

NEW YORK HEALTHY NAIL SALONS COALITION

July 17, 2015

David A. Mossberg, Esq.
NYS Department of State
123 William Street, 20th Fl.
New York, NY 10038
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Re: Amendment of section 160.16 of Title 19 of the NYCRR. ID no. DOS-22-15-00017-P

Dear Mr. Mossberg:

The New York Healthy Nail Salons Coalition writes to express strong support of the above referenced proposed regulation requiring ventilation in nail salons. The Coalition, founded in 2014 by Adhikaar and New York Committee for Occupational Safety and Health (NYCOSH) and composed of labor, community and public health organizations, works to ensure that all nail salon workers are justly compensated and able to work in safe and healthy environments.

The proposed regulation is an essential public health measure to better protect nail salon employees and their clients from exposure to toxic substances. We applaud New York for joining other jurisdictions such as the state of Oregon; King County, Washington; and the City of Boston in mandating ventilation standards in salons in accordance with internationally approved mechanical codes. With this regulation, New York will become a national leader in promoting safe nail salon environments for workers and for the public. We have several recommendations set forth below, which are designed to make sure that the regulation is as clear as possible and that it can be implemented effectively and enforced going forward.

1. Ventilation is the key measure the state can take now to reduce toxic exposures for both salon workers and customers.

Improved ventilation is a necessary step to protect public health because it will reduce exposure to the many toxic chemicals commonly used in nail salons. Proper levels of ventilation have been shown to effectively remove chemicals as well as harmful dust from the air, thus mitigating risks to workers and customers from inhaling those substances.

While we hope that New York State will ultimately move toward eliminating the use of products containing toxic chemicals, ventilation standards can and must be implemented now to reduce the serious health risks nail salon chemicals and dust pose to workers and customers. Chemicals commonly used in nail salon products, including but not limited to the “toxic trio” of formaldehyde, toluene and dibutyl phthalate, are known to cause serious health problems such as cancer and can also disrupt reproductive health. This is particularly worrisome given that the vast majority of salon workers and customers are women, many of whom are of childbearing age.

The rule will have broad public health benefits for workers, owners and customers alike. As advocates for nail salon workers, we are fully aware of the increased exposure and health risks workers face due to their long working hours. In addition, nail salon customers, many of whom are now concerned about the health risks involved in frequenting salons particularly if they are pregnant or of childbearing age, will also benefit from improved ventilation.

2. The standards set forth in the New York Mechanical Code, as well as inclusion of both mechanical and source-capture ventilation, are crucial for the rule to be effective.

Ventilation is an effective tool to reduce toxic exposures if it is properly implemented. We support the proposed regulation's requirement that salons install both general mechanical ventilation and local exhaust ventilation. If done effectively, general mechanical ventilation brings in sufficient outdoor air, provides comfortable temperature and humidity, and removes contaminated air. In addition, local exhaust ventilation, using source capture equipment at every manicure and pedicure station, is needed to reduce exposures to vapors and dusts at the point of generation to best prevent those substances from entering the breathing zones of salon workers and customers.

It is crucial that the rule provide enforceable standards for ventilation system operation. The NYS 2010 Mechanical Code sets specific requirements for minimum amounts of fresh outdoor air and mechanical exhaust that does not recirculate any air back into the salon or other spaces in the building. We believe the Mechanical Code standards are a good starting point to protect public health and are feasible for salons to implement. Indeed, all salons built after 2010 are already subject to these standards. The Department should continue to evaluate the effectiveness of these systems and standards after the rule is implemented to ensure that they effectively eliminate health risks in salons. Should evaluation reveal that these standards are insufficiently protective in some or all salons, the State should modify these regulations accordingly.

3. The rule should be clarified to specify that salons must have the ventilation system operating during all business hours and to require salons to provide documentation demonstrating compliance.

While it may seem obvious, ventilation systems won't be effective unless they are operating as intended while salons are conducting business. The rule should make clear that appearance enhancement businesses must keep ventilation systems running at the mandated levels during business hours.

It is also unclear from the proposed rule how the Department will confirm that an appearance enhancement business has installed a ventilation system that meets the rule's requirements. New York should follow the example of Boston, which requires businesses to submit documentation from a licensed engineer or contractor demonstrating that the ventilation system meets code standards. New York should require new licensees to submit similar documentation with their application, and should require existing licensees to submit documentation upon renewal of their license.

4. The Department of State should implement detailed protocols for inspection and enforcement.

Because current inspectors may not be familiar with ventilation systems or know what to look for to ensure that businesses are in compliance with the new regulation's requirements, the Department should develop detailed protocols and training for inspectors. This should include inspections to ensure that ventilation systems are operating during business hours and have been properly maintained. In addition, the Department should require licensed salons to provide regular, appropriate reporting on necessary maintenance of ventilation systems.

5. It is important for the Department to provide training and technical assistance to ensure effective implementation and compliance with the new regulation.

Nail salon and building owners must be provided with adequate information to assist them in complying with this new regulation. The new rule will require appearance enhancement businesses to engage HVAC engineers and in many cases to purchase equipment with which they may be unfamiliar. The Department should offer training to licensees, provide detailed technical assistance including referrals to licensed engineers, and create easy-to-understand guidance for business owners in appropriate languages. The Department should also ensure that new applicants get this information early in the process to ensure that the ventilation system is included in building design and planning. For existing licensees, the Department should offer assistance in dealing with building owners to implement the new regulation as needed.

In conclusion, we believe this regulation is crucial to protecting public health given the many toxic chemicals commonly used in nail salons. We urge the Department of State to maintain the strong standards in the proposed regulation, clarify the rule as suggested, and devote attention to ensuring that businesses are able to implement the new requirements as well as to enforcing those requirements once the regulation goes into effect. Thank you for your leadership on this issue.

Sincerely,

New York Healthy Nail Salons Coalition

Adhikaar
New York Committee for Occupational Safety and Health
National Asian Pacific American Women's Forum
National Employment Law Project
New York Lawyers for the Public Interest
Planned Parenthood of New York City
Workers United Joint Board New York/New Jersey (SEIU)