

**COMMENTS AND SUGGESTIONS FROM**  
**THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION**  
**ON H.R. 1269**

**TITLE I – RESEARCH AND PUBLIC EDUCATION**

▪ **Sec. 101. Definitions.**

Subsection 2 defines “toxic mold” as *“any indoor mold growth capable of creating toxins that can cause pulmonary, respiratory, neurological or other major illnesses after minimal exposure”*.

AIHA suggests first, that the term “toxic mold” not be used. This term has originated in the media and has no scientific basis. Certain fungi produce mycotoxins that have been reported to cause a variety of adverse health effects. However, the strength of association of these health effects needs to be further clarified. In addition, mycotoxins can often be found in many food products.

AIHA also believes the current definition is too broad. Some individuals are, or may become, allergic to mold with common effects including hay-fever-like symptoms.

▪ **Sec. 101. Definitions.**

Subsection 2 defines “toxic mold” and references exposure as *“defined by the Environmental Protection Agency, Center for Disease Control, National Institute of Health or other Federal, State or local agency organized in part to study and/or protect human health”*.

AIHA suggests this be amended to read as *“defined by the Environmental Protection Agency, Centers for Disease Control, National Institute of Health, Occupational Safety and Health Administration, National Institute for Occupational Safety and Health or other Federal, State or local agency organized in part to study and/or protect human health”*.

**Justification:** AIHA believes that the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) are as important as the other federal agencies listed in defining the potential effects of exposure

to hazardous substances. Mold contamination is not limited to residential buildings but can also be found in the workplace, with potential impact on the health of workers. Most importantly, OSHA and NIOSH are the agencies primarily responsible for the health and safety of workers.

Workers are the ones who do the remediation and their exposures are potentially very high when they do so.

- **Sec. 101. Definitions.**

Subsection (3) defines “toxic mold risk assessor”; however, that term is not cited again in the proposed legislation. Various sections refer to “mold inspector”, State certified mold inspector”, and “mold inspectors certified in accordance with standards”.

AIHA suggests that a common term be applied throughout the proposed legislation and provides specific comments addressing this issue in our suggestions for Section 103.

- **Sec. 102. Research and Reporting.**

Subsection (a) states *“The Centers for Disease and Control, the Environmental Protection Agency, and the National Institutes of Health shall jointly undertake a comprehensive study of the health effects of indoor mold growth and toxic mold”*.

AIHA suggests this be amended to read: *“The Centers for Disease Control, the Environmental Protection Agency, the National Institutes of Health, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health shall jointly undertake a comprehensive study of the health effects of indoor mold growth and potentially toxic mold”*.

**Justification:** AIHA believes that the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) are as important as the other federal agencies listed in undertaking a comprehensive study of the health effects of indoor mold growth and toxic mold. Mold contamination is not limited to residential buildings but can also be found in the workplace, with potential impact on the health of workers. OSHA and NIOSH are the agencies primarily responsible for the health and safety of workers and the workers that perform the inspections and remediation activities. NIOSH is also the primary federal agency conducting research into the health and safety of workers and the workplace.

- **Sec. 102. Research and Reporting.**

Subsection (a) (4) states that the comprehensive study should ascertain “*minimum levels of exposure at which indoor mold growth is harmful to human health*”.

AIHA suggests this be amended to read: “*whether it is feasible to establish levels of exposure or levels and/or conditions of indoor mold growth which may be harmful to human health*”.

**Justification:** AIHA does not believe that with the current science it is possible for any study to ascertain the levels of exposure to mold growth that are harmful to human health. Existing science is inconclusive on what these levels are or should be. Mold growth affects individuals differently and is dependent on many factors. Moreover, any standard that is established should be by mold species and by chemical by-product (e.g., mycotoxin and related health effect), a goal that is not attainable at present.

- **Sec. 103. Standards for Preventing, Detecting, and Remediating Indoor Mold Growth.**

Subsection (a) states that “*after appropriate research and study as required by this Act, but not later than one year after the effective date of this Act, the Environmental Protection Agency, in conjunction with appropriate Federal agencies, shall promulgate national standards*”.

AIHA suggests this be amended to read: “*after appropriate research and study as required by this Act, but not later than one year after the comprehensive study report has been published, the Environmental Protection Agency and the Occupational Safety and Health Administration, in conjunction with appropriate Federal agencies, shall decide whether it is feasible to promulgate national standards to address the potentially harmful effects of mold growth*”.

**Justification:** AIHA does not believe the necessary research and study can be done in a timeframe that would allow EPA to promulgate national standards within one year of the effective date of this Act. Most studies of this nature take at least one year before any findings can be published. In addition, to promulgate national standards in such a short period of time is not feasible under the current standard-setting process of the federal government that would allow for proper development and public comment. AIHA also believes that it is not clear that it will be possible to develop meaningful national standards for exposure to mold. Finally, AIHA also feels that any national standards should include the Occupational Safety and Health Administration to assure protection of workers.

- **Sec. 103. Standards for Preventing, Detecting, and Remediating Indoor Mold Growth.**

Subsection (a) (2) requires national standards to include “*standards for certification of mold inspectors, mold remediators, mold testing labs, mold risk assessors and industrial hygienist involved with mold remediation planning;*”.

AIHA has numerous concerns about this requirement. We agree that standards in these areas may be needed. Our concern is that, as stated, the language allows EPA to develop these standards in any way EPA chooses. EPA has previously undertaken this responsibility with other hazardous substances such as lead and asbestos, with mixed results.

Previous problems have been encountered because EPA determined that all individuals involved in abatement of a specific substance must undergo specific training and certification, regardless of the qualifications already established by the individual. AIHA is not opposed to individuals proving their qualifications by passing a certification exam for a particular substance, in this case mold. However, AIHA would also like to see the legislation require that EPA recognize individuals already pre-qualified through professional certification and experience.

AIHA would also like to see more specific language regarding mold-testing laboratories. Therefore, we believe that a separate section should be added to the bill that addresses the issue of “mold testing labs”.

In HR 1269, AIHA recommends this section be amended to read: “standards for certification of mold inspectors, mold remediators, mold risk assessors and industrial hygienists involved with mold remediation planning. Such certification and/or training requirements shall include minimum educational and experience requirements. However, when promulgating such standards and in developing an appropriate course of training, exemptions shall be created from the training requirement for individuals defined, recognized and/or certified as occupational and environmental health professionals by nationally recognized and nationally accredited nonprofit organizations. Individuals exempt from these training requirements may be required to pass an examination approved by the agency to determine their qualifications. The agency shall make every effort to recommend to the states reciprocity for recognized individuals.

New section language addressing “mold testing labs”: Mold testing shall be conducted only by laboratories accredited for the appropriate analyses by a nationally recognized accrediting body or authority, such as the National Cooperation on Laboratory Accreditation (NACLA) or the equivalent”.

**Justification:** AIHA again states the need to identify individuals certified in occupational and environmental health and safety as qualified to inspect and remediate mold growth. In addition, AIHA believes that the legislation must state that only accredited laboratories be used to analyze mold samples.

- **Sec. 103. Standards for Preventing, Detecting, and Remediating Indoor Mold Growth.**

Subsection (c) states “*standards, guidelines and recommendations established under this section shall be developed with the assistance of organizations involved in establishing national building construction standards representatives of State or local authorities responsible for building inspections and issuance of certificates of occupancy*”.

AIHA suggests this be amended by adding additional language at the end of this sentence to read: “*. . .issuance of occupancy. Standards, guidelines and recommendations established under this section dealing with qualifications of individuals and laboratories involved with mold shall be developed with the assistance of professional and other organizations with relevant knowledge and experience regarding the qualifications and standards required for mold inspection and remediation*”.

**Justification:** AIHA does not feel that organizations involved with establishing construction standards have the necessary background and insight into the qualifications necessary for individuals and laboratories involved with mold inspection and remediation. AIHA also does not feel that the same organizations should be involved in setting construction standards as well as inspection and/or remediation of mold contamination.

- **Sec. 103. Standards for Preventing, Detecting, and Remediating Indoor Mold Growth.**

Subsection (d) states “*the Environmental Protection Agency and the Department of Housing and Urban Development shall make final model standards and techniques available to the public no later than one year after the effective date of this Act*”.

AIHA suggests this be amended to read: “*the Environmental Protection Agency, the Department of Housing and Urban Development and the Occupational Safety and Health Administration shall make final model standards and techniques available to the public no later than one year after the comprehensive study report has been published*”.

**Justification:** AIHA again states our concern that it is not possible for final model standards to be developed within one year of the effective date of this Act. In addition, AIHA supports the addition of the Occupational Safety and Health Administration so as to assure the protection of workers and the individuals that perform the inspection and remediation in the workplace as well as residential sites.

- **Sec. 104. Public Education.**

Subsection (a) states *“The Environmental Protection Agency, the Centers for Disease Control, the National Institutes of Health, and the Department of Housing and Urban Development, and other relevant agencies shall sponsor public education programs. . .”*

AIHA suggests this be amended to read: *“The Environmental Protection Agency, the Centers for Disease Control, the National Institutes of Health, the Department of Housing and Urban Development, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, and other relevant agencies shall sponsor public education programs. . .”*

**Justification:** Again, AIHA believes that OSHA and NIOSH need to be added to the language to assure that workers and the individuals that perform the inspection and remediation in the workplace are also protected.

- **Sec. 104. Public Education.**

Subsection (c) discusses the issues to be included in a pamphlet regarding indoor mold hazards to be developed by EPA.

AIHA suggests this section be amended to include OSHA as one of the appropriate agencies along with EPA. In addition, a new subsection (4) should be added and all additional subsections renumbered accordingly. The new subsection (4) should read: *“describe the risk of mold exposure for workers in a workplace with potentially toxic mold, and workers involved in remediation of mold contamination”*.

**Justification:** AIHA believes that the workplace must also be considered when describing the risk of mold exposure.

- **Sec. 104. Public Education.**

Subsection (c) discusses the issues to be included in a pamphlet regarding indoor mold hazards to be developed by EPA.

AIHA would like to provide a comment on sub number (5) within this subsection. The existing language states that the pamphlet shall advise persons how to obtain a list of persons certified to inspect or remediate mold growth in the area in which the pamphlet is to be used. AIHA believes this will be very difficult to achieve. The difficulty in establishing and updating a federal register in coordination with the States can also be extremely costly. While AIHA has no specific recommendation, we advise the sponsor to carefully consider whether this language should be included in the legislative text.

## TITLE II – HOUSING PROVISIONS FOR INDOOR MOLD HAZARD PREVENTION AND DETECTION

- **Sec. 202. Sale or Lease of Residential Property.**

Subsection (b) states “*The regulations shall require that, before the sale or lease of real property a mold inspection be conducted by a State certified mold inspector*”.

AIHA suggests this subsection be amended to read: “*The regulations shall require that, before the sale or lease of real property a mold inspection be conducted by a certified mold inspector or other individual recognized and qualified under the regulations*”.

**Justification:** Some States may determine that they do not wish to certify individuals as mold inspectors. The amendment still provides that a certified mold inspector must conduct the inspection; however it does not require the individual to be State certified and provides for the option of using other individuals recognized and qualified.

- **Sec. 203. Inspection Requirements for Existing Public Housing.**

Subsection (c) (2) Inspection, states “*The Secretary shall require abatement of indoor mold hazards in housing in which the test results equal or exceed the standard established under this Act. Final inspection and certification after abatement shall be made by a certified mold inspector, industrial hygienist, or local public health official*”.

AIHA suggests this subsection be amended to read: “*The Secretary shall require abatement of indoor mold hazards in housing in which the test results equal or exceed the standard established under this Act. Final inspection and certification after abatement shall be made by a certified mold inspector, certified industrial hygienist, or local public health official*”.

**Justification:** A certified industrial hygienist should be used for certification of abatement rather than an industrial hygienist. While many industrial hygienists may be considered qualified through experience, a certified industrial hygienist has met all requirements of a nationally accredited certification organization and completed not only experience qualifications, but educational and continuing education requirements. The regulations adopted for qualifying individuals in inspection and certification should provide for alternative means of becoming certified so that industrial hygienists and other professionals have the same opportunity to be involved in this issue.

NOTE: AIHA has no comments on the remaining sections of H.R. 1269.

May 4, 2005