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Texas Administrative Code

TITLE 16

ECONOMIC REGULATION

PART 4

TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 78

MOLD ASSESSORS AND REMEDIATORS

RULE §78.10

Definitions

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Accredited training program--A training program that has been accredited by the department to provide training for persons seeking licensure or registration under this chapter.
- (2) Act--The Texas Occupations Code, Chapter 1958, concerning mold assessment and remediation.
- (3) Allied field--Mold assessment, mold remediation, and any field whose principles and practices are applicable to mold assessment or mold remediation, including asbestos abatement, lead abatement, industrial hygiene, building sciences, public health, and environmental remediation.
- (4) Assessor--A person who conducts mold assessment as defined in this section and who is licensed under this chapter as a mold assessment technician, mold assessment consultant, or mold assessment company.
- (5) Building sciences--The field of study covering the design, construction, management, and performance of building systems, including structures, enclosures, electrical and mechanical systems, environmental systems (such as temperature and moisture control), safety systems (such as fire suppression and alarms), lighting, acoustics, and diagnosis and correction of problems with building systems.
- (6) Certificate of Mold Damage Remediation--A certificate adopted by the Texas Department of Insurance, commonly referred to as Certificate of Mold Damage Remediation and Form MDR-1.
- (7) Commission--The Texas Commission of Licensing and Regulation.
- (8) Consumer Mold Information Sheet--A document prepared and made available by the department that describes the persons who are required to be licensed under this chapter and provides information on mold assessment and mold remediation, including how to contact the department for more information or to file a complaint.
- (9) Containment--A component or enclosure designed or intended to control the release of mold or mold-containing dust or materials into surrounding areas in the building. The broad category of containment includes such sub-categories as walk-in containment, surface containment (such as plastic sheeting), and containment devices (such as wall-mounted glove boxes).
- (10) Containment area--An area that has been enclosed to control the release of mold or mold-containing dust or materials into surrounding areas.

- (11) Contiguous--In close proximity; neighboring.
- (12) Contiguous square feet--See "Total surface area of contiguous square feet."
- (13) Credential--A license, registration, or accreditation issued under this chapter.
- (14) Department--The Texas Department of Licensing and Regulation.
- (15) Employee--An individual who is paid a salary, wage, or remuneration by another person or entity for services performed and over whom the person or entity exerts supervision or control as to the place, time, and manner of the individual's work. A contractor or subcontractor who is performing work under a contractual agreement with a person is not an employee of the person unless the agreement specifies otherwise.
- (16) Executive director--The executive director of the department.
- (17) Facility--Any institutional, commercial, public, governmental, industrial or residential building.
- (18) Indoor air--Air within the envelope of a building, including air in spaces normally occupied by persons in the building but excluding air in attics and crawl spaces that are vented to the outside of the building.
- (19) Indoor mold--Mold contamination that was not purposely grown or brought into a building and that has the potential to affect the indoor air quality of the building.
- (20) License--Any license issued under this chapter. The term "license" does not include a registration, accreditation, or approval issued under this chapter.
- (21) Mold--Any living or dead fungi or related products or parts, including spores, hyphae, and mycotoxins.
- (22) Managing agent--A company or individual that manages a residential or commercial building for an owner.
- (23) Mold analysis--The examination of a sample collected during a mold assessment for the purpose of:
- (A) determining the amount or presence of, or identifying the genus or species of, any living or dead mold or related parts (including spores and hyphae) present in the sample; or
 - (B) growing or attempting to grow fungi for the purposes of subparagraph (A); or
 - (C) identifying or determining the amount or presence of any fungal products, including but not limited to mycotoxins and fungal volatile organic compounds, present in the sample.
- (24) Mold analysis laboratory--A person, other than an individual, that performs mold or mold-related analysis on a sample collected to determine the presence, identity, or amount of indoor mold in the sample.
- (25) Mold assessment--Activity that involves:
- (A) an inspection, investigation, or survey of a dwelling or other structure to provide the owner or

occupant with information regarding the presence, identification, or evaluation of mold; or

(B) the development of a mold management plan or mold remediation protocol; or

(C) the collection or analysis of a mold sample.

(26) Mold assessment report--A document prepared by a licensed mold assessment consultant or licensed mold assessment technician for a client that describes any observations made, measurements taken, and locations and analytical results of samples taken by an assessment consultant or by an assessment technician during a mold assessment. An assessment report can be either a stand-alone document or a part of a mold management plan or mold remediation protocol prepared by a mold assessment consultant.

(27) Mold management plan--A document prepared by a licensed mold assessment consultant for a client that provides guidance on how to prevent and control indoor mold growth at a location.

(28) Mold-related activities--The performance of mold assessment, mold remediation or any other related activities.

(29) Mold remediation--The removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter that was not purposely grown at a location. Preventive activities include those intended to prevent future mold contamination of a remediated area, including applying biocides or anti-microbial compounds.

(30) Mold remediation protocol (mold remediation work analysis) --A document, prepared by a licensed mold assessment consultant for a client, that specifies the estimated quantities and locations of materials to be remediated and the proposed remediation methods and clearance criteria for each type of remediation in each type of area for a mold remediation project.

(31) Mold remediation work plan--A document, prepared by a licensed mold remediation contractor that provides specific instructions and/or standard operating procedures for how a mold remediation project will be performed.

(32) Office--A stationary physical location assigned a street address by the United States Postal Service, where a licensee or an employee of a licensee may be contacted to conduct business related to mold assessment and/or mold remediation.

(33) Person--An individual, corporation, company, contractor, subcontractor, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, governmental entity, or any other association of individuals.

(34) Project--All activities that involve mold-related activities in a building or designated area of a building for which a specific start-date and a specific stop-date is provided that covers the mold remediation.

(35) Remediator--A person who performs mold remediation as defined in this section and who is credentialed under this chapter as a mold remediation worker, mold remediation contractor, or mold remediation company.

(36) Residential dwelling unit--A detached single-family dwelling; an attached single-family dwelling in a building that contains two or more separate single-family dwellings; or a bedroom in group housing.

Examples of residential dwelling units include single homes, mobile homes (house trailers), duplexes, apartments, and condominiums. In group housing, such as dormitories, fraternity or sorority houses, and boarding houses, each bedroom is a residential dwelling unit.

(37) Residential property--A property containing one or more residential dwelling units intended to provide living quarters for more than a transitory period, including a residential property that is vacant or under construction. A residential property includes dormitories and employee housing in a non-residential setting (e.g., staff housing at an institutional or commercial facility). Residential properties do not include:

(A) lodgings (such as hotels and motels) that rent units on a transient basis;

(B) institutional facilities that provide care or oversight for residents or inmates (such as hospitals, nursing homes, homes for children with physical or mental disabilities, mental institutions, jails, prisons and detention centers); and

(C) former residential properties that do not currently provide living quarters (such as houses converted into shops or restaurants).

(38) Responsible person--An employee or principal designated by a licensed mold assessment company, mold remediation company, or mold analysis laboratory or by an accredited mold training provider as responsible for its operations and compliance with rules concerning mold-related activities or mold-related training.

(39) Routine cleaning--Cleaning that is done on a regular basis and in a regular course of procedures.

(40) Start-date--The date on which a mold remediation begins. Preparation work is not considered mold remediation.

(41) Stop-date--The date following the day on which final clearance for a mold remediation project is achieved.

(42) Supervise--To direct and exercise control over the activities of a person.

(43) Survey--An activity undertaken in a building to determine the presence, location, or quantity of indoor mold or to determine the underlying condition(s) contributing to indoor mold contamination, whether by visual or physical examination or by collecting samples of potential mold for analysis.

(44) Total surface area of contiguous square feet--The contiguous area of surface material that needs to be cleaned or removed to remediate visible mold contamination.

(45) Training hours--Hours spent in classroom instruction, hands-on activities, and field trips, including time used for course tests and brief breaks but not including scheduled lunch periods.

(46) Visible--Exposed to view; capable of being seen.

(47) Work analysis--A mold remediation protocol.

(48) Work plan--A mold remediation work plan.

(49) Working days--Monday through Friday, including holidays that fall on those days.

Source Note: The provisions of this §78.10 adopted to be effective November 1, 2017, 42 TexReg 4619

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TITLE 16

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CHAPTER 78

MOLD ASSESSORS AND REMEDIATORS

RULE §78.100

Minimum Work Practices and Procedures for Mold Assessment

(a) Scope. These general work practices are minimum requirements and do not constitute complete or sufficient specifications for mold assessment. More detailed requirements developed by an assessment consultant for a mold assessment or for a particular mold remediation project shall take precedence over the provisions of this section.

(b) Purpose. The purpose of a mold assessment is to determine the source(s), location(s), and extent of mold growth in a building, to determine the condition(s) that caused the mold growth, and to enable the assessment consultant to prepare a mold remediation protocol.

(c) Personal protective equipment for assessors. If an assessment consultant or company determines that personal protective equipment (PPE) should be used during a mold assessment project, the assessment consultant or company shall ensure that all individuals who engage in assessment activities and who will be, or are anticipated to be, exposed to mold are provided with, fit tested for, and trained on the appropriate use and care of the specified PPE. The assessment consultant or company must document successful completion of the training before the individuals perform regulated activities.

(d) Sampling and data collection. If samples for laboratory analysis are collected during the assessment:

(1) sampling must be performed according to nationally accepted methods;

(2) preservation methods shall be implemented for all samples where necessary;

(3) proper sample documentation, including the sampling method, the sample identification code, each location and material sampled, the date collected, the name of the person who collected the samples, and the project name or number must be recorded for each sample;

(4) proper chain of custody procedures must be used; and

(5) samples must be analyzed by a laboratory licensed under §78.62.

(e) Mold remediation protocol. An assessment consultant shall prepare a mold remediation protocol that is specific to each remediation project and provide the protocol to the client at least one calendar day before remediation activities begin. The mold remediation protocol must specify:

(1) the rooms or areas where the work will be performed;

(2) the estimated quantities of materials to be cleaned or removed;

- (3) the methods to be used for each type of remediation in each type of area;
 - (4) the PPE to be used by remediators. A minimum of an N-95 respirator is recommended during mold-related activities when mold growth could or would be disturbed. Using professional judgment, a consultant may specify additional or more protective PPE if he or she determines that it is warranted;
 - (5) the proposed types of containment, as that term is defined in §78.10(9) and as described in subsection (g), to be used during the project in each type of area; and
 - (6) the proposed clearance procedures and criteria, as described in subsection (i), for each type of remediation in each type of area.
- (f) Building occupants. A mold assessment consultant shall consider whether to recommend to a client that, before remediation begins, the client should inform building occupants of mold-related activities that will disturb or will have the potential to disturb areas of mold contamination.
- (g) Containment requirements. Containment must be specified in a mold remediation protocol when the mold contamination affects a total surface area of 25 contiguous square feet or more for the project.
- (1) Containment is not required if only persons who are licensed or registered under this chapter occupy the building in which the remediation takes place at any time between the start-date and stop-date for the project as specified on the notification required under §78.110.
 - (2) The containment specified in the remediation protocol must prevent the spread of mold to areas of the building outside the containment under normal conditions of use.
 - (3) If walk-in containment is used, supply and return air vents must be blocked, and air pressure within the walk-in containment must be lower than the pressure in building areas adjacent to the containment.
 - (A) Operation of equipment to recirculate air inside of containment without maintaining negative air pressure may be conducted when the specific conditions, phases, and time periods during which it may or must occur are specified in the mold remediation protocol before commencing this use of equipment.
 - (B) Operation of equipment to recirculate air inside of containment without maintaining negative air pressure is prohibited during periods of active mold remediation activity.
- (h) Disinfectants, biocides and antimicrobial coatings. An assessment consultant who indicates in a remediation protocol 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 (EPA) for the intended use and if the use is consistent with the manufacturer's labeling instructions. A decision by an assessment consultant to use such products 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 such products.
- (i) Clearance procedures and criteria. In the remediation protocol for the project, the assessment consultant shall specify:
- (1) at least one nationally recognized analytical method for use within each remediated area in order to determine whether the mold contamination identified for the project has been remediated as outlined in the

remediation protocol;

(2) the criteria to be used for evaluating analytical results to determine whether the remediation project passes clearance;

(3) that post-remediation assessment shall be conducted while walk-in containment is in place, if walk-in containment is specified for the project; and

(4) the procedures to be used in determining whether the underlying cause of the mold identified for the project has been remediated so that it is reasonably certain that the mold will not return from that same cause.

Source Note: The provisions of this §78.100 adopted to be effective November 1, 2017, 42 TexReg 4619

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