

## Changes To The TMARR That Became Effective May 20, 2007

The following is summary of the changes to the Texas Mold Assessment and Remediation Rules (TMARR) that became effective May 20, 2007:

In §295.301, a new subsection (e) was added to provide agency contact information and summarize information available on the website.

In §295.302, the following Definitions were added, or modified:

**(6) Certificate of Mold Damage Remediation** - added to clarify that the certificate referred to in the rules is the one provided by the Texas Department of Insurance (TDI).

**(7) Commissioner** - reworded to be consistent with the new agency's name.

**(14) Department** - reworded to be consistent with the new agency's name.

**(16) Facility** - the word "structure" was deleted, as it was redundant and confusing.

**(21) Managing agent** - added to definitions to clarify the intent of this word in the rules.

**Program Administrator** – definition deleted, as the position no longer exists.

**(33) Project** - for clarity of intent of the rules.

**(39) Start date** - reworded for clarity and to clarify that preparation work is not part of mold remediation.

**(40) Stop date** - reworded for clarity of intent of the rules.

**(41) Supervise** - added the words "within ten minutes" after "accessible by telephone" to ensure adequate supervision is available when necessary in an emergency.

In §§295.302(25), and (26), 295.308(g), 295.309(c)(1), and (d), 295.322(d), 295.325(a)-(d), 295.330(c)(2), §295.334(b), 295.335(c), 295.336 and 295.337, punctuation, grammar, and minor language changes (rewording, additions, and deletions) were made to improve the clarity of the sections.

In §295.303(f), the second sentence was reworded to clarify that only unlicensed and supervised persons doing mold remediation are required to be registered, but not those doing assessment.

In §295.304(b)(1), the word "license" was replaced by the broader word "credential."

In §§295.305(e)(2), and 295.305(e)(3), the phrase "and no earlier than 12 months prior to the expiration date of the license," and in §295.305(g)(3), the phrase "before the expiration date of

the license but no earlier than 12 months prior to the expiration date of the license and” were deleted because this requirement caused an extra and unnecessary refresher training for a significant number of licensees and registrants.

In §§295.305(e)(1), (e)(2), (e)(3), and (h), 295.308(a)(2), 295.310(a)(2), 295.311(a), (c), and (e), 295.312(a), (c), and (e), 295.314(a), 295.315(a), (c), and (e), and 295.316(a), the expired language in these paragraphs was deleted and reworded as necessary for clarity. Language that referred to activities that were grandfathered (applicable only before January 1, 2005) was deleted in these paragraphs.

In §§295.305(f), 295.310(a)(1), and (e), 295.311(e)(1)(D), and 295.312(e)(1)(C), the passing grade for the state exam was lowered from 80% to 70% as required by the legislation. In §295.315(e)(1)(D), the 70% requirement for passing the state exam was added for clarity. To be consistent with this state exam requirement, in §§295.318(b)(10) and 295.320(g), the passing score requirement for the training providers was lowered from 80% to 70%.

In §295.306(c), the language “and the property owner, if not the same” was added so that the property owner must be given a copy of the Consumer Mold Information Sheet.

In §295.306(d), the language was changed to allow credentialed persons to give notification of violations by the next business day instead of within 24 hours.

In §295.307, a new subsection (c) was added to allow licensed school district employees to perform both mold assessment and mold remediation on the same project for their school district as required by the legislation.

In §295.308(a)(2), the wording was changed so only individuals that are applying for credentials are required to submit facial photographs. Also, the wording “one-inch by one-inch” was replaced with “one-inch square” for consistency with other sections of the rules.

In §§295.308(a)(2), 295.318(f)(6)(C), and (f)(7)(B), and 295.320(d)(5)(B), the language “passport-quality color” was added before the word “photograph” to indicate the quality of photograph required by the department.

In §295.308(b), the website [www.tdh.state.tx.us/beh/mold](http://www.tdh.state.tx.us/beh/mold) was changed to [www.dshs.state.tx.us/mold](http://www.dshs.state.tx.us/mold)

In §§295.308(b), 295.309(b), 295.310(c), 295.318(b)(3), and 295.325(b), language affected by the agency’s reorganization was revised to reflect the changes:

“Program Administrator” and “Toxic Substances Control Division” was changed to “Environmental and Sanitation Licensing Group.”.

“Texas Department of Health” was changed to “Department of State Health Services.”

Invalid telephone numbers were deleted.

Obsolete division and program names were replaced with the appropriate new unit or group name.

In §§295.308(c) and 295.319(c), language was added to let the credentialed persons know that they have 90 days to respond to a department deficiency notice or the application will be denied.

In §295.308(e), language was added to let the credentialed persons know that they are responsible “to renew their certificate whether or not they have received the notification from the department.”

In §295.308(e), the word “credential” was changed to “certificate” because it was more applicable.

In §295.309(b), the notice of cancellation for insurance policies was changed from a 30-day to 10-day period to conform to standard policies and lower the cost.

In §295.309(d)(2), the language “the policy shall promptly be renewed or replaced without any lapse in coverage” was deleted because the policy only needs to be replaced if the licensee continues in the business.

In §295.310(f), the wording was changed to allow the department to provide either written or verbal analysis of the state exam.

In §§295.311(d), 295.312(d), 295.313(d), 295.314(c), 295.315(d), 295.316(c), 295.317(d), and 295.318(d), the fee rates were revised to reflect the two-year license and the Texas Online subscription fee requirements.

In §§295.312(b)(9), and (f)(11), 295.313(f)(9), 295.315(f)(12), 295.326(c)(2)(C), title of 295.327, 295.327(b), and (d), 295.338(a) and (b), every use of the words “certificate of mold remediation” was changed to the words “Certificate of Mold Damage Remediation” to clarify that the certificate referred to in the rules is the same one provided by the Texas Department of Insurance (TDI).

In §295.315(e)(1)(C), the application submittal time after completing the initial training course was increased from six months to twelve months as six months was determined to be unnecessarily restrictive.

In §295.315(f), a new paragraph (1) was added to clarify that the “supervision of mold remediation workers” is a primary responsibility of the mold remediation contractor.

In §§295.315(f)(5) and 295.316(e)(3), the language “preparation work” after “mold remediation” was added to clarify that providing the information is required before any work begins.

In §295.315(f)(9), the phrase “who conduct activities specified under paragraph (4) of this subsection” was deleted as incorrect and unnecessary.

In §295.318(b)(1), the language “Training provider’s courses for mold remediation workers may use only department-approved instructors” was added to clarify the rule’s intent.

In §§295.318(f)(6)(C), (f)(7)(B), and (f)(7)(C), 295.320(d)(4)(B), and (d)(5)(B), the word “photo” was replaced with “photograph” for consistency and clarity.

In §§295.318(f)(7)(C), the word “color” was added to indicate what type of photograph is required.

In §295.319(c), the notification time for the department to acknowledge receipt of the application was changed from 30 to 10 working days. The words “After review of the application, the department will” were added to indicate when the applicant would be notified of the deficiencies. The words “within 60 days” were added to indicate when an application would be approved or denied after receipt of a complete application.

In §295.319(c)(8)(A), the term “school’s” was replaced with the more descriptive term “training facility’s.”

In §295.320(d), the words “work on a” and “project” were deleted to clarify that it is the “mold remediation” not a “project” that is regulated.

In §295.320(g), the word “initial” was added before the words “test” and “tests” and the sentence “The refresher tests shall consist of at least ten questions” was added to reduce the number of refresher test questions.

In §295.321(e), language was added to clarify that the mold remediation protocol is specific to each project.

In §295.321(e)(4), language was added to clarify that the respirator is recommended during all mold-related activities when exposure to mold could or would be possible.

In §295.322(b), language was added to clarify that the work plan is specific to each project, fulfills the requirements of the mold remediation protocol, and contains the specific instructions or operating procedures.

In §295.322(e), language was added to clarify that signage is required for mold remediation projects at all accessible entrances.

In §295.323(c), language was added to clarify that registered workers shall follow all requirements regarding use of disinfectants.

In §295.324(a), language was changed to clarify that containment is used “during remediation.”

In §295.325(a), the number “§295.302(27)” was corrected to “§295.302(28).”

In §§295.325(a)-(d), language was added to clarify that notification is required only for mold remediation, and that the start time and stop time must be included on the notification form. The word “project” or “activity” was deleted after “mold remediation” to avoid confusion between the meaning of “remediation” and “project”, for consistency and to clarify the intent. The words “as defined in §295.302(27)” were added after the words “mold remediation” to clarify the intent. Language was added to clarify that information from “the most recent notice” must be used. The language “with the department by phone” after the word “confirm” was added to specify who and how the contractor needs to confirm the information. The language “for each week (seven calendar day period)” was deleted, as it does not allow the department adequate notification to investigate remediation work.

In §295.326(a), the language “a period of three years...” was deleted as it was confusing, and was replaced with “the time specified in subsection (b)(2) of this section for remediators, subsection (c)(2) of this section for assessors, subsection (d) of this section for mold analysis laboratories, and subsection (e)(1) of this section for training providers” that directs licensees to the correct information.

In §295.326(c)(1)(A), the word “certificate” was replaced with the correct word “credential” because it is a broader term.

In §295.327(d), the language was reworded to reflect that the seller of a property is required to provide the Certificate of Mold Damage Remediation to the buyer only if issued within the preceding five years.

In §295.328, the language “The complaint form is available on the department’s website” was added to indicate where the form is available.

In §295.329(c), the wording “in pursuance of” was replaced with the word “conducting” and the words “in advance” were added after the word “notify” for clarity.

In §295.330(a) and (c), the language relating to suspending credentials on an “emergency basis” was deleted because it is not supported by the statute.

In §295.331(d)(1), (d)(2) and (d)(3), the word “safety” was deleted as potentially confusing because of language in Occupations Code, §1958.058.

In §295.332(a), the word “conclusive” was deleted as unnecessary because it was too strict a standard.

In §295.333(d), the language “exercise the opportunity for” was replaced with “request” to clarify and simplify. The language “the penalty imposed” was added for clarity.

In §295.334(a), the language “Chapter 2001” was deleted as repetitive.