

OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD

(Board)

PETITION FILE NO. 579

BOARD STAFF EVALUATION

Submitted by: David Kernazitskas, MSPH, CIH, CSP

Senior Safety Engineer

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## **INTRODUCTION**

Petition File No. 579 (Petition) was submitted by Pamela Saling (Petitioner) on January 10, 2020. The Petition seeks changes in existing standards concerning the presence of mold in employee-occupied buildings.

## **REQUESTED ACTION**

The Petitioner requests the Board incorporate guidelines from a document entitled “Indoor Environmental Professionals Panel of Surviving Mold – Consensus Statement” (Consensus Statement) into Title 8 to aid in the investigation of a water-damaged building (WDB) whose occupants exhibit symptoms of potential illness from mold exposure.

## **PETITIONER’S ASSERTIONS**

The Petitioner asserts that existing Title 8 requirements addressing mold “fall short” and do not require employers and building owners to sufficiently address employee complaints of mold exposure. She writes that mold exposure is an “epidemic [that affects] all ages, races and economic classes” and provides a web address where she claims one can obtain information on “the latest scientific studies, laws and regulations, articles and further mold information resources.” She hopes that California will be the first state in the nation to adopt the principles explained in the Consensus Statement and that other states will follow.

The Consensus Statement recommended by the Petitioner for adoption into Title 8 is written by a panel of doctors who specialize in resolving concerns of mold exposure to the segment of the population most affected by the presence of mold in WDBs. The panel labels these individuals as having chronic inflammatory response syndrome, which is acquired following exposure to the interior of water-damaged buildings (CIRS-WDB). Table 1 in the document contains a list of 30 “toxins, inflammagens, and microbes found in WDBs”, which the Petitioner asserts, can contribute to CIRS-WDB.

The Consensus Statement describes an in-depth procedure for 1) finding causes of and preventing water damage, 2) investigating and remediating WDB, 3) maintaining indoor environmental quality after remediation, and 4) verifying that a damp indoor environment has been remediated so that mold-sensitive individuals can safely reoccupy the space. The document is specifically written to alleviate complaints of mold exposure from those identified as having CIRS-WDB.

According to the document, its “primary objective is to establish modified standards for the evaluation and management of WDBs to be applied to all buildings, not just those where occupants meet diagnostic criteria for CIRS-WDB.” Continuing, it says “Such standards will necessarily also correct indoor conditions that are encountered by less adversely affected occupants.”

## **STAFF EVALUATION**

On February 5, 2020, Board staff spoke with the Petitioner to discuss the Petition. She explained that she formerly worked in an office with mold and rodent infestations and that, in her opinion, her employer only half-heartedly tried to address her concerns. She said that she discovered the Consensus Statement information and felt that it could protect employees in her situation from having to leave a job due to insufficient remediation of mold and other unsanitary conditions.

Although mold is present virtually everywhere, visible mold is a recognized hazard that should be addressed to prevent a variety of health effects ranging in seriousness from mild allergies to asthma and acute bronchitis. Several sources exist which provide guidelines for preventing and removing mold from occupied spaces<sup>1,2,3</sup>. In general, such sources agree that controlling the presence of water (or moisture) is the most effective way to control the appearance of mold.

### **Relevant Standards**

#### **Federal Standards**

Federal OSHA regulations do not specifically address mold. The General Duty Clause, which requires employers to furnish employees a workplace free from recognized hazards that cause or are likely to cause death or serious physical harm, applies to the presence of mold in the workplace. Subparts 1910.141 and 1926.51 “Sanitation” can loosely apply to mold as far as the mold presents an unsanitary or toxic condition in General Industry or Construction, respectively.

#### **California Standards**

California regulates the presence of mold in the workplace primarily through Section 3362 “General Requirements” within Article 9 “Sanitation” which states:

*(a) To the extent that the nature of the work allows, workplaces, storerooms, personal service rooms and passageways **shall be kept clean, orderly and in a sanitary condition.** The interiors, exteriors and environs of buildings that contribute to a hazard to which these orders apply **shall be cleaned and maintained in such conditions as will not give rise to harmful exposure, as defined in Section 5140.***

*(b) Cleaning and sweeping shall be done in such a manner as to minimize the contamination of the air and, insofar as is practicable, shall be performed at such time and in such a manner that will avoid harmful exposures as defined in Section 5140.*

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<sup>1</sup> <https://www.cdc.gov/niosh/topics/indoorenv/moldresources.html>. Accessed 2/19/20.

<sup>2</sup> <https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/Mold.aspx>. Accessed 2/19/20.

<sup>3</sup> <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/epi-mold-guidelines.pdf>. Accessed 2/19/20.

*(c) To facilitate cleaning, every floor, workroom, personal service room and passageway shall be kept free from protruding nails, splinters, loose boards and unnecessary holes and openings.*

*(d) All putrescible waste or refuse shall be stored in a receptacle so constructed that it does not leak and may be conveniently and thoroughly cleaned. Such a receptacle shall be maintained in a sanitary condition and shall be equipped with a tight fitting cover if it cannot be maintained in a sanitary condition without one. (This provision does not prohibit the use of receptacles which are designed to permit the maintenance of a sanitary condition without regard to the above requirements.)*

*(e) All sweepings, putrescible wastes, refuse and garbage shall be removed in such a manner as to avoid creating a nuisance and shall be removed as often as necessary to avoid creating a menace to health through the development of unsanitary conditions.*

*(f) Every enclosed workplace and personal service room shall be equipped and maintained, insofar as is practicable, to prevent the entrance or harborage of insects, rodents or other vermin. An effective program of extermination and control shall be instituted whenever their presence is detected.*

***(g) When exterior water intrusion, leakage from interior water sources, or other uncontrolled accumulation of water occurs, the intrusion, leakage or accumulation shall be corrected because of the potential for these conditions to cause the growth of mold. (Emphasis added).***

General Cal/OSHA regulations, such as Section 3203 “Injury and Illness Prevention Program” and Section 5141 “Control of Harmful Exposure to Employees”, may also apply to mold exposure in the workplace. Section 3362(g) requires employers to address uncontrolled water accumulation in the workplace to prevent mold growth; whereas Sections 3203 and 5141 require employers to address existing and potential hazards of mold in the workplace.

### **Consensus Standards**

A variety of consensus standards exist, which provide information on the anticipation, recognition, control, and elimination of mold in the workplace. (See Footnote 1 above). As mentioned previously, a common theme in the consensus standards is that the most effective way to control mold growth is by eliminating moisture and water sources from the mold’s environment. Only after the water source is eliminated do the standards provide recommendations for mold abatement—whether by cleaning or replacement of the mold-affected materials.

### **Position of Division**

The July 30, 2020, Division evaluation recommends granting the Petition to the limited extent that an advisory committee be convened to consider appropriate changes to subsection 3362(g). The Division recommends that advisory committee discussions include means for the

control of water intrusion, excessive moisture, and excessive humidity as well as a requirement for mold to be cleaned and removed promptly.

### **Analysis**

According to a “Frequently Asked Questions” (FAQ) sheet from the Centers for Disease Control and Prevention<sup>4</sup> “mold is found both indoors and outdoors... [and] is very common in buildings and homes.” Additionally, it says mold enters indoor spaces “through open doorways, windows, vents, and heating and air conditioning systems,” as well as on clothing and shoes.

Although exposure to mold increases the risk of mold-related health effects, the FAQ sheet also explains that “exposure to damp and moldy environments may cause a variety of health effects, or none at all,” depending on a person’s individual sensitivities to a particular mold. People with allergies, immune suppression illness, or chronic respiratory diseases are at the highest risk of the most serious complications resulting from mold exposure, according to the sheet.

The Petitioner’s request aims to require employers to remediate a WDB until the symptoms of CIRS-WDB are abated for all employees. Because of the differences in employees’ individual sensitivity to mold and other contaminants listed in Table 1 of the Petition, the extent and cost of the remediation efforts can vary greatly. Furthermore, many of the contaminants listed in Table 1 can be found in buildings that do not show signs of water damage (e.g. cell fragments, bacteria, protozoa, volatile organic compounds, and airborne particulates), potentially adding confusion to a requirement to abate the contaminants as recommended in the Consensus Statement.

Adding to the potential for excessive costs to a business, the document recommends the use of “a moisture meter, an infrared imaging system, a meter to measure relative humidity, and a laser particle counter” to perform an interior inspection of a WDB. The document states “Both moisture meters and laser counters require professional knowledge and training for accurate use.”

The Consensus Statement also contains recommendations for destructive exploratory testing, removal of occupants during remediation, and confirmatory conditions for post-remediation success that could be problematic to enforce. For example, the document states:

*Although laboratory testing is needed, for many persons with CIRS-WDB the optimal level of cleanliness to reach and show with post-remediation testing will (i) have no odors including fragrances or strong smelling chemicals; and (ii) have no visible dust seen with a bright light. The surfaces should be generally white glove clean. Blue painter’s tape can be pressed onto smooth surfaces to show if residues and dust have not been removed with cleaning. These are test methods that can be used by workers, customers, and consultants and are not medically conclusive.*

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<sup>4</sup> <https://www.cdc.gov/mold/faqs.htm>. Accessed 2/19/20.

In contrast to the Consensus Statement's requirements to confirm that mold and other contaminants have been sufficiently removed from a work area, the California Department of Public Health (CDPH) provides the following on its FAQ page<sup>5</sup> in response to the question, "How do I know if the remediation was good enough and solved the problem?"

*The best known indicator that the dampness-related health risks have been reduced is if the source of the moisture is remedied, all damaged materials have been cleaned or removed appropriately, and all remaining materials are dry and free of visible mold and mold odor. As of now, no mold tests or measurements can show when remediation efforts have been successful.*

The CDPH recommendations do not require special tools or training to implement and are arguably as protective with respect to the removal of mold from the workplace.

Labor Code Section 6400(a) requires that the Petitioner and others who suffer from hypersensitivity to mold be provided with a workplace "that is safe and healthful to the employees therein." However, the consensus of the mold information, including the Consensus Statement, is that controlling the presence of water in an area is the most effective means of preventing mold growth, as required by existing Section 3362. Staff does not see the need to add the additional requirements of the Consensus Statement to Title 8 regulations.

Staff asserts that Section 3362, regarding the uncontrolled accumulation of water and the requirement to provide work areas that are clean, orderly, and sanitary, sufficiently requires employers to abate the conditions that could lead to mold exposure in the workplace. Additionally, the performance based standards of Section 3203 "Injury and Illness Prevention Program" and Section 5141 "Control of Harmful Exposure to Employees" require employers to take steps to protect employees from onsite hazards. When properly implemented, existing Title 8 requirements for the prevention and control of mold in the workplace reasonably address the risks to employees.

### **STAFF RECOMMENDATION**

Consistent with the foregoing discussion, Board staff does not believe that the Petitioner's request is necessary and recommends that Petition File No. 579 be DENIED.

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<sup>5</sup> <https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/EHLB/IAQ/Pages/Mold-FAQs.aspx>. Accessed 2/27/2020.