ten calendar days can be challenging. If sampling, lab could take up to 5-7 days to return results if that is what the client is willing to pay for. That would provide no time for analysis and report writing. 10 business days would be the minimum I believe.	Section 3299.1 ("stop date" definition) defines "stop date" as "the date following the day on which a verification report has been issued for the project." Accordingly, § 3299.1 ("verification report", formerly "clearance report" definition) defines "verification report" as a document issued by a mold assessment professional when the professional determines that a project's remediation has been successful. The report includes the type and location of all measurements made and samples collected at the worksite and clear statements that 1) all areas are free from mold, and 2) all work has been completed in compliance with the remediation protocol." Thus, a verification report is not provided until remediation is successful. In other words, an indoor mold assessment professional will have ample time for analysis and report writing.

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255	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3205.1(b)(1)	Sampling needs to be conducted by a qualified lab. "Select and utilize a qualified" mycology or microbiology lab (e.g. EMLAP, A2LA, NELAP, PAACB, or equivalent) or individual."	Since many laboratory accreditations exist, the Department is allowing some flexibility among licensees. See § 3205.1(b)(1) ("Sampling and analysis shall be performed according to industry best practices").
256	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3205.1(c)(4)	Relating to the recommended N-95 respirator I think it is unnecessary to add this detail. HEPA respirators are recommended in the ICRC at minimum. EPA recommends HEPA above 100 sq. ft (and as an option between 10 and 100 sq. ft.). I would just say "Respirator use is recommended during...."	The Department is statutorily obligated to set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. This section, and all of the proposed rules, have been drafted in accordance with these standards. This comment is a matter of preference; the Department will leave the language as is, leaving the decision on personal protective equipment to the indoor mold assessment and remediation professionals' professional judgment.
257	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Relating to the Certificate of Mold Damage Remediation definition, a mold assessor may very well not be the entity retained to fix the source of the moisture problem causing the mold (e.g., plumber, HVAC Technician). Typically, the property owner hires that entity. As a mold assessor, I will typically put in my Post-Remediation Verification report for example, "Consultant was notified by John Doe, Property Manager, that the source of the moisture, a plumbing leak, was addressed." MDE lead regs use a "Supervisor's Statement of Work that the contractor must provide to the property owner confirming they completed the project. Perhaps a similar sort of documentation could work here?"	In the second proposed rulemaking, the Department has added a new subparagraph within paragraph (f) of the definition of "verification report" (formerly "clearance report," within § 3299.1) to address this comment, making clear that another professional, other than a licensed indoor mold assessment or remediation professional, can and should fix the source of the moisture problem that caused the mold. Additionally, in the second proposed rulemaking, the Department has deleted the term "Certificate of Mold Damage Remediation" and incorporated its function into the verification report (previously "clearance report") to inform the client that the project has been completed.
258	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Change title of "Clearance Report" to "Post Remediation Verification". I commented on this prior but it's an important distinction. Clearance is an ACM or lead term. Following a mold remediation, we are assessing for mold to be of normal fungal ecology (if air sampling, similar levels inside and out) not for no mold (i.e., clearance).	In the second proposed rulemaking the Department has changed the title of the current term "clearance report" and similar references to be more consistent with industry standards.
259	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Clearance Report(a): A mold assessor is not typically onsite during the remediation. There is no requirement in this reg that he be onsite.	These worksite observations refer to observations made after the fact of remediation work. The assessor is on site to produce the verification report and can make these observations at this time.
260	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Clearance Report(f)(1): Insert: "All areas are free from visible dust and debris"	In the second proposed rulemaking, the Department has included similar language to this-- ensuring that all areas are free from visible dust and debris as they are related to the project.
261	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Final Status Report (c): Are you requiring samples be taken?! Must they be taken? Industry standards allows for post-remediation verification without sampling. If so, what kind? Air, swab? How many?	The regulations do not require sampling, rather the assessor should use their professional judgment when performing work. Section 3299.1("final status report") only relates to a document issued by an indoor mold assessment professional that includes the type and location of all measurements made and samples collected at the worksite when a mold assessor no longer works on a project prior to the project achieving completion. If, in using best professional judgment, the assessor does not perform sampling, then sampling results need not be included in the final status report (or any other report or document).
262	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Mold Analysis: Section needs to be re-written or removed. Typically we use sampling, comparing indoor and outdoor results. Sampling is an inexact science. "Professionals". Sampling is just a tool in the toolbox. It is not the end all be all. Visual is the most important assessment tool. Sampling should not be referenced with this much detail. This section is incorrect and misleading.	The regulations do not require sampling, rather the assessor should use their professional judgment when performing work. Section 3299.1("mold analysis") only defines a term that is used within § 3203.1(b), which discusses the scope of a mold assessment professional's license. Section 3203.1(a) permits an indoor mold assessment professional to record visual observations and (b) permits the professional to collect samples for mold analysis. Ultimately, the indoor mold assessment professional will use professional judgment when performing work.
263	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Mold Remediation: What does the word "sanitizing" mean?	All words undefined in the regulations will be defined by their common use in the English language, for instance, by a dictionary.
264	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Mold Remediation: The terminology for "other treatment" is also unclear.	The Department will interpret the term "other treatment" in the context and in a similar category as removal, cleaning, sanitizing, or demolition.
265	Shari L. Solomon	CleanHealth Environmental, LLC	Company	3299.1	Supervise or supervision: The workers do not need licenses and the Supervisor doesn't need to be onsite. Problematic.	As a matter of policy and Department resources, the Department is not including provisions for workers. However, workers are prohibited from performing work in certain circumstances, unless they are supervised by the licensee and other requirements in the proposed regulations are met. Licensees are responsible for supervising any person assisting with the licensee's work, ensuring that supervisees are following best standard practices. See § 3204.4(i). Additionally, in the second proposed rulemaking, the Department has included language in section 3204.4(i) stating that a licensee shall ensure supervisees are following applicable laws and regulations.