



# Newsletter

Volume 14, Issue 2/3

February/March 2014

## Message from the President – Craig Doolittle

In recent months there have been a couple bills introduced in Trenton dealing with mold. One key issue common to these is who is qualified/certified to conduct mold inspections and perform abatement work. One primary concern is that the “certification” requirements in any law would either become diluted to the point where a credential is really not very meaningful or that somehow, a practicing CIH would be precluded from performing this kind of work due to some glitch in the way the law was worded. It would seem obvious to our industry that someone with CIH credentials would satisfy any logically crafted mold certification requirement, hands down. However, with so many advertisements for “certification” courses being offered these days, I’m sure it is difficult for our lawmakers to sort the wheat from the chaff and to recognize that there is already a credentialing organization in place and practicing professionals who can perform this work.

Your NJ Section Executive Board has been keeping an eye on these developments with the help of Aaron Trippler, our Director of Government Affairs at AIHA national and while it doesn’t appear that there is a need for action at this time, we will continue to monitor this issue and actively engage our legislature if needed.

Certainly, mold contamination is a key issue that industrial hygiene professional will need to maintain current knowledge of best practices for assessing and remediating and your NJ Section will continue to make this a topic of our regular meetings. In fact, our February meeting, which was a breakfast meeting held at Pines Manor in Edison, featured Jack Springston, one of my colleagues at TRC who spoke on this very topic. So if you missed this meeting, please join us for our next meeting with our colleagues from NJASSE and MABSA back at Snuffy’s on the third Thursday in March. I look forward to seeing you there!

Best regards and remember to keep your hands out of your snow blowers!

Craig R. Doolittle, PE  
President NJAIHA

Visit Us On-line

<http://www.facebook.com/pages/American-Industrial-Hygiene-Association-New-Jersey-Local-Section/139640922751121>

<http://www.linkedin.com/groups?mostPopular=&gid=3675325>

Project too big? Can't hire staff?

Need "A Helping Hand"?

Call Henry (Hank) Shotwell, CIH  
[dr.hank@mindspring.com](mailto:dr.hank@mindspring.com)

908.310.8481

Noise Studies ♦ Ventilation Design  
Quantitative Risk Assessment  
Air Sampling ♦ Safety Program Development  
Training ♦ Hazard Evaluation & More

## INSIDE THIS ISSUE

1	President's Message
3	Welcome New NJAIHA Members
3	Calendar of Events
7	Listing of Officers
8	Job Posting Links
9	2014 Industrial Hygiene & Safety Review Course
10-11	March 2014 Dinner Meeting Announcement
12-13	Recent NJAIHA Activities in Pictures
14-	AIHA Happenings from the Hill Jan/Feb
-45	AIHA Government Affairs Department State Update

## WELCOME NEW NJAIHA MEMBERS!

Aldana	Ricardo	Linde
Bello	Nadine	
Chang	Michael	Chemetall US, Inc
Erling	Douglas	
Gelatt	Richard	ExxonMobil Biomedical Sciences
Kaufmann	Paula	Emilcott
Kichula	David	Air Consulting Services LLC
McGuinness	Michael	RK Occup & Env Analysis
Miskowski	Diane	EMSL Analytical Inc.
Stuber	Edward	Galson Laboratories

## Calendar of Events

<b>Date</b>	<b>Subject</b>	<b>Location</b>
March 20, 2014	NHP Zoonosis and Safety and The Sustainability Compass Joint meeting with NJ ASSE and MABSA	Snuffy's Scotch Plains
April 17, 2014	NJ AIHA Scholarship Awards Dinner /Past Presidents Meeting-Speakers TBD	Snuffy's Scotch Plains
May 2014	No Meeting Scheduled	N/A
June 12, 2014	NJ AIHA The Year in Review and Speaker TBD	Baskins Ridge Country Club



# EAI, Inc.

Environmental Management Services  
Specialty Contracting and Coatings

[www.eaienviro.com](http://www.eaienviro.com)

CALL EAI FOR  
ALL OF YOUR  
ENVIRONMENTAL  
NEEDS

## Services:

- Vapor Barrier Installations
- Waterproofing
- Sub-slab Depressurization System Installation (SSDS)
- Venting/Monitoring System Installations
- Liquid Boot/GeoVent Installations
- Air Barrier Installations
- Tank Services
- Remediation
- Air Monitoring System Installations
- Asbestos/Lead Services
- Sandblasting
- Specialty Contracting Services

50 Prescott Street  
Jersey City, NJ 07304  
Tel: (201) 395-0010  
[inforequest@eaienviro.com](mailto:inforequest@eaienviro.com)



+++++



**EMSL Analytical, Inc.**

200 Route 130 North

Cinnaminson, NJ 08077

Toll Free: 800-220-3675 or 888-958-8170

[www.emsl.com](http://www.emsl.com)

Some of the resources EMSL Analytical, Inc. offers to their clients:

LABConnect | Order Products | Client Corner | Training | Additional Resources

*We evaluate the risks.*

Environmental Health Investigations, Inc. (EHI)

- Indoor Air Quality Testing
- Industrial Hygiene and Occupational Health Services
- Asbestos Consultations and Testing
- Construction Emissions Monitoring
- Phase I & II Environmental Site Inspections & Assessments
- Lead Paint Testing
- Program Development and Training Services
- Expert Witness Testimony

655 West Short Trail • Sparta, NJ 07871

Phone: 973-729-5649

Email: [info@ehi-inc.com](mailto:info@ehi-inc.com) Web site: [www.ehi-inc.com](http://www.ehi-inc.com)



# We've Got You Covered.



REGULATORY TRAINING  
PLANT AUDITS  
SDS SERVICES  
LABELING SOLUTIONS  
TRUCKING PLACARDS & SEALS  
WORKPLACE SIGNS & TAGS  
UN CERTIFIED PACKAGING



## Trust the Training Experts.

ICC is backed by 25 years of teaching experience and offers public, on-site, interactive online training, and instructor-led webinars in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and OSHA workplace health and safety.

**Call Today to Register!**  
**888.442.9628**

Follow us on:     

[www.thecompliancecenter.com](http://www.thecompliancecenter.com)

# Our Officers

<u>Office</u>	<u>Name</u>	<u>Phone</u>	<u>Email Address</u>
President	Craig Doolittle	973-670-9793	Cdoolittle@trcsolutions.com
President-Elect	Stephen Siegel	856-303-2555	ssiegel@EMSL.com
Treasurer	Barbara Woodhull	732-225-6040	barb.woodhull@us.bureauveritas.com
Secretary	Henry Shotwell	908-310-8481	dr.hank@mindspring.com
Past-President	Patricia Johnson	908-740-4993	patricia.johnson89@merck.com
Director: Member Services	Grey Coppi	908-548-4599	greypcoppi69@hotmail.com
Director: Administration	Jack Zybur	973-560-0090	jzybura@lsga.com
Director: Publications	Mark Ostapczuk	201-783-6621	marko@hydroenvironmental.com
Executive Secretary	Ronnie Tutty	973-300-0144	njaiha@ptd.net
Web Master	Jack Zybur	973-560-0090	jzybura@lsga.com
Historian	Tim Rice	908-782-2102	ricehss@comcast.net

## Newsletter Advertising Opportunities

Would your company like to advertise in this newsletter? Each year, we publish 8 newsletters - - Sept., Oct., Nov., Jan., Feb., March, April & June. You can choose to advertise in 4 or 8 issues.

The advertising rates are as follows:

- \$100 1/4 page ad - runs for 4 months
- \$200 1/2 page ad - runs for 4 months
- \$400 full page ad - runs for 4 months

Please email Craig Doolittle at [president@njaiha.org](mailto:president@njaiha.org) for more information.

**SAVE YOUR SEAT! – The 2014 NJAIHA Summer Session Courses will be held again this year on Tuesdays starting June 10th (6:00 PM -9:00 PM) through August 19th at the REHS Building on the Livingston Campus, Rutgers University. Get Ready for the CIH Exam! 20 great speaker/topics, one low price! (\$150) Already a CIH? – get 33 contact hrs (at 0.167 CM points per contact hour that is 5.5 CM points) for attending all the sessions! – that's less than \$30 per point! (More details on page 9 of this newsletter)**



# Job Postings

There are many job postings on our web site. If you are looking or just curious check them out.

<http://www.njaiha.org/Resources/JobPostings.aspx>

There are several job postings on these other organization web sites as well:

<http://www.njasse.org/>

<http://www.aiha.org/LocalSections/html/Metro%20NY/jobs.htm>

<http://www.philaaiha.com/Employment.htm>



Contact: Gary Schwartz, [gary@phaseassociate.com](mailto:gary@phaseassociate.com); 973-597-0750



## 2014 Industrial Hygiene & Safety Review Course

The New Jersey Section of the American Industrial Hygiene Association (NJ-AIHA) is offering a comprehensive Industrial Hygiene Course. The course is designed to provide basic training in some critical areas of industrial hygiene and safety and will likely be beneficial for those entering the field as well as those who are just looking to sharpen their skills in certain technical areas. In addition, many of the people who have attended the program have found it to be very helpful in preparing for the CIH and CSP examinations. Certified Industrial Hygienists have the opportunity to obtain CM points per lecture (0.167 points per contact hour). Participants are welcome to attend any or all of the lecture sessions, depending on their individual training needs. People who need certification points must sign an attendance sheet for each session.

### Industrial Hygiene & Safety Lecture Topics

History of Industrial Hygiene, OSHA Act Review and IH Management, Epidemiology, Fire Protection, Emergency Response, Ergonomics, Risk Management – Record Keeping, Indoor Air Quality, BioSafety, Equipment & Facility Safety, Ionizing Radiation, Non-Ionizing Radiation, Math, Statistics & Calculator Review, Air Pollution, Toxicology, Regulatory & Legal Affairs, Physics & Basic Engineering, Air Sampling - IH Chemistry, Direct Reading Instrumentation, Noise, Ventilation, Ethics & Professional Conduct, Respiratory Protection & PPE

The IH classes will be held each Tuesday night (6:00-9:00) from the second Tuesday in June to third Tuesday in August at the Rutgers Environmental Health & Safety Dept., 27 Road 1, Livingston Campus, Piscataway, New Jersey 08854. Tel. (732) 445-2550. NOTE: Google maps does not give the correct location! Use Live Maps instead.

**Cost: \$150.00** (includes registration, admission to all IH and Safety classes and on-line access to all course materials)

**SAFETY CLASSES** Sponsored by: ASSE

*The NJ Chapter of the American Society of Safety  
Engineers* 

Safety Topics have been added to our schedule (included in the price). We will have guest speakers on certain safety topics to help prepare people for the CSP exam. Safety classes will be held on Thursday nights (6:00-9:00 PM) from the second Thursday in June until the third Thursday in August.

Enrollment forms, directions, and schedule will be posted on the NJAIHA web page.



**NJAIHA  
OFFICERS**

President  
Craig Doolittle  
TRC Environmental  
973-670-9793

President-Elect  
Stephen Siegel  
EMSL Analytical Inc.  
856-303-2555

Past-President  
Patti Johnson  
Merck & Co.  
908-740-4993

Treasurer  
Barbara Woodhull  
Bureau Veritas  
732-623-4532

Secretary  
Hank Shotwell  
908-310-8481

**Directors:**

Member Services  
Grey Coppi  
CH2M HILL  
908-548-4599

Administration  
Jack Zybura  
LSG&A  
973-560-0090

Publications  
Mark Ostapczuk  
Hydro-Environmental  
Technologies, Inc.  
201-783-6621

Executive Secretary  
Ronnie Tutty  
973-300-0144

**March 2014 – JOINT DINNER MEETING**  
***With the Mid-Atlantic Biological Safety Association and***  
***ASSE NJ Chapter***  
**Non Human Primate Zoonosis and Safety and The**  
**Sustainability Compass**

**DATE:** Thursday, March 20<sup>th</sup>, 2014

**PLACE:** Snuffy's Pantagis Renaissance, 250 Park Avenue, Scotch Plains, NJ 908-322-7726

**AGENDA:**

**3:30 p.m.** AIHA, NJ Section, Inc. - Executive Committee Meeting

**5:00 p.m.** Registration/Networking/Cocktails/Appetizers

Members \$25, guests \$30

Students and those unemployed are free (Subsidized 100% for Dinner Meetings).

**6:00 p.m.** Before Dinner Session:

**Topic:** The Sustainability Compass

**Speaker:** Louise Vallee CIH CSP CPE, New Jersey/New York Regional Loss Prevention Manager, Crum and Forster

*This presentation will provide an overview sustainability and current issues impacting the safety and health profession including: Manufacturing and applications environmental and resource conservation success stories, Supply chain opportunities and challenges, Global Reporting Initiative G4 Benchmarking which includes updated safety metrics thanks to the collaborative contributions of ASSE/AIHA/IOSH through the Center for Health and Safety Sustainability and others, Climate resiliency, employee safety and business continuity impacts and response, and a Resource roadmap*

**7:00 p.m.** Dinner

**7:30 p.m.** After Dinner Session:

**Topic:** Non-Human Primates Zoonosis and Safety

**Speaker:** Steven M. Kuhlman, VMD, DACLAM, Senior Principal Scientist Laboratory Animal Resources, Merck Research Laboratories

*This presentation will cover the common zoonotic diseases seen in nonhuman primates, with a focus on safety. There will be in-depth examples given for cases of Herpes B virus in humans and some personal perspectives given on the outbreak of Ebola Reston. Suggestions on preventive measures will be discussed for these cases*

Please register by **Tuesday, March 18<sup>th</sup>**, by calling Ronnie Tutty at 973-300-0144 or you may email your reservation to [njaiha@ptd.net](mailto:njaiha@ptd.net) or fax your reservation to 973-579-6202, giving the names of those who will attend.

**COMMON DIRECTIONS:**

Pick up Route 22 West to sign reading "Mountain Ave. – Scotch Plains". Take Mountain Ave. thru 2nd traffic light to parking lot entrance on the right (just after intersection).

**Coming from New York City** - Lincoln or Holland Tunnels or George Washington Bridge - take NJ Turnpike SOUTH to Newark Airport Exit #14 and follow common directions above.

**Coming from Staten Island** - Go over the Goethels Bridge and exit to the NJ Turnpike NORTH. Take the Turnpike to Exit #14 to Route 22 WEST and follow common directions above.

**Going NORTH on Garden State Parkway** - Exit # 140 to Route 22 EAST. Bear to LEFT to take jug handle to Route 22 WEST and follow common directions above.

**Going SOUTH on Garden State Parkway** – Exit #140A to Route 22 WEST and follow common directions above.

**Coming from New Brunswick and Points South** – Pick-up Route 287 NORTH (Exit #10 at Edison from the NJ Turnpike or Exit #127 from the Garden State Pkwy.) Take 287 NORTH to Somerville, Exit to Route 22 EAST to Scotch Plains. Entrance on right, after Blue Star Shopping Center and before Park Ave. overpass.

**Coming from PA or Points West** – Route 78 EAST to Exit #41. Follow signs to Route 22, Scotch Plains. At 3<sup>rd</sup> traffic light turn right to go over Overpass to Park Ave. Stay in right lane of overpass and at next light turn right onto Mountain Ave. Make first right turn to enter parking lot.



## Recent Winter NJAIHA Activities in Pictures

Tim Rice, NJAIHA Historian

### January 2014 NJAIHA Dinner Meeting - 1/16/14 at Snuffy's



Our before-dinner speaker, Edward Lifshitz, MD, FACP, Medical Director-Communicable Disease Service, NJ Department of Health, is shown here enlightening attendees on Category B Diseases/Agents during his informative presentation, *"Opening Pandora's Box - Bioterrorism in the 21<sup>st</sup> Century"*.



Colin Brigham, CIH, CSP, CPE, CPEA, CSPHP, Vice President-Safety Management & Ergonomic Services, 1 Source Safety & Health, Inc., Exton, PA, (left) receives a token of appreciation from Steve Siegel, NJAIHA President-Elect, following his excellent after-dinner presentation, *"My Mother's Story: A Safe Patient Handling and Mobility Case Study"*.



Wes Van Pelt, PhD, CIH, CHP, was paid special recognition during the meeting after earlier announcing his retirement as the non-ionizing radiation session instructor for the NJAIHA Summer Industrial Hygiene Training Course, a volunteer role he has served in for many of the past 37 years. Wes taught the ionizing and non-ionizing radiation sessions for the inaugural NJAIHA Summer Industrial Hygiene Training Course held in calendar year 1976-77. Wes, thanks again for 3 decades plus of dedicated service to our Section!



## **February 2014 NJAIHA Breakfast Meeting - 2/20/14 at the Pines Manor**

In February, we switched things up a bit and held a breakfast meeting at the Pines Manor in Edison, NJ. After networking/coffee and a full continental breakfast, we heard from three excellent speakers. The breakfast meeting was sponsored by EMSL Analytical Inc.



Stephen Siegel (right), NJAIHA President-Elect, thanks our first two speakers, Theresa Downs, CIH, Industrial Hygienist and Michael Corbett, Compliance Assistance Specialist, both with OSHA's Region 2 Avenel Area Office, for their review with NJAIHA members and guests of various 2014 OSHA initiatives, activities, and programs. The NJAIHA is most grateful to our local OSHA area office for always being readily available to update our members on the goings on at OSHA at the National and Region 2 level.



Our third speaker of the morning, Jack Springston, CIH, CSP, Senior Project Manager - Building Sciences and Industrial Hygiene, TRC Environmental Corp., New York, NY, is shown here during the opening segment of his informative presentation, "*Legally Defensible Strategies for Mold Investigation*". We thank Jack for making himself available on extremely short notice so we could provide a second technical presentation for attendees during the February meeting.



## *Happenings On The Hill*

### **American Industrial Hygiene Association Government Affairs Department**

Aaron K. Trippler, Director  
703-846-0730 [atrippler@AIHA.org](mailto:atrippler@AIHA.org)

---

January 15, 2014

#### **Congress Back in Town**

Congress returned to Washington earlier this month to begin the second session of the 113<sup>th</sup> Congress, a session that will culminate in the much anticipated mid-year election in November.

While most do not expect 2014 to produce any legislation that will directly impact occupational safety and health there are still several issues that need to be monitored and discussed.

#### **The Budget**

Let's start with the FY2014 budget – you know, the one that was supposed to begin last October 1, then resulted in a government shutdown, then resulted in a continuing resolution and a “peace treaty” so everyone could go home for the holidays, then resulted in the need for another 3-day continuing resolution today (January 15) so that Congress would have time prior to Saturday to come up with the remainder of the FY14 federal budget without shutting down the government again.

Well, if all goes according to plan the Senate and the House will have agreed on this budget by the time you read this, or soon thereafter.

Let's take a look at what we know, or think we know about this budget:

	<u>OSHA</u>
Fiscal Year 13 Budget	\$569 million
Sequester Budget	\$535.2 million
Final FY 14 Budget	\$552.2 million

Yup, that's right. Congress gave OSHA some of the sequester cut back for the remainder of 2014. Most notably in this is a small increase for the whistleblower protection program, \$100 million in continued funding for the State Plans, and about the same for enforcement spending as was previously appropriated for enforcement.. The President had wanted to give OSHA \$570.5 million, the House wanted to cut the figure to \$443 million, so all in all not a bad deal.

	<u>MSHA</u>
Sequester Budget	\$353.8 million
Final FY14 Budget	\$375.9 million

	<u>NIOSH</u>
Sequester Budget	\$277 million
Final FY14 Budget	\$292.3 million

Most notable in this budget is the fact that the Education Research Centers and the Agriculture, Forestry and Fishing Program remain funded through this year. If you recall, the White House recommended this funding be cut.

	<u>EPA</u>
FY 14 Proposed	\$8.153 billion
Final FY14 Budget	\$8.196 billion

What's Next? In February the President will begin looking at requests for the FY15 budget. Word is he has requested agencies to submit budgets that reflect a 5 percent decrease.

## **Federal Contracting**

Another issue receiving discussion on the Hill is one that has been debated for years – “Should federal contractors be required to meet all safety and health regulations prior to receiving federal contracts?” Both sides make a good argument on this one. There are those who say that no federal contract should ever be awarded to a contractor who has violated any occupational safety and health regulation or law. Makes sense – and a point that AIHA made many years ago. On the other hand, there are those who say there are simply too many contracts that must be awarded to require such a law and/or regulation; and how do you determine which regulations or laws are more serious than others? Another argument is what do you do about a contractor who has many contracts yet only one contract has a violation?

Interesting discussion and likely one that will continue.



## **One of Last OH&S Champions to Leave Congress**

If it wasn't bad enough that many of the Members of Congress who strongly supported occupational safety and health are no longer serving, now one of the final remaining champions has decided to retire. Rep. George Miller (CA) is calling it quits after this session of Congress, having served in Congress since the early years of OSHA. Rep. Miller was for many years chairman of the subcommittee overseeing OSHA and was responsible for introducing many of the legislative bills to amend the OSH Act. Whether one agreed with the views of Rep. Miller or not, his retirement will leave a void in the number of supporters for OSHA and NIOSH.

## **Agency Activity Still High**

The new year continued to bring a flurry of activity at agencies overseeing occupational safety and health. If the rest of 2014 is anywhere near the way it began we are in for a lot of activity and an increasing number of issues. Let's take a look at the latest news on the hottest issues:

### **OSHA**

#### **OSHA Proposed Silica Rule**

It looks as if this issue has become the "number one" issue of the agency in 2014. OSHA has been moving quickly to propose the rule and the next couple of months will determine if the proposal has any chance of being implemented.

The first deadline will take place January 27 when comments on the proposed rule are due at OSHA. Following that will be the onset of public hearings that begin on March 18.

This issue is causing a lot of debate both within and outside the beltway. While much of the debate revolves around the proposed exposure level in the rule there are other areas that will cause concern for opponents of this rule; i.e., projected costs, scientific rationale used, even a voluntary request for commenters to provide financial disclosures.

Outlook – While probably the number one issue in 2014, the issue will be difficult to finalize.

#### **Process Safety Management (PSM)**

OSHA is considering making changes to the PSM standard, a standard that protects workers inside chemical plants. OSHA published a Request for Information (RFI) asking for information on specific rulemaking and policy options. Comments are due March 10.

#### **Proposed Rule to Improve Tracking of Workplace Injuries and Illnesses**

OSHA's proposed rule would require large employers to file their injury and illness data on a quarterly basis and smaller employers would be required to file on an annual basis. While OSHA says the proposed rule would not require employers to record any additional data from what is now required, the filing of the data is a huge change. OSHA believes the reporting requirement will improve worker health and safety. Opponent's question the reasons behind this new requirement and are very concerned about "privacy" issues. Comments on the proposed rule are due March 8.

Outlook – Another issue that will receive considerable debate. Don't look for the final rule to be implemented any time soon.

### **Beryllium**

An issue still on the table at the agency. OSHA says it is still on track to publish a proposed rule in April of this year. Some say the agency has a draft standard ready to go, others say the agency is not that far along. Either way, the effort to lower the permissible exposure level for beryllium will be controversial. Insiders say the proposal would likely reduce the PEL from 2.0 micrograms of beryllium per cubic meter of air to 0.1 micrograms.

Outlook – Will be interesting to see if the agency can propose a rule in the midst of all of the other activity. Of course, the first step is to send a proposed draft to the White House for review – and we all know how long that can take (see two and half year review of the silica proposed rule).

### **Safe patient Handling**

While legislation in Congress to require OSHA to enact a safe patient handling standard stands little chance of passage, the agency has decided on its own to move forward in addressing the issue, at least partly. OSHA announced today its plans to unveil new resources to protect hospital workers. The new efforts will include educational web resources with materials to help hospitals prevent worker injuries, assess workplace safety needs, enhance safe patient handling programs and implement safety and health management systems. Not a law or a standard – but a start.

### **Combustible Dust**

OSHA issued a memorandum on December 31 with an interpretation on how agency inspectors will decide whether or not products are classified properly for combustible dust hazards under the new hazard communication standard.

### **Voluntary Protection Program (VPP)**

There continues to be much discussion about the VPP. After several years of supporters of the program defending the program to OSHA, the Administration and Congress (succeeding in maintaining funding for the program) the program has now come under some fire from the Department of Labor Office of Inspector General.

A report issued in December finds that more than 10 percent of VPP employers had injury and illness rates above industry averages or have been cited for violations. Bottom line on the report – the Inspector General recommends OSHA improve its oversight of the VPP and re-evaluate its policy of allowing worksites with high injury and illness rates to remain in the program.

### **Future Concern for OSHA?**

A recent decision by the Supreme Court justices may have future repercussions for OSHA. The justices in a conference decided to turn down review of a case of "OSHA preemption of local safety codes, thereby upholding a lower court ruling.

The case goes back a few years to when there were several crane accidents in New York City. The City of New York then implemented regulations that were much stricter

than those set by OSHA. Several in industry filed a lawsuit against the City stating that City regulations could not preempt federal regulations. The lower court ruled that the City had the right to impose stricter regulations.

## **NIOSH**

### **NIOSH Draft Carcinogen Policy**

NIOSH is seeking comments (due February 13) on its draft carcinogen bulletin that updates the policy for classifying chemical carcinogens. The Institute hopes to evaluate whether or not the proposed carcinogen policies are consistent with the current scientific knowledge of toxicology, risk assessment, industrial hygiene and occupational cancer.

### **Nanotechnology Strategy**

NIOSH published (December 26) the latest strategic plan for nanotechnology research. The first strategic plan on this issue was issued in 2005 and the latest plan will guide the Institute through 2016. NIOSH states that much has been learned since 2005 and there is more knowledge of the risks to workers. The latest plan focuses on identifying new hazards, clarifying initial hazard findings, developing updated guidance, conduct a study of workers exposed and assessing whether the guidance is being followed. (There isn't any doubt that NIOSH is, and remains, the lead on the issue of nanotechnology and its potential hazards.)

### **And Finally**

Most of the State Legislatures have started their 2014 legislative sessions with introduction of numerous bills. AIHA government affairs has been kept plenty busy scanning these bills (approximately 250 per day) for any issues that might impact the profession occupational safety and health. Look for a summary in the next issue.

**For information on any of the items in this report, please contact Aaron Trippler.**



## *Happenings On The Hill*

### **American Industrial Hygiene Association Government Affairs Department**

Aaron K. Trippler, Director  
703-846-0730 [atrippler@AIHA.org](mailto:atrippler@AIHA.org)

---

**February 24, 2014**

#### **Congress on Cruise Control**

Congress hasn't exactly been setting any speed record when discussing legislation that might impact occupational safety and health. Heck, Congress isn't setting any speed record on anything. About the only news being discussed on the Hill is what the President's Fiscal Year 2015 federal budget will look like. We expect to get the first look at the budget proposal sometime in the next two weeks. But don't get too excited as this proposal will undoubtedly be "dead on arrival" on the Hill.

Having just concluded finalizing the FY14 federal budget in early January, Congress must begin discussion on the FY15 budget as soon as possible in order to avoid any huge debates just prior to the mid-term November elections. I can assure you, Congress wants to "get out of town" and go home and campaign without any huge issues remaining on the table back here.

What can we expect in the FY15 proposal from the President? Hard to tell at this point in time but if I had to guess – expect another attempt to cut funding for the Education Research Centers and perhaps flat-line funding for agencies such as OSHA and NIOSH. We will know soon enough.

## **Bill Introduced to Consolidate Labor and Commerce Departments**

Here's a new one for you. A bill has been introduced in the Senate that would consolidate the Departments of Labor and Commerce. According to the bill OSHA would be lumped into one large agency that would provide worker protections and promote business. One goal of the bill is to get rid of "duplicative" efforts. Not sure I should comment on this – let's just say the bill is likely to go nowhere. However, brings back some previous attempts to change things – like making the Environmental Protection Agency a cabinet-level department.

Speaking of some "far-out proposals", how about the one in California. This effort would divide the state of California into six separate states. Better not comment on that one either.

## **Regulatory Activity**

Things seem to have slowed down just a bit on the regulatory front after a couple of months with an unusually high amount of activity. While this has been true so far as "proposals" go, it has not been the case on continued movement of existing proposals.

### **OSHA Crystalline Silica Proposed Rule**

The deadline for submission of comments has now passed and it looks as if OSHA received approximately 3,000 responses. Public hearings on the silica proposed rule are to begin March 18 and are now scheduled to run at least through April 1. If you didn't get anything from the above, let me spell it out. This issue is a long, long way from ever being finalized.

Just 30 days ago the issue was one that had many people talking about how this was the one big thing OSHA was trying to finalize in 2014. Now, even those at OSHA have stated that the agency will be spending the rest of the year reviewing the comments submitted and the expected comments from the hearings. That means it will be some time before we see a final proposal. And you can bet the lawsuits will be flying when, if ever, a final proposal is announced. Dr. David Michaels however, has stated that the silica rule is now the number one priority of the agency.

For your information, AIHA comments on the proposed rule can be found at <https://www.aiha.org/government-affairs/PublicPolicy/Silica%20Comments-Submitted-02-04-14.pdf>

In addition to AIHA submitted comments, AIHA will be appearing and providing comments at the public hearings.

### **OSHA Injury and Illness Prevention Program (I2P2)**

The I2P2 used to be the number one priority of OSHA but is now so controversial there is no telling when, or if, OSHA will put out an actual proposal. OSHA states the agency is still on track to put out a proposal by the end of 2014 but that will be difficult if not impossible.



### **OSHA Recordkeeping Standard**

OSHA still hopes to continue moving forward with its recordkeeping proposal. The proposed rule is still in the comment period, now scheduled to end on March 10. But opposition is continuing to build over this proposal even before the comment period ends. Some business leaders are concerned about the data being used in a way that would be hugely detrimental to their business, possibly even resulting in some businesses underreporting injuries and illnesses.

### **NIOSH Carcinogen Policy Document**

The comment period has now closed on the NIOSH Draft Current Intelligence Bulletin "Update of NIOSH Carcinogen Classification and Target Risk Level Policy for Chemical Hazards in the Workplace". As stated by NIOSH, the draft document provides an update of the NIOSH Carcinogen Classification and relevant Recommended Exposure Limit (REL) policies. AIHA submitted comments on this proposal and the comments can be found at <https://www.aiha.org/government-affairs/PublicPolicy/NIOSH-Carcinogen%20Comments-Submitted-02-10-14.pdf>

### **The Way I See It!!**

This month's "Happenings" is a bit short on substance but not opinion.

One of the questions I am constantly asked is "why can't OSHA get anything done?" A fair question with a difficult answer. It would be easy to simply respond that OSHA is subject to a lot of politics, and I mean a lot of politics. It would also be easy to simply answer that it depends on who asked the question, and more importantly, when they asked it. Let me explain.

When the Democrats are in control of the White House, therefore OSHA, it seems inevitable that industry and/or business in general will complain that OSHA is too focused on enforcement. When the reverse is true and the Republicans control the White House, and therefore OSHA, it is inevitable that labor will complain that OSHA is too focused on compliance assistance and allowing injuries and illness to increase in the workplace. Either way, politicians and others can usually twist the words to fit whatever scenario they wish to address.

Yes, you can look at numbers end on end to prove or disprove success or failure at OSHA. But let's throw all of this out the window and look at the success of the agency from a different point of view. Not by enforcement or compliance assistance but by whether or not, in the long term, workers and others are protected from workplace hazards. In my opinion, the answer is a resounding "yes" and for different reasons than most would think.

Step back and think about it. In the early 90's OSHA proposed an indoor air quality standard to address the issue of health hazards posed by occupational exposure to tobacco smoke. The agency received in excess of 100,000 comments on the proposed standard and in 1994 the standard was withdrawn. It was obvious at the time that it was not possible to enact such a standard. So – was the attempt by OSHA a failure?

Not in my opinion! OSHA may have failed to enact a standard but succeeded nonetheless. Think about it. Since 1994 how many employers, both public and private, took it upon themselves to address this issue? It has to number in the hundreds of thousands. In other words, the proposed standard was withdrawn but the issue was addressed. Perhaps not to the satisfaction of everyone but I would say our workplaces and even our public areas are much safer from tobacco smoke today than pre-1994.

Another example. Ergonomics. In November of 2000 just prior to the Clinton Administration leaving town, OSHA published a final rule on an ergonomics program. When the Bush Administration took control of the White House and Congress in January of 2001, Congress overthrew this standard and it has not appeared in any future efforts from the agency. Did OSHA fail with this issue? Again, depends on who you talk to but in my opinion OSHA did not fail.

Why? Again, stop and think about it. I would venture to guess that prior to the effort to enact this ergonomics rule that upwards of 90 percent of workers and others had never heard the term "ergonomics". They may have known about the problems of ergonomics but no one had ever used this term nor specifically addressed the issue. Today, nearly everyone knows what ergonomics is and what it means. Not only that, but again think of the hundreds of thousands of employers, both public and private, that have addressed this issue on their own. The workplace is obviously safer ergonomically than prior to the ergonomics proposed rule.

I understand there will be many who disagree with my views on this, but the bottom line is that OSHA has been very successful, not only when it enacts or enforces a standard or rule or provides compliance assistance but sometimes just by taking a look at the issue and making everyone aware. This "educational" effort provided to workers, employers and others is hard to measure.

And I'm sure one could come up with many more such success stories.

Bottom line – you can agree or disagree whether or not the agency has been out of touch with employers or workers but success can be found in many different ways. Let's hope these efforts can be measured in the same way in the future. Besides, I'm getting a little tired of a call one day complaining that OSHA is over-regulating and the next day receive a call that OSHA isn't doing enough. How about everyone trying, just once, to work together. Anyway, that's the way I see it!

## **Federal and State Legislative Action Centers**

Visit the AIHA Federal Legislative Action Center to stay abreast of national issues important to occupational health and safety. Simply go to the AIHA home page. Click on "government affairs", located on the "stay connected" tab at the top of the page. Once in government affairs, click on "Federal Legislation Action Center". Also available within this Action Center is the opportunity for any member to directly contact their elected officials in Washington simply by inserting their zip code. You can send an email or learn how to contact them by phone or mail. Take a look!



The State Center offers AIHA members the opportunity to monitor all state legislative sites, scan IH professional recognition/title protection laws in states where adopted, and even review and follow all state legislation being monitored in the state legislatures throughout the year. Included under each State site is access to the various state agencies, including the Governor's office and OSHA state plan sites. If professional recognition/title protection legislation has been enacted in a particular state, this law can also be found.

Another important feature is member access to each of the weekly legislative/regulatory reports sent to each state. With this access, members can follow any piece of legislation that may be of interest.

For information on any of the items in this report, please contact Aaron Trippler.



AMERICAN INDUSTRIAL HYGIENE ASSOCIATION  
GOVERNMENT AFFAIRS DEPARTMENT  
**STATE UPDATE**

---

*January 15, 2014*

**NEW JERSEY**

Here is the latest legislative/regulatory report for your State. AIHA government affairs will send the reports every week, detailing any legislative and/or regulatory pertinent to the profession in your state. The reports will also include the text of many bills (if available) and update activity on bills already reported. However, reports will only be sent if there has been new activity on the legislation and/or regulations already reported, or new legislation and/or regulations are found. Reports are sent to local section officers and may be forwarded to others if you wish. Questions contact Aaron Trippler at [atrippler@aiha.org](mailto:atrippler@aiha.org).

**New Legislation**

None to Report

**Legislation Reported Earlier**

(2012) NJ S 2389 IDENTICAL: (2012) NJ A 3737  
SPONSOR: Norcross (D)  
COSPONSOR(S): Diegnan (D), Caride (D)  
TITLE: Interstate Authority Employee Health and Safety  
PREFILED: 11/29/2012  
INTRODUCED: 12/17/2012  
LAST AMEND: 01/14/2013  
VETOED: 01/13/2014  
DISPOSITION: Vetoed

**SUMMARY:**

Concerns occupational safety and health for public employees of specified entities that are interstate transportation-related and park authorities; includes in the definition of employer any interstate authority utilizing its own police officers or firefighters; provides that the Authority and its employees shall be subject to the provisions of the Public Employees Occupational Safety and Health Act.

**STATUS:**

11/29/2012 FILED.  
12/17/2012 INTRODUCED.  
12/17/2012 To SENATE Committee on TRANSPORTATION.

01/14/2013 From SENATE Committee on TRANSPORTATION as amended. (5-0)  
11/18/2013 Passed SENATE. \*\*\*\*\*To ASSEMBLY. (37-0)  
11/18/2013 Received in the ASSEMBLY without Reference.  
12/19/2013 Substituted for A3737.  
12/19/2013 Passed ASSEMBLY. (80-0)  
12/19/2013 \*\*\*\*\*To GOVERNOR.  
01/13/2014 Vetoed by GOVERNOR.

Date: 13

## NJ A 1588

**Added:** Green underlined text

**Deleted:** ~~Dark red text with a strikethrough~~

**Vetoed:** Red text

[🔗](#) Links to affected code section

<b>2012 NJ A 1588</b>	<b>Author:</b>	Benson
	<b>Version:</b>	Amended
	<b>Version Date:</b>	12/12/2013

Fourth Reprint

ASSEMBLY, No. 1588

STATE OF NEW JERSEY

215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman CONNIE WAGNER

District 38 (Bergen and Passaic)

Assemblyman RUBEN J. RAMOS, JR.

District 33 (Hudson)

Co-Sponsored by:

Assemblymen S.Kean, McKeon, Coughlin, Assemblywomen Mosquera and Lampitt

#### SYNOPSIS

Requires DCA to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

#### CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 12, 2013, with amendments.

An Act concerning mold inspection and mold hazard abatement, and supplementing Title 52 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

"Department" means the Department of Community Affairs.

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, an educational services commission, a jointure commission or board, and a commission under the authority of the Commissioner of Education or the State Board of Education.

"Mold" means any form of multicellular fungi that lives on plant or animal matter and in indoor environments. Types of mold include, but are not limited to, Cladosporium, Penicillium, Alternaria, Aspergillus, Fusarium, Trichoderma, Memnoniella, Mucor and Stachybotrys Chartarum, often found in water-damaged building materials.

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district or a charter school.

2. a. Within ~~one-year~~ six months after the effective date of this act, the Department of Community Affairs, in consultation with the Department of Health and the Department of Labor and Workforce Development, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), that establish ~~:- (1) indoor standards for exposure limits to mold in residential buildings and school facilities that are protective of the public health and safety; and (2)~~ procedures for the inspection, identification, and evaluation of the interior of residential buildings and school facilities for mold based upon, but not limited to, industry standards and standards and guidelines developed by the United States Environmental Protection Agency.

b. Within ~~one-year~~ six months after the effective date of this act, the Department of Community Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act"

that establish ~~standards~~ procedures for mold hazard abatement including specialized cleaning, repairs, maintenance, painting, temporary containment and ongoing monitoring of mold hazards or potential hazards. Hazard abatement procedures for mold developed by the department shall:

(1) provide practical guidelines for the removal of mold and abatement of the underlying cause of mold and associated water intrusion and water damage in indoor environments; and

(2) provide practical guidance for the removal or cleaning of contaminated materials in a manner that protects the health of the person performing the hazard abatement, including requirements for the use of protective clothing or equipment.

3. a. Within ~~18~~ 12 months after the effective date of this act, the Department of Community Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to establish a program for the certification of persons who inspect for the presence of mold hazards in residential buildings and school facilities. The mold inspection certification program shall require that inspectors for mold hazards have training and education in at least the following subject areas:

(1) proper methods to identify the presence of mold consistent with the ~~standards~~ procedures developed therefor pursuant to subsection a. of section 2 of this act;

(2) scientifically recognized procedures and new technologies for the collection of air and surface samples;

(3) methods for the identification of locations of moisture infiltration to locate likely areas for mold infestation;

(4) all applicable State and federal ~~law~~ laws, rules and regulations; and

(5) any other area the department deems relevant.

b. Within ~~18~~ 12 months after the effective date of this act, the department shall adopt rules and regulations pursuant to the "Administrative Procedure Act" to establish a program for the certification of persons who perform mold hazard abatement work, and who safeguard buildings from the presence of mold in residential buildings and school facilities. The mold hazard abatement certification shall require that persons have training and education in the following areas:

(1) mold hazard abatement procedures developed by the department pursuant to subsection b. of section 2 of this act;

(2) specialized cleaning, repairs, maintenance, painting, temporary containment and ongoing monitoring of mold hazards or potential hazards;

(3) removal of mold and the abatement of the underlying cause of mold and associated water intrusion and water damage in indoor environments;

(4) removal or cleaning of contaminated materials in a manner that protects the health of the person performing the mold hazard abatement, including requirements for the use of protective clothing or equipment;

(5) all applicable State and federal ~~law~~ laws, rules and regulations; and

(6) any other training or education the department deems appropriate , including but not limited to the successful completion of an outreach training program for the construction industry or general industry that has been approved by the federal Occupational Safety and Health Administration in the United States Department of Labor as an orientation to the occupational safety and health of workers covered by section part 1926 of title 29, Code of Federal Regulations.

c. In establishing the certification programs for mold inspection and mold hazard abatement required pursuant to subsections a. and b. of this section, the Department of Community Affairs may:

(1) charge an annual fee for any persons certified pursuant to subsection a. or b. of this section;

(2) require the successful completion of a course of continuing education or training for certified inspectors or abatement workers at least once every two years; ~~and~~

(3) conduct examinations to determine whether an applicant has sufficient knowledge of the State and federal ~~law~~ laws, rules and regulations, and any standards or requirements , applicable to the inspection or abatement of mold hazards, as the case may be; ~~and~~

(4) adopt rules and regulations pursuant to the "Administrative Procedure Act" to provide for :

(a) the enforcement and compliance with the mold inspection and mold hazard abatement certification programs established pursuant to ~~subsection~~ subsections a. and b. of this section, which ~~rules and regulations~~ may provide for the suspension, revocation, or refusal to issue or renew a certification issued to persons by the department ~~and may provide for ; and~~

(b) the imposition of penalties on ~~persons~~ any person who ~~violate provisions~~ (i) violates any provision of the certification programs established pursuant to ~~subsection~~ subsections a. and b. of this section ~~and persons who inspect~~ , or (ii) inspects residential building interiors or school facilities for the presence of mold or ~~perform~~ performs mold hazard abatement work in residential buildings or school facilities in violation of section 4 of this act.

d. In establishing the certification programs for mold inspection and mold hazard abatement required pursuant to subsections a. and b. of this section, the Department of Community Affairs may grant ~~certifications~~ a certification to a person who demonstrates to the department that the person has successfully completed an accredited program in mold inspection ~~and remediation or mold hazard abatement, as the case may be, by a nationally accepted accreditation organization that requires persons enrolled in the program to have training and education that~~ which is determined by the department to be equal to or greater than the level of training and education required of persons certified pursuant to subsection a. or b. of this section , respectively ; provided however, that a person granted ~~certifications~~ a certification pursuant to this subsection shall be required to pay ~~any the appropriate annual fees~~ fee charged by the department pursuant to paragraph (1) of subsection c. of this section, be required to successfully complete any course of continuing education and training for certified inspectors or abatement workers required by the department pursuant to paragraph (2) of subsection c. of this section, and be subject to any rules and regulations adopted pursuant to paragraph (4) of subsection c. of this section.

~~d e~~ An employee engaged in routine maintenance of a multiple dwelling owned or managed by their employer shall not be required to complete the certification programs established pursuant to this section in order to address the presence of mold in the multiple dwelling owned or managed by their employer; however, nothing in this subsection shall be construed to exempt multiple dwellings from otherwise complying with the ~~standards and~~ procedures adopted by the Department of Community Affairs pursuant to section 2 of this act.

f. A residential property owner shall not be required to complete the certification programs established pursuant to this section in order to perform mold inspection or mold abatement work on his own property.

4. On the first day of the sixth month following adoption of the rules and regulations required pursuant to section 3 of this act:

a. Any person who inspects a residential building interior or a school facility for the presence of mold shall be certified by the Department of Community Affairs pursuant to subsection a. of section 3 of this act.

b. Any person who performs mold hazard abatement work in a residential building or a school facility, except as otherwise provided in ~~subsection d.~~ subsections e. and f. of section 3 of this act, shall be certified by the department pursuant to subsection b. of section 3 of this act.

c. No person shall present himself to the public as an expert in mold inspection or mold hazard abatement work unless certified by the Department of Community Affairs pursuant to subsection a., b., or d., as applicable, of section 3 of this act.

5. This act shall take effect immediately.

### **Regulatory Activity**

None to Report





AMERICAN INDUSTRIAL HYGIENE ASSOCIATION  
GOVERNMENT AFFAIRS DEPARTMENT  
**STATE UPDATE**

---

*January 21, 2014*

**NEW JERSEY**

Here is the latest legislative/regulatory report for your State. AIHA government affairs will send the reports every week, detailing any legislative and/or regulatory pertinent to the profession in your state. The reports will also include the text of many bills (if available) and update activity on bills already reported. However, reports will only be sent if there has been new activity on the legislation and/or regulations already reported, or new legislation and/or regulations are found. Reports are sent to local section officers and may be forwarded to others if you wish. Questions contact Aaron Trippler at [atrippler@aiha.org](mailto:atrippler@aiha.org).

**New Legislation**

**NJ A 1006 SPONSOR: Benson (D)**

TITLE: Mold Safe Housing Act  
PREFILED: 01/14/2014  
INTRODUCED: 01/16/2014  
DISPOSITION: Pending

SUMMARY:  
Creates the Mold Safe Housing Act.

STATUS:  
01/14/2014 FILED.  
01/16/2014 INTRODUCED.  
01/16/2014 To ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT.

**Added:**Green underlined text

**Deleted:**~~Dark red text with a strikethrough~~

**Vetoed:**Red text

 Links to affected code section

**2014 NJ A 1006**

<b>Author:</b>	Benson
<b>Version:</b>	Introduced
<b>Version Date:</b>	01/16/2014

ASSEMBLY, No. 1006

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Creates the "Mold Safe Housing Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

An Act concerning mold remediation in rental premises, supplementing Title 52 of the Revised Statutes and amending P.L.1997, c.323 and P.L.1967, c.76.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. (New section) This act shall be known and may be cited as the "Mold Safe Housing Act."

2. (New section) As used in this act:

"Substantial presence of mold" means the visible or detectable presence of mold growing on interior surfaces or in ventilation ducts, in such amounts as to raise concerns for the health of the residents of the building, in accordance with standards promulgated by the Department of Community Affairs pursuant to P.L. , c. (C. ) (pending before the legislature as Senate Bill No. 2633 of 2011).

3. (New section) a. In any case where a change of occupancy of any building subject to the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1) is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to safety, healthfulness and upkeep of the premises, no such certificate shall issue until the municipal officer or agency responsible for its issuance has received a certification that the building has been inspected for and found free of any visible or detectable indications of the substantial presence of mold.

b. In the case of change of occupancy of any building subject to the requirements of section 1 of P.L.1991, c.92 (C.52:27D-198.1) to which the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that building without first obtaining from the Bureau of Housing Inspection of the Division of Codes and Standards, Department of Community Affairs, a certificate evidencing compliance with the requirements section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill). The Commissioner of Community Affairs shall establish a fee which covers the costs of any inspection required, and of issuance of the certificate.

4. (New section) a. A tenant residing in rental housing who believes that the housing contains a substantial mold hazard shall notify the landlord of the premises, in writing, and request remediation of the mold hazard.

b. A landlord who has been notified in writing by a tenant that the tenant believes a substantial mold hazard exists shall investigate the condition within 72 hours of receiving the written notification. If any visible signs of mold on surfaces are present, the landlord shall clean and remove the mold from those surfaces in a manner consistent with the regulations promulgated by the department. Any leaking pipes, roofing or walls which are contributing to a wet condition that in turn is furthering the growth of mold shall be fixed in an expedited manner by the landlord. Any mold conditions which will require testing to determine the efficacy of the mold removal shall be performed by persons certified to remediate mold in accordance with P.L. , c. (C. ) (pending before the Legislature as Senate Bill No. 2633 of 2011).

c. In the event a tenant notifies a landlord who does not comply with subsection b. of this section, the tenant shall be entitled to contact the Commissioner of Community Affairs for consideration for a referral to the relocation program established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

5. (New section) a. The Commissioner of Community Affairs shall review any case referred to the department in which a substantial mold hazard condition has been found to exist and which poses an immediate risk of continuing exposure to mold hazard for any tenants living in rental housing. The commissioner shall determine whether the removal of the residents from the rental housing unit containing that mold hazard is warranted.

b. If the commissioner determines that the removal and relocation of the residents from such housing is warranted, then the commissioner shall authorize the payment of relocation assistance pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.), and shall assist in the relocation of such residents to mold-safe housing.

c. Whenever relocation assistance is authorized pursuant to this section, the commissioner may determine to seek reimbursement for payments made for relocation assistance from the owner of the rental housing from which the tenants were moved. The commissioner shall seek reimbursement if the owner of such rental housing had failed to maintain the housing in a mold-safe condition.

d. In the case of any displacement of a household from a unit of rental housing that has been found, in a final administrative or judicial determination, not to be maintained in a mold-safe condition in accordance with standards established by rule of the Department of Community Affairs, all relocation costs incurred by a public agency to relocate that household shall be paid by the owner of the rental housing to the public agency making relocation payments upon presentation to the owner by the public agency of a statement of those relocation costs and of the date upon which the relocation costs are due and payable.

e. In the event that the relocation costs to be paid to the public agency are not paid within ten days after the due date, interest shall accrue and be due to the public agency on the unpaid balance at the rate of 18% per annum until the costs, and the interest thereon, shall be fully paid to the public agency.

f. In the event that the relocation costs to be paid to a public agency shall not be paid within ten days after the date due, the unpaid balance thereof and all interest accruing thereon shall be a lien on the parcel in which the dwelling unit from which displacement occurred is located. To perfect the lien granted by this section, a statement showing the amount and due date of the unpaid balance and identifying the parcel, which identification shall be sufficiently made by reference to the municipal assessment map, shall be recorded with the clerk or register of the county in which the affected property is located and, upon recording, the lien shall have the priority of a mortgage lien.

Whenever relocation costs with regard to the parcel and all interest accrued thereon shall have been fully paid to the public agency, the statement shall be promptly withdrawn or canceled by the public agency.

g. In the event that relocation costs to be paid to a public agency are not paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the public agency in a civil action as a personal debt of the owner of the property. If the owner is a corporation, the directors, officers and any shareholders who each control more than 5% of the total voting shares of the corporation, shall be personally liable, jointly and severally, for the relocation costs.

h. All rights and remedies granted by this section for the collection and enforcement of relocation costs shall be cumulative and concurrent.

6. (New section) Notwithstanding any other provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), a dwelling unit shall not be subject to inspection and evaluation or subject to any fees for the presence of mold hazards if the unit:

is a seasonal rental unit which is rented for less than six months' duration each year;

has been certified as having a mold-free interior by a certified inspector; or

is occupied by the owner of the dwelling unit.

7. N.J.S.2A:18-59 [is](#) amended to read as follows:

2A:18-59 a. Proceedings had by virtue of ~~this~~ [article 9 of chapter 18 of Title 2A](#) shall not be appealable except on the ground of lack of jurisdiction. The landlord, however, shall remain liable in a civil action for unlawful proceedings under this article.

b. Whenever the court determines that a tenant has been constructively evicted by a landlord who has maintained the rental premises in an uninhabitable condition, including the failure to address the presence of mold, a copy of the notice of the judgment to that effect shall be provided to the Commissioner of Community Affairs.

(cf: N.J.S.2A:18-59)

8. Section 2 of P.L.1997, c.323 (C.45:8-62 [is](#)) is amended to read as follows:

2. As used in this act:

"Board" means the State Board of Professional Engineers and Land Surveyors.

"Client" means any person who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining inspection of and written report upon the condition of a residential building.


"Committee" means the Home Inspection Advisory Committee established pursuant to section 3 of this act.

"Home inspector" means any person licensed as a home inspector pursuant to the provisions of ~~this act~~ [P.L.1997, c323 \(C.45:8-61 et seq.\)](#).

"Home inspection" means an inspection and written evaluation of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components or any other related residential housing component as determined by the board by regulation; in addition, a home inspection may include an inspection for the visible and detectable presence of substantial mold hazards, if specifically requested by a purchaser of a residential housing unit.

"Residential building" means a structure consisting of from one to four family dwelling units that has been occupied as such prior to the time when a home inspection is requested or contracted for in accordance with this act, but shall not include any such structure newly constructed and not previously occupied.

(cf: P.L.2005, c.201, s.1)


9. Section 15 of P.L.1997, c.323 (C.45:8-75 ) is amended to read as follows:

15. No person licensed as a home inspector pursuant to ~~this act~~ P.L.1997, c.323 (C.45:8-61 et seq.) shall:

a. engage in the practice of architecture or the practice of professional engineering unless licensed therefore; or

b. engage in the practice of mold inspection or mold hazard abatement unless certified to do so pursuant to P.L. , c. (C. ) (pending before the Legislature as Senate Bill No. 2633 of 2011.)

(cf: P.L.2001, c.158, s.2)

10. Section 2 of P.L.1993, c.30 (C.45:22A-44 ) is amended to read as follows:

2. a. Subject to the master deed, declaration of covenants and restrictions or other instruments of creation, the association may do all that it is legally entitled to do under the laws applicable to its form of organization.


b. The association shall exercise its powers and discharge its functions in a manner that protects and furthers the health, safety and general welfare of the residents of the community.

c. The association shall provide a fair and efficient procedure for the resolution of disputes between individual unit owners and the association, and between unit owners, which shall be readily available as an alternative to litigation.

d. The association may assert tort claims concerning the common elements and facilities of the development as if the claims were asserted directly by the unit owners individually.

e. Notwithstanding any governing documents to the contrary, no association shall deny permission to a unit owner to abate the presence of mold in or around the immediate areas of the owners' dwelling unit, provided that the association may control the implementation of mold hazard abatement in the common elements.

(cf: P.L.1993, c.30, s.2)

11. Section 3 of P.L.1967, c.76 (C.55:13A-3 ) is amended to read as follows:

3. The following terms whenever used or referred to in this act shall have the following respective meanings for the purposes of this act, except in those instances where the context clearly indicates otherwise:

(a) The term "act" shall mean this act, any amendments or supplements thereto, and any rules and regulations promulgated thereunder.

(b) The term "accessory building" shall mean any building which is used in conjunction with the main building of a hotel, whether separate therefrom or adjoining thereto.

(c) The term "board" shall mean the Hotel and Multiple Dwelling Health and Safety Board created by subsection (a) of section 5 of this act in the Division of Housing and Development of the Department of Community Affairs.

(d) The term "bureau" shall mean the Bureau of Housing Inspection in the Department of Community Affairs.

(e) (Deleted by amendment.)

(f) The term "commissioner" shall mean the Commissioner of the Department of Community Affairs.

(g) The term "department" shall mean the Department of Community Affairs.

(h) The term "unit of dwelling space" or the term "dwelling unit" shall mean any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof.

(i) The term "protective equipment" shall mean any equipment, device, system or apparatus, whether manual, mechanical, electrical or otherwise, permitted or required by the commissioner to be constructed or installed in any hotel or multiple dwelling for the protection of the occupants or intended occupants thereof, or of the public generally.

(j) The term "hotel" shall mean any building, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, which contains 10 or more units of dwelling space or has sleeping facilities for 25 or more persons and is kept, used, maintained, advertised as, or held out to be, a place where sleeping or dwelling accommodations are available to transient or permanent guests.

This definition shall also mean and include any hotel, motor hotel, motel, or established guesthouse, which is commonly regarded as a hotel, motor hotel, motel, or established guesthouse, as the case may be, in the community in which it is located; provided, that this definition shall not be construed to include any building or structure defined as a multiple dwelling in this act, registered as a multiple dwelling with the Commissioner of Community Affairs as hereinafter provided, and occupied or intended to be occupied as such nor shall this definition be construed to include a rooming house or a boarding house as defined in the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et al.) or, except as otherwise set forth in P.L.1987, c.270 (C.55:13A-7.5, 55:13A-7.6, 55:13A-12.1, 55:13A-13.2), any retreat lodging facility, as defined in this section.

(k) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of

dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not include:

(1) any building or structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such;

(2) a building section containing not more than four dwelling units, provided the building has at least two exterior walls unattached to any adjoining building section and the dwelling units are separated exclusively by walls of such fire-resistant rating as comports with the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) at the time of their construction or with a rating as shall be established by the bureau in conformity with recognized standards and the building is held under a condominium or cooperative form of ownership, or by a mutual housing corporation, provided that if any units within such a building section are not occupied by an owner of the unit, then that unit and the common areas within that building section shall not be exempted from the definition of a multiple dwelling for the purposes of P.L.1967, c.76 (C.55:13A-1 et seq.). A condominium association, or a cooperative or mutual housing corporation shall provide the bureau with any information necessary to justify an exemption for a dwelling unit pursuant to this paragraph; or

(3) any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.), provided that the corporation meets the requirements of section 2 of P.L.1983, c.154 (C.55:13A-13.1).

(l) The term "owner" shall mean the person who owns, purports to own, or exercises control of any hotel or multiple dwelling. The term "owner" shall also mean and include any person who owns, purports to own, or exercises control over three or more dwelling units within a multiple dwelling.

(m) The term "person" shall mean any individual, corporation, association, or other entity, as defined in R.S.1:1-2.

(n) The term "continuing violation" shall mean any violation of this act or any regulation promulgated thereunder, where notice is served within two years of the date of service of a previous notice and where violation, premise and person cited in both notices are substantially identical.

(o) The term "project" shall mean a group of buildings subject to the provisions of this act, which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

(p) The term "mutual housing corporation" means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of Title VI, s.607 of the "Lanham Public War Housing Act," 54 Stat. 1125, 42U.S.C. s.1501 et seq., as amended, which acquired a National Defense Housing Project pursuant to said act.

(q) "Condominium" means the form of ownership so defined in the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).



(r) "Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by said corporation or association, or to lease or purchase a dwelling constructed or to be constructed by said corporation or association.

(s) "Retreat lodging facility" means a building or structure, including but not limited to any related structure, accessory building, and land appurtenant thereto, and any part thereof, owned by a nonprofit corporation or association which has tax-exempt charitable status under the federal Internal Revenue Code and which has sleeping facilities used exclusively on a transient basis by persons participating in programs of a religious, cultural or educational nature, conducted under the sole auspices of one or more corporations or associations having tax-exempt charitable status under the federal Internal Revenue Code, which are made available without any mandatory charge to such participants.

(t) "Homeowners' association" means the association formed to manage the common elements of a condominium, cooperative, or a planned real estate development.

(u) "Substantial presence of mold" means the visible or detectable presence of mold growing on interior surfaces or in ventilation ducts, in such amounts as to raise concerns for health of the residents of the building, in accordance with standards promulgated by the Department of Community Affairs pursuant to P.L. , c. (C. ) (pending before the legislature as Senate Bill No. 2633 of 2011).

(cf: P.L.1999, c.384, s.1)

12. Section 7 of P.L.1967, c.76 (C.55:13A-7 [🔗](#)) is amended to read as follows:

7. The commissioner shall issue and promulgate, in the manner specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such regulations as the commissioner may deem necessary to assure that any hotel or multiple dwelling will be maintained in such manner as is consistent with, and will protect, the health, safety and welfare of the occupants or intended occupants thereof, or of the public generally.

Any such regulations issued and promulgated by the commissioner pursuant to this section shall provide standards and specifications for such maintenance materials, methods and techniques, fire warning and extinguisher systems, elevator systems, emergency egresses, and such other protective equipment as the commissioner shall deem reasonably necessary to the health, safety and welfare of the occupants or intended occupants of any units of dwelling space in any hotel or multiple dwelling, including but not limited to:

(a) Structural adequacy ratings;

(b) Methods of egress, including fire escapes, outside fireproof stairways, independent stairways, and handrails, railings, brackets, braces and landing platforms thereon, additional stairways, and treads, winders, and risers thereof, entrances and ramps;

(c) Bulkheads and scuttles, partitions, walls, ceilings and floors;

(d) Garbage and refuse collection and disposal, cleaning and janitorial services, repairs, and extermination services;

(e) Electrical wiring and outlets, and paints and the composition thereof;

- (f) Doors, and the manner of opening thereof;
- (g) Transoms, windows, shafts and beams;
- (h) Chimneys, flues and central heating units;
- (i) Roofing and siding materials;
- (j) Lots, yards, courts and garages, including the size and location thereof;
- (k) Intakes, open ducts, offsets and recesses;
- (l) Windows, including the size and height thereof;
- (m) Rooms, including the area and height thereof, and the permissible number of occupants thereof;
- (n) Stairwells, skylights and alcoves;
- (o) Public halls, including the lighting and ventilation thereof;
- (p) Accessory passages to rooms;
- (q) Cellars, drainage and air space;
- (r) Water-closets, bathrooms and sinks;
- (s) Water connections, including the provision of drinking and hot and cold running water;
- (t) Sewer connections, privies, cesspools, and private sewers;
- (u) Rain water and drainage conductors;
- (v) Entrances and ramps; ~~and~~
- (w) Presence of lead-based paint hazards in multiple dwellings and in single-family and two-family dwellings, exclusive of owner-occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-437.1 et al.). In a common interest community, any inspection fee for and violation found within a unit which is solely related to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit ; and
- (x) Visible substantial presence of mold on any interior surface, including in ventilation ductwork, and the presence of conditions which contribute to that mold formation in multiple dwellings and in single-family and two-family dwellings, exclusive of owner-occupied dwelling units, subject to P.L. , c. (C. ) (pending before the Legislature as this bill). In a condominium, cooperative, or planned real estate development with common elements, any mold, or condition contributing to the formation of mold, which is not under the sole control of a unit owner and which in any manner concerns a common element or facility, shall be the duty of the homeowners' association to remedy; any inspection fee for and violation found within a unit which is solely related to a condition caused by the

owner within the individual unit shall be the sole responsibility of that unit owner and not the homeowners' association, unless the homeowners' association is the owner of the unit.

(cf: P.L.2007, c.251, s.5)

13. This act shall take effect immediately.

#### STATEMENT

Entitled the "Mold-Safe Housing Act," this bill and a companion bill would create mechanisms for tenants living in mold-contaminated rental housing to have the mold effectively removed, or be relocated to safer rental housing. In addition, the bill provides a system of inspection of all rental housing for the presence of mold. Single family and two-family rental housing will be required to be inspected upon a change in occupancy, as well as every five years as part of the multiple dwelling inspection. Multiple dwellings will be inspected every five years for mold under the "Hotel and Multiple Dwelling Law," which is enforced currently by the Bureau of Housing Inspection in the Department of Community Affairs.

The bill provides that a prospective home purchaser can specify that an inspection for presence of mold be performed by a licensed home inspector, should they retain such an inspector prior to purchase.

The bill permits tenants whose landlords fail to abate a mold hazard, upon written request to do so, to notify the Department of Community Affairs, who shall investigate each claim and determine whether to relocate the tenant. Current relocation assistance laws would apply in such circumstances. In addition, the bill requires the court to notify the department whenever a tenant is constructively convicted on account of mold or some other issue of habitability in the rental property.

Companion legislation to this bill creates standards for unsafe mold exposure levels, mold hazard abatement methods and certification of those professionals who will perform such work. Together, these bills form the framework of a protective process designed to identify and eliminate exposure in rental housing to mold, and to quickly remove tenants from harmful exposure to toxins that could impair their health for years to come.

#### **NJ A 1007    SPONSOR:    Benson (D)**

COSPONSOR(S): McKeon (D), Kean S (R), Lampitt (D), Coughlin  
(D), Mosquera (D)

TITLE:        Mold Hazards

PREFILED:    01/14/2014

INTRODUCED: 01/16/2014

DISPOSITION: Pending

#### SUMMARY:

Requires Department of Community Affairs (DCA) to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

#### STATUS:

01/14/2014    FILED.

01/16/2014    INTRODUCED.

01/16/2014    To ASSEMBLY Committee on HOUSING AND COMMUNITY

DEVELOPMENT.

**Added:**Green underlined text

**Deleted:**~~Dark red text with a strikethrough~~

**Vetoed:**Red text

[Links to affected code section](#)

<b>2014 NJ A 1007</b>	<b>Author:</b>	Benson
	<b>Version:</b>	Introduced
	<b>Version Date:</b>	01/16/2014

ASSEMBLY, No. 1007

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman CELESTE M. RILEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblymen S.Kean, McKeon, Coughlin, Assemblywomen Mosquera and Lampitt

#### SYNOPSIS

Requires DCA to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers.

#### CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel

An Act concerning mold inspection and mold hazard abatement, and supplementing Title 52 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

"Department" means the Department of Community Affairs.

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, an educational services commission, a jointure commission or board, and a commission under the authority of the Commissioner of Education or the State Board of Education.

"Mold" means any form of multicellular fungi that lives on plant or animal matter and in indoor environments. Types of mold include, but are not limited to, *Cladosporium*, *Penicillium*, *Alternaria*, *Aspergillus*, *Fusarium*, *Trichoderma*, *Memnoniella*, *Mucor* and *Stachybotrys Chartarum*, often found in water-damaged building materials.

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district or a charter school.

2. a. Within six months after the effective date of this act, the Department of Community Affairs, in consultation with the Department of Health and the Department of Labor and Workforce Development, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), that establish procedures for the inspection, identification, and evaluation of the interior of residential buildings and school facilities for mold based upon, but not limited to, industry standards and standards and guidelines developed by the United States Environmental Protection Agency.

b. Within six months after the effective date of this act, the Department of Community Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act" that establish procedures for mold hazard abatement including specialized cleaning, repairs, maintenance, painting, temporary containment and ongoing monitoring of mold hazards or potential hazards. Hazard abatement procedures for mold developed by the department shall:

(1) provide practical guidelines for the removal of mold and abatement of the underlying cause of mold and associated water intrusion and water damage in indoor environments; and

(2) provide practical guidance for the removal or cleaning of contaminated materials in a manner that protects the health of the person performing the hazard abatement, including requirements for the use of protective clothing or equipment.

3. a. Within 12 months after the effective date of this act, the Department of Community Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to establish a program for the certification of persons who inspect for the presence of mold hazards in residential buildings and school facilities. The mold inspection certification program shall require that inspectors for mold hazards have training and education in at least the following subject areas:

(1) proper methods to identify the presence of mold consistent with the procedures developed therefor pursuant to subsection a. of section 2 of this act;

(2) scientifically recognized procedures and new technologies for the collection of air and surface samples;

(3) methods for the identification of locations of moisture infiltration to locate likely areas for mold infestation;

(4) all applicable State and federal laws, rules and regulations; and

(5) any other area the department deems relevant.

b. Within 12 months after the effective date of this act, the department shall adopt rules and regulations pursuant to the "Administrative Procedure Act" to establish a program for the certification of persons who perform mold hazard abatement work, and who safeguard buildings from the presence of mold in residential buildings and school facilities. The mold hazard abatement certification shall require that persons have training and education in the following areas:

(1) mold hazard abatement procedures developed by the department pursuant to subsection b. of section 2 of this act;

(2) specialized cleaning, repairs, maintenance, painting, temporary containment and ongoing monitoring of mold hazards or potential hazards;

(3) removal of mold and the abatement of the underlying cause of mold and associated water intrusion and water damage in indoor environments;

(4) removal or cleaning of contaminated materials in a manner that protects the health of the person performing the mold hazard abatement, including requirements for the use of protective clothing or equipment;

(5) all applicable State and federal laws, rules and regulations; and

(6) any other training or education the department deems appropriate, including but not limited to the successful completion of an outreach training program for the construction industry or general industry that has been approved by the federal Occupational Safety and Health Administration in the United States Department of Labor as an orientation to the occupational safety and health of workers covered by part 1926 of title 29, Code of Federal Regulations.

c. In establishing the certification programs for mold inspection and mold hazard abatement required pursuant to subsections a. and b. of this section, the Department of Community Affairs may:

(1) charge an annual fee for any persons certified pursuant to subsection a. or b. of this section;

(2) require the successful completion of a course of continuing education or training for certified inspectors or abatement workers at least once every two years;

(3) conduct examinations to determine whether an applicant has sufficient knowledge of the State and federal laws, rules and regulations, and any standards or requirements, applicable to the inspection or abatement of mold hazards, as the case may be; and

(4) adopt rules and regulations pursuant to the "Administrative Procedure Act" to provide for:

(a) the enforcement and compliance with the mold inspection and mold hazard abatement certification programs established pursuant to subsections a. and b. of this section, which may provide for the suspension, revocation, or refusal to issue or renew a certification issued to persons by the department; and

(b) the imposition of penalties on any person who (i) violates any provision of the certification programs established pursuant to subsections a. and b. of this section, or (ii) inspects residential building interiors or school facilities for the presence of mold or performs mold hazard abatement work in residential buildings or school facilities in violation of section 4 of this act.

d. In establishing the certification programs for mold inspection and mold hazard abatement required pursuant to subsections a. and b. of this section, the Department of Community Affairs may grant a certification to a person who demonstrates to the department that the person has successfully completed an accredited program in mold inspection or mold hazard abatement, as the case may be, by a nationally accepted accreditation organization which is determined by the department to be equal to or greater than the level of training and education required of persons certified pursuant to subsection a. or b. of this section, respectively; provided however, that a person granted a certification pursuant to this subsection shall be required to pay the appropriate annual fee charged by the department pursuant to paragraph (1) of subsection c. of this section, successfully complete any course of continuing education and training for certified inspectors or abatement workers required by the department pursuant to paragraph (2) of subsection c. of this section, and be subject to any rules and regulations adopted pursuant to paragraph (4) of subsection c. of this section.

e. An employee engaged in routine maintenance of a multiple dwelling owned or managed by their employer shall not be required to complete the certification programs established pursuant to this section in order to address the presence of mold in the multiple dwelling owned or managed by their employer; however, nothing in this subsection shall be construed to exempt multiple dwellings from otherwise complying with the procedures adopted by the Department of Community Affairs pursuant to section 2 of this act.

f. A residential property owner shall not be required to complete the certification programs established pursuant to this section in order to perform mold inspection or mold abatement work on his own property.

4. On the first day of the sixth month following adoption of the rules and regulations required pursuant to section 3 of this act:

a. Any person who inspects a residential building interior or a school facility for the presence of mold shall be certified by the Department of Community Affairs pursuant to subsection a. of section 3 of this act.

b. Any person who performs mold hazard abatement work in a residential building or a school facility, except as otherwise provided in subsections e. and f. of section 3 of this act, shall be certified by the department pursuant to subsection b. of section 3 of this act.

c. No person shall present himself to the public as an expert in mold inspection or mold hazard abatement work unless certified by the Department of Community Affairs pursuant to subsection a., b., or d., as applicable, of section 3 of this act.

5. This act shall take effect immediately.

#### STATEMENT

This bill provides for the establishment of certain procedures for the inspection for, and abatement of, mold hazards in residential buildings and school facilities, and provides for the establishment of programs to certify mold inspectors and mold hazard abatement workers.

The bill requires the Department of Community Affairs (DCA), in consultation with the Department of Health and the Department of Labor and Workforce Development, to adopt, within six months of the effective date of the bill, rules and regulations that establish procedures for the inspection, identification, and evaluation of the interior of residential buildings and school facilities for mold. Further, the bill requires the DCA to adopt, within six months of the effective date of the bill, rules and regulations that establish mold hazard abatement procedures including specialized cleaning, repairs, maintenance, painting, temporary containment, and ongoing monitoring of mold hazards or potential hazards.

The bill requires the DCA to adopt, within 12 months of the effective date of the bill, rules and regulations to establish a certification program for persons who inspect for the presence of mold hazards in residential buildings and school facilities. The bill also requires the DCA to adopt, within 12 months of the effective date of the bill, rules and regulations to establish a certification program for persons who perform mold hazard abatement work in residential buildings and school facilities.

The bill authorizes the DCA to charge an annual fee for the certification of persons who inspect for the presence of mold and perform mold hazard abatement, require the successful completion of a course of continuing education or training for certified inspectors or abatement workers at least once every two years, conduct examinations to determine an applicant's proficiency with respect to State and federal laws, rules, and regulations and any standards or requirements applicable to the inspection or abatement of mold hazards, and adopt rules and regulations to provide for the enforcement of, and compliance with, the mold inspection and mold hazard abatement certification programs established by the bill.

The bill authorizes the DCA to also grant mold inspection and mold hazard abatement certifications to persons who are able to demonstrate that they have successfully completed an accredited program in mold inspection and mold hazard abatement by a nationally accepted accreditation organization. The bill provides that the accredited program must require persons enrolled in the program to have training and education that is determined by the department to be equal to or greater than the level of training and education required of persons who are otherwise certified by the department, that persons granted certification as a result of the successful completion of an accredited program pay the appropriate annual fee charged by the department, complete any course of continuing education and training for certified inspectors or abatement workers required by the department, and be subject to any other rules and regulations adopted by the department.

The bill provides that on the first day of the sixth month following the adoption of rules and regulations concerning the establishment of programs to certify mold inspectors and mold hazard abatement workers, any person who inspects for the presence of mold hazards in residential buildings and school facilities and any person who performs mold hazard abatement work in those buildings must be certified by the DCA. The bill allows only certified contractors to represent themselves to the public as experts in mold inspection or mold hazard abatement, as applicable.

The bill provides that an employee engaged in routine maintenance of a multiple dwelling owned or managed by their employer will not be required to complete the certification program for mold inspectors or mold hazard abatement workers to address the presence of mold in the multiple dwelling owned or managed by their employer.

### **Legislation Reported Earlier**

None to Report

### **Regulatory Activity**



None to Report