

# New York Adopts Law for Mold Licensing and Work Standards

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New York Governor Andrew Cuomo signed legislation at the end of January that will require the licensure of mold inspection, assessment and remediation specialists. The new law also sets minimum work standards for mold inspection, assessment and remediation specialists.

The law, which had bipartisan support in the New York legislature, aims to ensure that only properly trained, licensed professionals can conduct mold assessment, abatement and remediation services. *IE Connections* breaks down the law and what it means to New York-based mold service providers.

## LICENSING

The new law will be administered by the New York Department of Labor. Effective the end of July 2015, it will be against the law for any contractor to engage in mold assessment, or to advertise or hold themselves out as a mold assessment contractor unless the contractor has a valid mold assessment license issued by the Department of Labor Commissioner. Similar provisions hold true for contractors engaging in mold remediation services. Licenses will be valid for two years and must be renewed.

Under the law, a copy of a valid mold assessment or mold remediation license must be conspicuously displayed at the work site on a mold project.

An applicant for a license to perform mold assessment must be eighteen years of age or older; have satisfactorily completed Department approved course work, including training on the appropriate use and care of personal protection equipment as approved by the Department of Health; and, pay applicable licensing fees. Identical provisions hold true for mold remediators, but in addition they must submit insurance certificates evidencing workers' compensation coverage and liability insurance of at least fifty thousand dollars.

Applicants for a license to perform mold remediation must also furnish the Department with a financial statement, prepared by an independent auditor or accountant and signed by the applicant and auditor before a notary public, stating the assets of the applicant, to be used by the Department to determine the financial responsibility of the applicant to perform mold remediation services.

Design professionals are exempt from the law under certain circumstances. Others who are exempt from the requirements to obtain licenses for assessment or remediation include residential property owners who perform mold inspection, assessment or remediation on their own property; a non-residential property owner, or the employee of such owner, who performs mold assessment or remediation on an apartment building owned by that person that has not more than four dwelling units; and an owner or a managing agent or a full-time employee of an owner who performs mold assessment or remediation on commercial property owned by the owner provided, however, that this does not apply if the managing agent or employee engages in the business of performing mold assessment or remediation for the public.

## WORK PRACTICES

A mold assessment license holder who intends to perform mold assessment on a mold remediation project must prepare a work analysis for the project. The mold assessment license holder has to provide the analysis to the client before the mold remediation begins and such plan must include the analysis.

A mold remediation license holder is required to prepare a work plan providing instructions for the remediation efforts to be performed. The mold remediation license holder must provide the work plan to the client before the mold remediation begins. The mold remediation license holder must maintain a copy of the work plan at the job site where the remediation is being performed.

## PROHIBITED ACTIVITIES

Under the new law, no licensee can perform both mold assessment and mold remediation on the same property. In addition, no person can own an interest in both the entity which performs mold assessment services and the entity which performs mold remediation services on the same property. These provisions are regardless of the size and scope of the project.

## **MINIMUM WORK STANDARDS FOR MOLD ASSESSMENT**

A mold assessment licensee is required to prepare a mold remediation plan that is specific to each remediation project and must provide the plan to the client before the remediation begins. The mold remediation plan must specify the rooms or areas where the work will be performed; the estimated quantities of materials to be cleaned or removed; the methods to be used for each type of remediation in each type of area; the personal protection equipment (PPE) to be supplied to workers; and, the proposed clearance procedures and criteria for each type of remediation in each type of area. Further, when the project is a building that is currently occupied, the plan must specify how to properly notify occupants of such projects, taking into consideration proper health concerns. The plan must also provide recommendations for notice and posting requirements that are appropriate for the project size, duration and points of entry; an estimate of cost and an estimated time frame for completion; and, when possible, the underlying sources of moisture that may be causing the mold and a recommendation as to the type of contractor who would remedy the source of such moisture.

The law requires that the containment specified in the remediation plan must prevent the spread of mold to areas of the building outside the containment under normal conditions of use. A remediation plan that includes use of a disinfectant, biocide, or antimicrobial coating must indicate a specific product or brand, which must be registered by the EPA for the intended use consistent with the manufacturer's labeling instructions. A decision by a mold assessment licensee to specify such products must take into account the potential for occupant sensitivities.

## **MINIMUM WORK STANDARDS FOR MOLD REMEDIATION**

Under the new law, a mold remediation licensee must prepare a mold remediation work plan that is specific to each project, fulfills all the requirements of the mold remediation plan developed by the mold assessment licensee as provided to the client, and provides specific instructions and/or standard operating procedures for how a mold remediation project will be performed. The mold remediation licensee must provide the mold remediation work plan to the client before site preparation work begins.

If a mold assessment licensee specifies in the mold remediation plan that personal protection equipment (PPE) is required for the project, the mold remediation licensee must provide the specified PPE to all employees who engage in remediation activities and who will, or are anticipated to, disturb or remove mold contamination. The containment, when constructed as described in the remediation work plan and under normal conditions of use, must prevent the spread of mold to areas outside the containment.

Signs advising that a mold remediation project is in progress must be displayed at all accessible entrances to remediation areas. No person is permitted to remove or dismantle any containment structures or materials from a project site prior to receipt by the mold remediation licensee overseeing the project of a notice that the project has achieved clearance as described in the law.

Disinfectants, biocides and antimicrobial coatings may be used only if their use is specified in a mold remediation plan, if they are registered by the EPA for the Intended use and if the use is consistent with the manufacturer's labeling instructions. If a plan specifies the use of such a product but does not specify the brand or type of product, a mold remediation licensee may select the brand or type of product to be used. A decision by a mold assessment or remediation licensee to use such a product must take into account the potential for occupant sensitivities and possible adverse reactions to chemicals that have the potential to be off-gassed from surfaces coated with the product.

## **POST-REMEDICATION ASSESSMENT AND CLEARANCE**

For a remediated project to achieve clearance under the New York law, a mold assessment licensee must conduct a post-remediation assessment. The post-remediation assessment is to determine whether the work area is free from all visible mold and all work has been completed in compliance with the remediation work plan and meets clearance criteria specified in the plan.

Post-remediation assessment must, to the extent feasible, determine that the underlying cause of the mold has been remediated so that it is reasonably certain that the mold will not return from that remediated area. If it has been determined that the underlying cause of the mold has not been remediated, the mold assessment licensee must make a recommendation to the client as to the type of contractor who could remedy the source of the mold or the moisture causing the mold.

A mold assessment licensee who determines that remediation has been successful is required to issue a written passed clearance report to the client at the conclusion of each mold remediation project.

If the mold assessment licensee determines that remediation has not been successful, the licensee must issue a written final status report to the client and to the remediation licensee and recommend to the client that either a new assessment be conducted, that the remediation plan as originally developed be completed, or the underlying causes of mold be addressed, as appropriate.

Under the new law, the Department of Labor has the authority to inspect ongoing or completed mold assessment and mold remediation projects and to conduct an investigation upon its own initiation or upon receipt of a complaint by any person or entity.

Additional provisions of the law account for fees, penalties and conditions that may result in license revocation. To read the bill signed into law by Gov. Cuomo, click [here](#).