

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
1	Doug Hoffman	National Organization of Remediators and Mold Inspectors	Certification Organization	General	Do you have an idea about when the training approval process will be in place?	The Department is moving as quickly as possible to finalize the regulations. Once the regulations are final, the Department will be able to recognize suitable training bodies.
2	Christine Schifkovitz	CONNOR Institute	Training Provider	General	If we were to add additional information listed in 3208, what would the steps be to become a DC accredited training provider?	On the Department's webpage, the Department will describe the process on how it can approve training providers.
3	Beverly Sedon	ECS Mid-Atlantic, LLC	Company	Preamble	On page 1 of the Notice of Second Proposed Rulemaking under the Purpose section, you have referenced that "all professionals – without respect to locations of the work performed – who perform assessment or remediation <u>should</u> be certified and licensed..." Then it states "All persons who offer these services <u>are required</u> to be licensed..." I think the term "should" is meant to be "shall"?? Please clarify	This was an error in the second proposed rulemaking. The Department will clarify by placing "shall" in lieu of "should".
4	Beverly Sedon	ECS Mid-Atlantic, LLC	Company	3201.3	Also the above conflicts with Section 3201.3 where it reads " a license shall not be required... to perform mold assessment or remediation in an outdoor area or <u>a non-residential property.</u> " In regards to a "non-residential property" this would infer that a license is not required for assessments and remediation in commercial and industrial properties. These sections are conflicting and include those statements referenced in 3202.1 and 3204.1. Can you please clarify if a license is required for commercial and industrial properties and reference specifically in the regulations.	The Department is modifying 3202.1 and 3204.2 to clarify that they apply regardless of the exemptions of 3201. Specifically, the exemptions of 3201 do not apply to individuals engaging in the business of mold assessment or mold remediation (3202.1) or persons using 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 (3204.2).

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
5	Beverly Sedon	ECS Mid-Atlantic, LLC	Company		<p>1. Under Sections 3204.6 (d) and 3204.7(c). You indicate that a Verification Report must be provided after <u>successful</u> completion of remediation activities. I would assume that "successful", indicates that the areas are returned to normal conditions and the mold/water impacted materials have been abated. There are cases where 2-3 post remediation assessments are needed before areas are returned to normal and abatement is complete and then a final report is made to conclude those post remedial assessments and findings. There are also instances where we are not able to get a complete or final assessment completed due to either complications with repair activities (i.e. waterproofing membranes on foundations are failing); complications among the tenant/Owner/Client; and/or the mold assessment professional is told, "it's been taken care of and no need to finalize". How would you want this handled? Is there something in the notification process to indicate "remediation is not complete"?</p>	<p>This provision relies on the best professional judgment of the indoor mold assessor and remediator-- if additional assessment or remediation is needed, then the job is not considered "successful" and the assessor cannot provide the Verification Report. Also, keep in mind that, the definition of "Verification report" states that the report can include "[i]f necessary, recommendations of specific professional disciplines that may be needed to determine that the cause and origin of moisture leading to indoor mold growth has been properly remediated" and "[i]f additional professional disciplines are recommended . . . , [include] a statement that the project's verified completion is contingent upon said discipline(s) performing work that remediates the cause and origin of moisture leading to indoor mold growth[.]"</p>
6	Beverly Sedon	ECS Mid-Atlantic, LLC	Company	3299.1	<p>3. Under the definition of Verification Report, page 29, under subletter "i" the Clear Statements that reference items (1-4) are somewhat large umbrella statements.</p> <p>Under Item (1), we cannot verify that "ALL" areas are free of visible mold, etc.... but we can state that "the accessible areas were/were not observed to be free of visible mold, dust, and debris." Walls, ceilings, and floors that have no indication of damage would normally not be removed, we cannot ascertain to those hidden/sealed areas not accessible. We recommend this be rephrased.</p>	<p>The Department will not change the "Verification Report" definition because the definition of visible limits the scope of the statement in the Verification Report. Specifically, "Visible" is defined as "capable of being seen with the naked eye . . . by a lay person . . . or by an indoor mold assessment professional following the standards in [the regulations] and best industry practices." Accordingly, this resolves the problem that you posed.</p>
7	Beverly Sedon	ECS Mid-Atlantic, LLC	Company	3299.1	<p>Under the definition of Verification Report, page 29, under subletter "i" the Clear Statements that reference items (1-4) are somewhat large umbrella statements.</p> <p>Under Item (3) and (4), since 3rd party monitoring is not being performed for the remediation work efforts, we cannot state "all work has been completed in compliance with the remediation protocol," as the mold inspector is not present to observe these acts during remediation efforts. We can state that based on our observations, test results, collected data, reported repair activities, and findings whether or not the area appears to be back to normal conditions and thus the project does/does not appear to be completed. To provide documentation that work efforts are "in compliance with the protocol" daily field monitoring by a third party would be needed. We recommend this be rephrased.</p>	<p>While this may be implied by the current language, the Department will clarify the language in (i) of the definition of "Verification report" to specify the "clear statements" are based on the mold assessor's observations.</p>

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
8	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	It is our position, that DC's proposed new regulation on mold will have many unintended consequences that will likely do a disservice to DC Residents and place undue economic burden on DC Business and Property Owners.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response.
9	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Although mold is commonly perceived as a "toxin" requiring it to be handled like asbestos, the science establishes that indoor mold growth is a sanitation issue which can be resolved by building maintenance. While ensuring proper maintenance of rental housing is an important objective, licensing of personnel working with mold will not accomplish this.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response. Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold., specifically in accordance with EPA, OSHA guidelines and regulations related to mold assessment and remedation, among other related sources.
10	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	DDOE failed to accept AIHA Potomac's changes, stating that most of the provisions found unnecessary were mandated by the Statute. The new draft retains these deficiencies and, in some cases makes revisions which are even more problematic (e.g., reducing minimum area for regulation to 10 square feet). In view of these concerns, AIHA Potomac requests the DC Council to reconsider licensing of mold work and asks DDOE to place further development of mold regulation on hold.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response. Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold., specifically in accordance with EPA, OSHA guidelines and regulations related to mold assessment and remedation, among other related sources.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Committer/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
11	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Occupants will be exposed to mold for longer periods of time due to delayed initiation of maintenance work. Routine moisture problems can generally be resolved without bringing in a consultant to perform a study.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response. Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold., specifically in accordance with EPA, OSHA guidelines and regulations related to mold assessment and remediation, among other related sources. Specifically, the rulemaking allows for routine mold problems, specifically those smaller than 10 square feet, to be addressed by maintenance staff, provided they follow Department guidance.
12	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Routine maintenance work will be considerably more expensive. Mold can be effectively remediated without testing and reports. Full asbestos-type precautions are generally not needed for effective and safe remediation.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence and does not address the substance of the rulemaking. However, the rulemaking does 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) allows an indoor mold assessment professional to record visual observations and (b) permits the professional to collect samples for mold analysis. Ultimately, the licensed indoor mold assessment professional will use her best professional judgment.  Additionally, licenses are not required for maintenance workers when performing mold assessment or remediation on a residential property containing a total surface area of less than ten affected square feet of indoor mold (3201.2), presuming they follow all applicable guidance, or when they are supervised by a licensee (3201.5).

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
13	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Maintenance of commercial buildings will be delayed and made more expensive. Maintenance personnel can often remediate mold consistent with EPA Guidance without bringing in specialized contractors. While DDOE apparently intends to enforce mold regulations in only residential buildings, these procedures are also encouraged to be followed by other facilities. The DC regulations will likely be considered the "standard of care" by lawyers, forcing commercial building owners to hire licensed mold consultants and contractors and follow asbestos-type procedures.	Most of this comment is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response. However, regarding the assertion that "[m]aintenance personnel can often remediate mold consistent with EPA Guidance without bringing in specialized contractors," the Department has set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language. Specifically, licenses are not required for maintenance workers when performing mold assessment or remediation on a residential property containing a total surface area of less than ten affected square feet of indoor mold (3201.2), presuming they follow all applicable guidance, or when they are supervised by a licensee (3201.5).
14	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Licensed mold inspectors without a background in public health and building science will be unable to resolve complex medical and moisture issues. A multi-disciplinary team is sometimes needed to perform the diagnostics and implement response measures where moisture problems are not obvious or occupants present specific health concerns. Licensed inspectors without an engineering or public health background will now be considered "experts" and may be hired to assess problems they don't understand.	Section 3203 sets the scope on what licensees are permitted to do, restricting them to work specifically related to mold assessment or mold remediation. Using the indoor mold assessment or remediation professional's best professional judgment, they may need to refer to other disciplines to solve an issue. In fact, the indoor mold assessment professional's verification report allows assessors to "[i]f necessary, [provide] recommendations of specific professional disciplines that may be needed to determine that the cause and origin of moisture leading to indoor mold growth has been properly remediated" and "[i]f additional professional disciplines are recommended . . . , [include] a statement that the project's verified completion is contingent upon said discipline(s) performing work that remediates the cause and origin of moisture leading to indoor mold growth[.]"
15	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Maintenance workers will not be allowed to remediate mold unless they obtain a license. Remediation can be effectively accomplished by following simple procedures. Each worker does not have to take classes from a training company and pay for certificates.	Individuals do not need to have a license when performing mold assessment or remediation on a residential property containing a total surface area of less than ten affected square feet of indoor mold (3201.2), presuming they follow all applicable guidance, or when they are supervised by a licensee (3201.5).
16	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	DC Government oversight of mold work will result in unnecessary delays and confusion. DC Government does not have the personnel to implement this program.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence and does not address the substance of the rulemaking.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
17	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Attached are AIHA Potomac's comments on DC's earlier draft regulations. Please re-consider those points in this round of rule-making.	The Department's responses to the original comments are still applicable in this round of rulemaking.
18	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	The mold statute and proposed regulations indicate that DC Government has a very limited understanding of these issues.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence and does not address the substance of the rulemaking. Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold.
19	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	AIHA Potomac was only given one day notice of the public hearing on mold regulation and was not able to present information on the science and practice of mold remediation. We suggest another hearing be scheduled for a more comprehensive discussion of these issues.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response.
20	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	In conclusion, the proposed mold regulations are against the public interest and inconsistent with the science.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response.
21	Damien Hammond	American Industrial Hygiene Association (Potomac Section)	Representative Organization	General	Further development of regulations should be stopped pending reconsideration of this issue by the DC Council.	This is a non-substantive opinion statement. The statement is not substantiated by fact or evidence, does not address the substance of the rulemaking, and does not necessitate a response.
22	Katalin Peter	DC Association of Realtors	Representative Organization	General	we've heard some concerns from certain members of the industrial hygienists group (mold remediation professionals) regarding their ability (or lack thereof) to meet the standards of the Proposed Regulations. While we do not claim to have the expertise to analyze how difficult these Proposed Regulations would make it for mold remediation professionals to obtain certification, we believe it is critical that they are flexible enough to ensure DC 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.	The proposed regulations are flexible enough to allow persons with varying levels of training, education, or experience to obtain a District of Columbia mold license issued by the Department of Energy and Environment. The Department met with representatives from the AIHA and explained that the rulemaking provides, in section 3202.9 (b), less stringent licensing requirements for industrial hygienist when compared to other potential licensees.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
23	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	The District should require the use of a licensed mold assessor for all regulated mold remediation projects. There should be no provision for an ability to waive this requirement. Among the types of remediation projects for which this requirement would be applicable, our members expressed consensus that this would be applicable to tenant occupied and/or not-owner occupied properties.	Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language. Specifically, the Department's regulations allow for a residential property owner to perform mold assessment and remediation on areas smaller than ten affected square of indoor mold, presuming they follow applicable guidance.
24	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	Our members are very concerned about the negative impacts on property owners and residents if potential conflicts of interest are not prevented.	Section 3204.4(c) requires licensees to disclose conflicts of interests to those affected by such conflicts. "Conflict of interest" is defined in section 3299 (Definitions) to further explain.
25	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	If there is a relationship between an assessor and remediator working on the same project, that relationship must be disclosed.	Section 3204.4(c) requires licensees to disclose conflicts of interests to those affected by such conflicts. "Conflict of interest" is defined in section 3299 (Definitions) to further explain.
26	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	Remediators must be required to stipulate in writing that their customer has the right to utilize a third-party assessment or testing company.	The licensed mold remediator may include the right to utilize a third-party assessment or testing company. It is not the intent of these regulations to govern contractual obligations or requirements of mold assessors or mold remediators.
27	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	Licensing should exist for all individuals involved with mold assessment or remediation.	Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language. Specifically, exceptions allow individuals that are supervised by licensees to work on projects and individuals to work on projects that are under ten affected square feet of indoor mold growth.
28	Cole Stanton	Indoor Air Quality Association	Representative Organization	General	There was discussion of some criteria for entry level workers to work on a remediation project to gain the necessary experience to become fully licensed professional mold remediators or assessors. IAQA members would like to see that possibility explored in this current rulemaking process.	Individuals who work on assessment and remediation projects, under the supervision of licensed mold assessment and remediation professionals, can use that experience to meet the Department's licensure requirements.

Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
29	J. Brent Kynoch	Kynoch Environmental Management	Company	3200.2	<p>Recommend an addition as underlined herein: This chapter establishes (1) a licensing program for indoor mold assessment and remediation professionals performing work on all <u>residential</u> properties . . . .</p> <p>The response to a comment made regarding this paragraph in the first draft has been reviewed, and the term "all" is still confusing. Since this regulation only applies to residential properties, then it should be made clear early in the regulation that non-residential properties are not subject to the regulation. The use of the term "all" without the qualifier of "residential" is confusing and misleading. This commenter believes that consideration should be given to extending the regulation to commercial properties as well, since exposures to mold can occur in commercial properties just as easily as in residential properties. However, until and unless commercial properties are made a part of the regulation, it should be made clear in the Purpose and Scope of the regulation (Section 3200) that the regulation applies only to residential properties.</p>	<p>The regulation applies to mold assessment and remediation professionals, performing work in all areas. In other words, regardless if the property is residential or non-residential, mold assessment and remediation professionals must be licensed by the Department. At the same time though, while non-residential property owners are not required to hire mold assessment and remediation professionals to perform work at their property, residential property owners are required to hire these professionals when their property is affected by ten or more square feet of indoor mold growth, although the exceptions of section 3202 apply.</p>
30	J. Brent Kynoch	Kynoch Environmental Management	Company	3201.5	<p>The regulation as currently written allows for a licensed individual to supervise up to 10 persons. Assessment professionals - The regulation should require ALL persons providing mold assessment services to be licensed. If there are concerns regarding the availability of sufficient training and testing resources to meet the demand for licensure, then the regulation might allow for a "phase-in" period where a licensed individual may oversee and supervise other unlicensed assessment professionals, but such supervision should be limited to a maximum of 4 persons. A phase-in period of no more than two years is recommended. After that time, ALL mold assessment professionals would be required to be licensed.</p>	<p>Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language.</p>
31	J. Brent Kynoch	Kynoch Environmental Management	Company	3201.5	<p>The regulation as currently written allows for a licensed individual to supervise up to 10 persons. Remediation professionals - The regulation should allow a mold remediation professional to manage a maximum of 8 persons, and the regulation should require that the mold remediation professional is ON SITE at all times during the remediation effort, since there is no requirement for licensure of the workers performing the remediation work. Currently, the regulation has no specific requirement that the licensed remediation professional must be on site during remediation work. This will require a definition of the term "on site," and it is recommended that "on site" means in the same residential property (definition already included) where the remediation work is being performed. No "phase-in" period is recommended for licensure of remediation professionals, since a licensed professional should ALWAYS be present on site when remediation work is being performed, especially if workers are not required to be separately licensed.</p>	<p>Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language.</p>
32	J. Brent Kynoch	Kynoch Environmental Management	Company	3210.1	<p>This paragraph should also require the mold remediation professional to have a copy of the mold remediation protocol prepared by the mold assessment professional on-site at a project.</p>	<p>Section 3210.1 requires that, "An indoor mold remediation professional shall maintain the following records and documents on-site at a project for its duration (a) a copy of the mold remediation work plan and all mold remediation protocols used in the preparation of the work plan.</p>
33	J. Brent Kynoch	Kynoch Environmental Management	Company	General	<p>In many locations throughout the proposed regulation the term "indoor mold assessment professional" or "indoor mold remediation professional" is used. The term "indoor" is unnecessarily duplicative since outdoor areas are specifically excluded from the proposed regulation.</p>	<p>To prevent potential ambiguity, the term "indoor mold" is and will remain consistent through the rulemaking.</p>



Indoor Mold Assessment and Remediation Proposed Rules Response to Comments

Number	Commenter/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
34	Beth Harrison, Evan Henley; Kathy Zeisel, Jessica Kleinman; Jennifer Berger	Legal Aid Society of the District of Columbia; Children's Law Center; Legal Counsel for the Elderly	Representative Organization/ Non-Profit	3299.1	<p>The regulations define "affected" as "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation." This definition would be even clearer by inserting an "or" in between the two phrases:                      Affected – in close proximity, <u>or</u> likely impacted from the same source of water intrusion or moisture accumulation.</p> <p>There may be occasions when a common source of water intrusion impacts two areas that are not in close proximity as those terms are commonly understood, e.g., a pipe causes mold growth on two sides of a shared wall in two different rooms. Adding the word "or" would clarify the definition and allow for greater flexibility.</p>	<p>Per statute, the Council of the District of Columbia directed the Department to (and the Department has) set mold assessment and remediation standards consistent with applicable EPA and OSHA guidelines and regulations relating to the assessment and remediation of mold. The comment is a matter of policy preference, and the Department elects to maintain the current language.</p>
35	Beth Harrison, Evan Henley; Kathy Zeisel, Jessica Kleinman; Jennifer Berger	Legal Aid Society of the District of Columbia; Children's Law Center; Legal Counsel for the Elderly	Representative Organization/ Non-Profit	General	<p>DDOE also may want to re-word the phrase "10 square feet (10 ft.2) of affected indoor mold growth," which can be found throughout the regulations. We think it sounds more natural (and therefore is easier for a lay person reading the regulations to understand) to say "10 square feet (10 ft.2) of indoor mold growth in an affected area" or "an affected area of 10 square feet (10 ft.2) or more of indoor mold growth." Based on our discussions with indoor mold professionals, this phrasing also is consistent with their approach, i.e. they will examine an "affected" area, measure the visible indoor mold in that area, and compare it to the threshold.</p>	<p>The Department will make this stylistic change, which makes the regulations more clear.</p>
36	Beth Harrison, Evan Henley; Kathy Zeisel, Jessica Kleinman; Jennifer Berger	Legal Aid Society of the District of Columbia; Children's Law Center; Legal Counsel for the Elderly	Representative Organization/ Non-Profit	3206.3	<p>We had suggested that DDOE revise the regulations to require a professional mold assessment whenever building materials have been wet for more than 48 hours, or the water source that caused the damage leading to mold growth is contaminated with sewage, chemical, or biological pollutants. This comment is based on recommendations from both OSHA and the EPA that professionals should be brought in under these circumstances. We understand that DDOE has opted not to include this guidance as a requirement, since it is merely guidance and the correlation between these circumstances and indoor mold contamination is not perfect. We nonetheless think this guidance could be included in the regulations, but clearly identified as guidance as opposed to a requirement. Section 3206.3 contains guidelines for the initial visual inspection performed by a property owner. It could be amended to add consideration of these circumstances:                      3206.3 Prior to taking any steps to clean, scrape, remove, paint over, or otherwise remediate any indoor mold growth, a visual inspection should be performed that assesses the following:                      (a) The extent of water damage, indoor mold growth, and affected building materials;                      (b) <u>Whether building materials have been wet for more than 48 hours;</u>                      (c) <u>Whether the water source that caused the damage leading to mold growth is contaminated with sewage, chemical, or biological pollutants;</u></p>	<p>The Department will not make this change because suggested parts (b) and (c) are already encompassed in the term "extent of water damage". Additionally, related to water contaminated with sewage, chemical, or biological pollutants, this language is already referenced in the remediation guidance document, which was published concurrently with the first and second proposed rulemaking. See page 2.</p>
37	Beth Harrison, Evan Henley; Kathy Zeisel, Jessica Kleinman; Jennifer Berger	Legal Aid Society of the District of Columbia; Children's Law Center; Legal Counsel for the Elderly	Representative Organization/ Non-Profit	3299.1	<p>As DDOE may be aware, DCRA is in the process of transitioning from the Housing Code to the Property Maintenance Code as the governing code, so we suggest looking to similar definitions there for the sake of uniformity. The following would incorporate language directly from the Property Maintenance Code, 12G D.C.M.R. § 202.  <del>Dwelling unit - a room or group of rooms used or designed to be used in whole or in part for permanent occupation and that has providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, for one or more persons, but does not include a unit within a hotel, motel, dormitory, or seasonal or transient facility. The term "dwelling unit" does not include any room or group of rooms in a transient housing business, as defined in 12G D.C.M.R. § 202.</del></p>	<p>The Department agrees with the suggestion and will make the clarification in the next iteration of the rule but still excluding dormitories. Related to dormitories, a student-university relationship is different from a traditional tenant-landlord relationship with regard to residential property. The Department's interpretation is that Council intended non-residential properties to be generally exempt from regulatory requirements.</p>

Number	Committer/ Representative	Organization	Type	Section/Tab le/Figure Nos.	Comment	Response
38	Beth Harrison, Evan Henley; Kathy Zeisel, Jessica Kleinman; Jennifer Berger	Legal Aid Society of the District of Columbia; Children's Law Center; Legal Counsel for the Elderly	Representative Organization/ Non-Profit	3299.1	Indoor Mold Contamination. As you know, under the Air Quality Amendment Act of 2014 the presence of "indoor mold contamination" triggers various requirements. While we understand that the regulations as a whole establish the definition for this key phrase, we continue to believe it would be helpful to include it in the Definitions section as well: Indoor mold contamination - the presence of at least 10 square feet (10 ft.2) of indoor mold growth in an affected area.	The comment is a matter of preference as the regulations already specify what constitutes indoor mold contamination: 3200.2 states the chapter establishes "a ten affected square feet . . . threshold level of indoor mold contamination for residential property. . . ."