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May 4, 2015

Via electronic mail only

Karim Marshall
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Re: Tenant Advocate Comments on Notice of Proposed Rulemaking – Mold Assessment/Remediation Licensure (Published April 3, 2015)

Dear Mr. Marshall:

As you know, our organizations are dedicated to ensuring that safe, habitable, and affordable housing is available for low-income tenants in the District. We are writing to provide comments on the proposed regulations published by the District Department of the Environment (DDOE) on April 3, 2015, to implement Title III of the Air Quality Amendment Act of 2014. We appreciate this opportunity to continue our dialogue with DDOE on these important regulations. This letter summarizes our concerns and suggestions. We also are attaching a redlined version of the proposed regulations, which includes not only our broader policy concerns, but also some technical suggestions.

We applaud the time and resources already invested by you and many other staff at DDOE to study the underlying issues and work to get this right. The proposed regulations reflect a comprehensive and balanced approach to licensing of professional mold assessors and remediators that we believe will benefit both landlords and tenants. We have a few thoughts about how those provisions can be strengthened further. We also have suggestions for ways to improve notification requirements under the proposed regulations, so that tenants and landlords will be informed throughout the assessment and remediation process and can respond appropriately.

Our greatest concern is the threshold for requiring professional assessment and remediation of indoor mold in residential properties. 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.

Indoor Mold Contamination Threshold

Title III of the Act charges DDOE with issuing regulations to "set a threshold level of indoor mold contamination that requires professional indoor mold remediation at residential properties" and to "establish scientific and objective methods to be used by individuals certified by the District when conducting indoor mold assessment." D.C. Code § 8-241.02(a)(1), (2). The proposed regulations set the threshold requiring professional assessment and remediation at 25 contiguous square feet. 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.

1. Setting the Threshold for Indoor Mold Contamination at the Right Level Is Critical to the Success of the Act.

The indoor mold contamination threshold is at the core of the Act. Mold above the threshold not only requires professional assessment and remediation, but triggers the following important remedies for tenants:

- 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));

- 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

- 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*.).

If the threshold is set so high that even tenants whose rental units have serious indoor mold struggle to prove the threshold is met or exceeded, then the private enforcement remedies set forth in the Act will be toothless. A threshold of 25 contiguous square feet risks exactly this outcome.

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.[1]

[1] Council of the District of Columbia, Committee on Transportation & the Environment, *Committee Report: Bill 20-368, the "Air Quality Amendment Act of 2014"* ("Committee Report") 3, 5-6 (April 15, 2014); Council of the District of Columbia, Committee on Transportation & the Environment, *Hearing*

The power of the Act lies in the requirement of professional remediation, which will ensure that repairs are workmanlike and complete and that tenants' and workers' health are protected.

2. Texas' Regulations Do Not Provide a Model to Follow; EPA Standards Do.

The proposed regulations largely track statutory provisions and regulations issued in Texas. At least with respect to what threshold should trigger professional assessment and remediation, the Texas regulations are not a good model for the District. The Texas statute and regulations are not focused on regulating mold assessment and remediation to ensure fair business practices; they do not provide any specific protections or private enforcement remedies for tenants. *See* Tex. Occ. Code §§ 1958.001-.304; 25 TAC §§ 295.301-.388. While appropriate regulation of mold assessors and remediators undoubtedly has ancillary benefits for both tenants and landlords, it is not sufficient to ensure that tenants have the necessary tools to force recalcitrant landlords to abate unsafe indoor mold. The concerns of tenants were not the focus of the Texas statute, and the regulations reflect this.

The District's statute is different. Title III of the Act is intended not only to regulate industry and prevent unscrupulous business practices, but also specifically to protect human health by empowering tenants. The Council was concerned with the adverse health impacts of indoor mold and wanted to ensure that tenants are able to force recalcitrant, uncooperative landlords to remediate the problem.[2] Dr. Jerome A. Paulson, Medical Director for National and Global Affairs at the Child Health Advocacy Institute at Children's National Health System and Director of the Mid-Atlantic Center for Children's Health and the Environment, and Rhonique Harris, Chief Medical Officer and Vice President of Medical Affairs for Health Services for Children with Special Needs, Inc., both testified before the Committee on Transportation and the Environment about the adverse health effects of mold, particularly for children and individuals with asthma.[3] The Committee also heard testimony that current District laws were inadequate to ensure proper remediation of indoor mold, resulting in many elderly and low-income tenants being exposed to these health hazards without effective remedies against their landlords.[4] As the Committee noted in reporting out the legislation, because mold is not a violation of the Housing Code per se, and because the District had not set any abatement standards, it is very difficult for tenants to address persistent indoor mold in their homes.[5] The purpose of Title III of the Act is to right these wrongs in the name of public health, with a heavy emphasis on strengthening the rights and available remedies for tenants in the District who experience mold issues in their homes.[6]

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

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Record: Bill 20-368, the "Air Quality Amendment Act of 2014" ("Hearing Record") 34-44, 53-55, 142-46, 152-73 (Jan. 23, 2014).

[2] *See* Committee Report at 2-3, 5-6.

[3] *See id*. at 5; Hearing Record at 24-29, 147-49.

[4] *See* Committee Report at 5; Hearing Record at 34-55, 142-46, 152-73.

[5] *See id*. at 3.

[6] *See id*. at 6.

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 Texas regulations do not reflect this serious focus on protecting human health; the Environmental Protection Agency's standards do.

3. EPA & OSHA Standards Support a Threshold of 10 Total Square Feet.

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.

EPA advises owners and tenants that while they generally can remediate mold under 10 square feet themselves, they should consult professional guidelines for amounts of 10 square feet and above.[7] EPA recommends a remediation manager, i.e. a professional with experience remediating mold, for any job over 10 square feet.[8] Such jobs require more complicated steps, such as providing a limited containment area with negative air pressure, which are likely to be beyond the expertise of a landlord or regular maintenance staff.[9] OSHA's guidelines similarly recommend containment and dust suppression for areas of mold contamination above 10 square feet, but do not recommend consulting with a professional remediator until there is at least 30 square feet of visible mold.[10] However, OSHA also cites back to EPA's recommendations and guidelines approvingly.[11]

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.

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[7] EPA, *A Brief Guide to Mold, Moisture, and Your Home* 4-5 (Sept. 2010), available at http://www.epa.gov/mold/pdfs/moldguide.pdf.
[8] EPA, *Mold Remediation in Schools and Commercial Buildings* 6 (Sept. 2008) available at http://www.epa.gov/mold/pdfs/moldremediation.pdf.
[9] *Id*. at 14-22.
[10] OSHA, *A Brief Guide to Mold in the Workplace*, available at https://www.osha.gov/dts/shib/shib101003.html.
[11] OSHA, *Control and Clean-up*, available at https://www.osha.gov/SLTC/molds/control.html.

4. 25 Contiguous Square Feet of Visible Mold Is Too Large to be a Meaningful Threshold.

The threshold set by DDOE of 25 contiguous square feet of visible mold requires contamination across a very large area before professional remediation is required, limiting the Act's impact to the worst of the worst cases. In reality, even in cases of severe indoor mold, tenants seldom experience such large, contiguous areas of visible mold growth. Indeed, we can speak from experience that DDOE has assisted a number of our clients under its Healthy Homes Program and expressed concern in cases that did not clearly involve 25 contiguous square feet of visible mold. We can also say that medical professionals we work with have been quite concerned about the health of children in homes with indoor mold growth that may have fallen below a 25 contiguous square feet threshold. 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.

It is important to keep in mind that, in the first instance, many landlords and tenants will be assessing indoor mold against this threshold without the help of a professional. It is unlikely that lay landlords, tenants, or maintenance staff will have access to moisture meters, special lights, and other tools that help professionals detect visible mold that may not be immediately apparent to the naked eye. It also is unlikely that landlords, tenants, or maintenance staff will open up wall cavities or other area that may contain mold hidden behind or beneath a surface.[12]

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.

5. The Contiguous Requirement Is Too Limiting and Is Likely to Generate Confusion.

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.

[12] *See, e.g.*, Stephen Reynolds et al., *Remediation: Procedural Considerations*, in *Recognition, Evaluation, and Control of Indoor Mold* 204, 211 (Bradley Prezant et al. eds., 2008) (discussing hidden mold); EPA, *Mold Remediation in Schools and Commercial Buildings* at 8 (same).

[13] *Contiguous Definition*, Merriam-Webster.com, http://www.merriam-webster.com/dictionary/contiguous.

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. A host of private parties across the city – landlords, tenants, and mold assessors – will have to use their own judgment as to what "contiguous" mold looks like.

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. These visible, non-contiguous patches are signs of extensive mold beneath the surface – mold that is discovered once a professional opens up wall cavities or ceilings or looks underneath carpets. Requiring mold to be contiguous in order to meet the threshold ensures that units that only have small areas of non-contiguous mold will never receive a professional assessment to determine whether severe mold exists in areas hidden from a visual inspection.[14]

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.

6. Clarification Is Needed on the Term "Visible" Mold.

The threshold focuses on "visible" mold. We expect lay tenants and landlords will simply focus on mold growth that is easily visible to the naked eye, without the use of special tools and without looking into wall cavities or other areas where visible mold may be found. Professional mold assessors, however, will take a more comprehensive approach. They have access to a number of tools to detect mold that may not be immediately visible to the naked eye, for example moisture meters, thermal imaging cameras, and hygrometers, all of which can point to areas of unusual moisture, where mold may be found underneath a surface or areas of painted-over mold may be detectable. Professionals also use borescopes and similar tools to search for mold hidden behind walls.

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

[14] This example also reinforces why professional assessment is critical. An indoor mold assessment professional – using tools of the trade and his experience and training – is able to consider this type of "hidden" mold in assessing whether a threshold is met.

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.[15]

7. Professional Assessment Should Be Triggered by Certain Events.

The proposed regulations currently require professional assessment only where the threshold for visible mold is met. 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.[16] 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.[17] 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).

8. Indoor Mold Contamination Should Be Clearly Defined.

The Act itself requires DDOE to set a threshold of "indoor mold contamination," and then uses that same phrase throughout the Act to refer back to indoor mold growth above the threshold. 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.

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[15] We note this change also would require revisions in two other places to replace the term "visible" with detectable. *See* 32 DCMR § 3299.1 ("Clearance report" and "Indoor mold growth" definitions).

[16] EPA, *Mold Remediation in Schools and Commercial Buildings* at 11, 14-15; OSHA, *A Brief Guide to Mold in the Workplace*.

[17] EPA, *Mold Remediation in Schools and Commercial Buildings* at 11, 14-15; OSHA, *A Brief Guide to Mold in the Workplace*.

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. Our attached redline includes suggestions on where to add the phrase.

Notifications to Tenants and Owners

The proposed regulations require various notifications from indoor mold professionals to DDOE and to the client who hired the professional. 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.

1. Requiring Notice Following a Landlord's Initial Visual Inspection.

The Act requires a landlord of a residential property to perform a visual inspection for mold within 7 days of receiving notice from the tenant of suspected indoor mold contamination. *See* D.C. Code § 8-241.04(a). If the landlord determines, based on an initial visual inspection, that the threshold for professional assessment and remediation is not met, then the landlord can proceed to remediate the mold himself or using regular maintenance staff. *See id*. § 8-241.04(b). If a tenant disagrees with the landlord's own assessment, the tenant always has the option to pay a professional to perform a separate assessment. But this opportunity is not meaningful if the landlord begins remediation right away.

To resolve this dilemma, we suggest that DDOE require the landlord to provide written notice to the tenant within 5 days of the initial visual inspection as to whether the threshold is met. This notice could be on a form provided by DDOE that includes a list of (or link to a list of) licensed mold inspectors. The landlord should be required to maintain the form in the tenant's file for at least 3 years. The tenant should then have 5 days to provide written notice back to the landlord as to whether the tenant wishes to engage an indoor mold professional assessor to inspect. If the tenant elects this option, the tenant should be given 7 days to obtain a professional assessment. The regulations should specify that the requirement that the landlord remediate any indoor mold within 30 days is suspended during this 10-day notice period, and is further suspended during the following 7-day assessment period if a tenant elects this option.

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.

2. Requiring Notice to the Owner and Affected Tenant(s).

The proposed regulations require various notifications to be provided to DDOE and/or to the client served by an indoor mold assessment or remediation professional. 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). 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.

Similarly 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.

Other Issues

1. Additional Requirements for Landlord's Visual Inspection.

The regulations should specify that a landlord must perform the initial visual inspection for indoor mold prior to any effort to clean, scrape, remove, paint over, or otherwise remediate or remove any indoor mold growth. We suggest adding a new section to address this:

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 regulations also should require a landlord to perform a visual inspection of surrounding units if the initial inspection suggests that indoor mold growth or its underlying causes may have affected those other units. We suggest adding a new subsection to address this:

3206.3 (d) 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.

It should be noted this is a recommendation, not a requirement, but it nonetheless will provide helpful guidance to landlords and tenants.

2. Greater Specificity for Required Notices Recordkeeping Requirements.

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.

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.

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. This requirement would dovetail with the Act's requirement that a landlord disclose any indoor mold contamination within the past three years that was not professionally remediated. *See* D.C. Code § 42-3502.22(b)(1)(K).

3. Greater Specificity for Licensing, Training, Containment, and Clearance Requirements and Penalties for Violations.

The regulations contain fairly general guidelines about the type of certifications from other bodies, licenses from other jurisdictions, and initial and continuing training requirements that DDOE will accept in order to issue a license to an indoor mold assessment professional or indoor mold remediation professional. 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. 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. These are areas where we anticipate that comments from industry will be particularly helpful.[18]

[18] It is our understanding the mold industry generally recognizes ACAC certifications for both inspectors and remediators. 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 District would not be alone in explicitly recognizing ACAC certifications; New Hampshire is doing so in its pending legislation, SB 125.

Section 3205.1(d) also grants wide discretion to a mold assessment professional concerning the type of containment used to isolate the area where work is being done. Although the exercise of professional discretion is an important part of safe remediation, 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. *See, e.g.*, 20 DCMR § 3302.3. Further, 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.

With respect to requirements for clearance once remediation is complete, we found the regulations to be somewhat confusing in several respects. 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.

Finally, 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.

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We appreciate this opportunity to share our concerns and suggestions with DDOE, and we look forward to continuing our dialogue with you on these important regulations. You can reach our group through Beth Harrison at Legal Aid at 202-661-5971 or Kathy Zeisel at the Children's Law Center at 202-467-4900 ext. 547. Thank you for your time and consideration of our comments.

Sincerely yours,

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