

Mold Enforcement Program
1220 Washington Ave.
Building 12, Room 167
Albany, NY 12226
(518) 457-1255



Notice of Violation

Case Number: _____ MC - _____

Company Name: _____

Doing Business As (DBA): _____

Company Contact: _____

Company Address: _____

City/Town/Village: _____ State: _____ Zip Code: _____

Email: _____ Phone: (_____) ____ - ____

Site Location: _____

Site Location Address: _____

City/Town/Village: _____ State: _____ Zip Code: _____ County: _____

You are hereby notified that the Mold Enforcement Program's investigation disclosed violations of Article 32 of the Labor Law detailed herein.

Violation(s)

Explanations of section language can be found in the attached Appendix.

Section Language: §931(1) §935(1) §945(1) §945(3) §947(1) §947(2) §947(3)
§947(4) §931(2) §935(2) §946(1) §946(2) §946(3) §946(4) §946(5) §931(3)

Violation Observation:

Corrective Action:

Inspector Name: _____

Signature: _____ Date: _____

Proposed Civil Penalty

Pursuant to Labor Law section 937 and any rule or regulation promulgated thereunder, the Commissioner may, after a hearing, fine violators of any provision of Article 32 up to two thousand dollars for the initial violation and up to ten thousand dollars for each subsequent violation.

The Program has calculated a proposed civil penalty of \$ _____. The Program is willing to settle this matter for \$ _____. If you choose to resolve this matter for \$ _____, please contact me at _____@labor.ny.gov to notify me of your intention to accept the offer so that a formal Stipulation of Settlement and Order and Determination (Stipulation) can be drafted.

Should you wish to settle this matter, but feel that the amount offered by the Program as a settlement should be reduced further, you may submit information or documentation that supports a lesser civil penalty to me at _____@labor.ny.gov. Any submission must be received within ten (10) business days from the date of this letter. Please include current contact information such as phone and address. Such information should be related to:

- The size of your business
- The good faith your business exhibited in complying with the New York State Labor Law
- The gravity of the specific violation(s), and
- The history of any previous violation(s).

Should you not respond to this correspondence within thirty (30) days, the matter will be referred to the Department's Counsel's Office for further enforcement. Any offer made herein will expire at that time and will not be offered again. Please let me know if you require any clarification or further assistance in this matter.

Mold Enforcement Program

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@labor.ny.gov

Title

Appendix: Section Language Descriptions

| License | Section | Language |
|---------------------|---------|---|
| Assessor Contractor | §931(1) | <p>It shall be unlawful for any contractor to engage in mold assessment on a project, or to advertise or hold themselves out as a mold assessment contractor unless such contractor has a valid mold assessment license issued by the commissioner.</p> |
| | §935(1) | <p>A mold assessment license holder who intends to perform mold assessment on a mold remediation project shall prepare a work analysis for the project. The mold assessment license holder shall provide the analysis to the client before the mold remediation begins and such plan must include the analysis as defined in section nine hundred forty-five of this article.</p> |
| | §945(1) | <p>A Mold assessment license shall prepare a mold remediation plan specific to each remediation project and provide to client before remediation begins. The mold remediation plan must include:</p> <ul style="list-style-type: none"> (a) the rooms or areas where the work will be performed; (b) the estimated quantities of materials to be cleaned or removed; (c) the methods to be used for each type of remediation in each type of area; (d) the personal protection equipment (PPE) to be supplied by licensed remediaters for use by licensed abaters; (e) the proposed clearance procedures and criteria for each type of remediation in each type of area; (f) when the project is a building that is currently occupied, how to properly notify such 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; (g) an estimate of cost and an estimated time frame for completion; and (h) 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. |
| | §945(3) | <p>A mold assessment licensee who indicates in a remediation plan that a disinfectant, biocide, or antimicrobial coating will be used on a mold remediation project shall indicate a specific product or brand only if it is registered by the United States Environmental Protection Agency for the intended use and if the use is consistent with the manufacturer's labeling instructions. A decision by a mold assessment licensee to use such products must take into account the potential for occupant sensitivities.</p> |
| | §947(1) | <p>For a remediated project to achieve clearance, a mold assessment licensee shall conduct a post-remediation assessment. The post-remediation assessment shall determine whether:</p> <ul style="list-style-type: none"> (a) the work area is free from all visible mold; and (b) all work has been completed in compliance with the remediation plan and remediation work plan and meets clearance criteria specified in the plan. |

| License | Section | Language |
|------------------------|----------|---|
| | §947(2) | Post-remediation assessment shall, to the extent feasible, determine that the underlying cause of the mold has been remediated so that it is reasonably certain that the mold will not return from that remediated area. If it has been determined that the underlying cause of the mold has not been remediated, the mold assessment licensee shall 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. |
| | §947(3) | A mold assessment licensee who determines that remediation has been successful shall issue a written passed clearance report to the client at the conclusion of each mold remediation project. |
| | §947(4) | If the mold assessment licensee determines that remediation has not been successful, the licensee shall 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. |
| Remediation Contractor | §931(2): | It shall be unlawful for any contractor to engage in mold remediation on a project, or to advertise or hold themselves out as a mold remediation contractor unless such contractor has a valid mold remediation license issued by the commissioner. |
| | §935(2): | A mold remediation license holder who intends to perform mold remediation shall prepare a work plan providing instructions for the remediation efforts to be performed for the mold remediation project. The mold remediation license holder shall provide the work plan to the client before the mold remediation begins. The mold remediation license holder shall maintain a copy of the work plan at the job site where the remediation is being performed. |
| | §946(1) | A mold remediation licensee shall 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 shall provide the mold remediation work plan to the client before site preparation work begins. |
| | §946(2): | 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 shall provide the specified PPE to all employees who engage in remediation activities and who will, or are anticipated to, disturb or remove mold contamination. 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. |
| | §946(3): | Signs advising that a mold remediation project is in progress shall be displayed at all accessible entrances to remediation areas. |
| | §946(4): | No person shall 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 from a mold assessment licensee that the project has achieved clearance as described in section nine hundred forty-seven of this title. |

| License | Section | Language |
|-----------------------------|----------|---|
| | §946(5): | 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 United States Environmental Protection Agency 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. |
| Abatement Worker Supervisor | §931(3) | It shall be unlawful for any individual to engage in mold abatement on a project or to advertise or hold themselves out as a mold abatement worker unless such individual has a valid mold abater's license issued by the commissioner. |
| Abatement Worker | §931(3) | It shall be unlawful for any individual to engage in mold abatement on a project or to advertise or hold themselves out as a mold abatement worker unless such individual has a valid mold abater's license issued by the commissioner. |