



April 24, 2013

Mike Horowitz
Senior Safety Engineer/Industrial Hygienist
Cal/OSHA Research and Standards Unit
1515 Clay, Ste. 1901
Oakland, CA 94612
MHorowitz@dir.ca.gov

Re: Cal/OSHA's adoption of the Globally Harmonized System.

Dear Mr. Horowitz:

Based on additional information, we are submitting a revised version of our comment letter originally dated and submitted on April 5, 2013.

We are writing to recommend certain regulatory language pursuant to Cal/OSHA's proposal and the Standards Board's adoption of the Globally Harmonized System of Hazard Communication.

Generally, we urge the retention, if not expansion, of certain provisions that are more protective for workers than those adopted by federal OSHA in 2012. Adopting less protective standards, even if they are identical to those adopted by federal OSHA, would represent huge steps backward for occupational safety and health in California. Federal OSH regulations, by law, set the floor or minimum for protective standards, not the ceiling or maximum limit.

I. Who we are.

The California Healthy Nail Salon Collaborative (Collaborative), formed in 2005, comprises approximately 40 public health and environmental advocates, salon workers and owners, and allies in government agencies. Its fiscal sponsor is Asian Health Services located in downtown Oakland. The Collaborative focuses on reproductive and environmental justice and health for the nail salon community through outreach/education, research, and policy strategies.

We are also providing comments as members of Californians for a Healthy and Green Economy (CHANGE) which advocates for a better and more precautionary approach to regulating chemicals.

II. Nail salon workers face many obstacles to accessing information on the occupational hazards they face.

The majority of nail salon workers are women of color, an estimated 42% nationwide are Asian immigrants, and most are of reproductive age. Many nail salon workers speak limited English and lack access to regulatory, legal and health care systems. Most salon workers earn less than \$21,800 per year.

In the last decade, the number of nail technicians increased by 374% to more than 380,000 nationwide, with women making up to 96% of the workforce. One in five manicurists work in California, where up to 80% are Vietnamese women.

On a daily basis, for long hours at a time, salon workers handle solvents, glues, polishes, dyes and other beauty care products containing a multitude of chemicals known or suspected to cause cancer, allergies, respiratory, neurological and reproductive harm. Acute health symptoms – such as headaches, dizziness, rashes and breathing difficulties – have been well documented and salon workers often report such concerns. More serious problems – such as miscarriages, birth defects, cancer and respiratory illnesses – are also of significant concern, yet have been more difficult to document as little research has been conducted on the chronic impacts associated with exposures.

Despite documented occupational exposures and concern for worker safety, regulatory oversight of chemicals used in salons has been lagging, and is narrow in scope and largely ineffective. Currently cosmetics manufacturers can legally use virtually unlimited amounts of most chemicals – including those linked to cancer, reproductive and developmental harm, and hormone disruption – in beauty products with no premarket safety assessment. Of the more than 10,000 chemicals used in beauty, personal care and salon products, 89% have yet to be independently tested for safety and impacts on human health.

This vacuum in regulatory protection disincentivizes manufacturers from taking responsibility for the safety of the chemicals used in salon products. Instead, the burden of chemical toxicity falls upon salon workers, owners and consumers, and often translates into poor health outcomes.

III. The Collaborative supports California’s adoption of a Globally Harmonized System of occupational hazard communications but not at the expense of current more protective standards under California’s Hazard Communication Standard.

Given the language challenges of many nail salon workers and employers, many aspects of a more globally harmonized system of hazards communication are welcomed. For instance, we support requiring consistent formats and the use of pictograms, standardized hazard statements, signal words, and precautionary statements in Safety Data Sheets on the federal and state level. These changes can greatly improve the nail salon community’s access to important information on the health effects of the products and chemicals they use on-the-job and the measures they can take to best protect themselves.

However, we do not support “harmonization” at the expense of “protection.” Some of the less protective changes adopted by federal OSHA, such as deletion of lists of authoritative bodies that identify certain health hazards, could have negative implications beyond health in the workplace to the health of the general public and

the environment, and should be rejected. California labor law and environmental law often cross reference and impact each other; for example, the California Proposition 65 list of carcinogens and reproductive toxins subject to that law includes substances identified by reference in Labor Code sec. 6382(b)(1) (IARC carcinogens) and Labor Code sec. 6382(d) (any substance designated hazardous under the Federal Hazard Communication Standard). See Health and Safety Code sec. 25349.8(a).

A. Keep source lists such as those listed or described in sec. 5194 (d) (3) and (4).

We support retaining all the authoritative lists referred to and described in 8 CCR sec. 5194 (d) (3) and (4), and are greatly concerned that federal OSHA deleted important lists to use when manufacturers classify chemicals.

Manufacturers' reliance on lists of well-respected and authoritative bodies such as the National toxicology Program (NTP), the International Agency for Research on Cancer (IARC), and the Proposition 65 List when they classify chemicals leads to greater consistency and clarity in communicating the hazards of chemicals, important goals of harmonization. This results in less confusion for employers and workers when they try to understand the hazards of the chemicals and products they use, and the measures they should take to protect themselves.

The lack of lists of certain authoritative bodies to refer to when classifying chemicals could open the door to evidence being cherry-picked and potential harm being down-played or not reported at all. Manufacturers, who try to be more forthcoming and transparent when providing hazard information on chemical ingredients, would be at a commercial disadvantage to those who choose not to take that more precautionary approach.

We also recommend the following:

Add the Proposition 65 List to the Director's List of Hazardous Substances to provide an authoritative source for identifying reproductive and developmental toxicants.

B. Retain the "one (positive) study" language.

We recommend the following:

- Retain the reference to "one (positive) study" in sec. 5194 (c) in the definition of Health Hazard;
- Refer to "one (positive) study" for the purpose of classifying an ingredient as a health hazard for SDSs and on labels;
- Require listing ingredients and their health effects in section 2 of SDSs regarding health hazard identification based on "one (positive) study."

We also recommend amending the division's draft language in its blue Discussion Draft (page 2), A.0.3.5. Below is the Division's draft language; our suggested revisions are underlined:

...Where available studies of possible health effects of a chemical are deemed by the SDS preparer to not provide sufficient weight of evidence for classification of the chemical, the SDS preparer shall nonetheless note on the safety data sheet the identity of the chemical and the health effect for that chemical for which

there is at least one study conducted in accordance with established scientific principles and which report statistically significant findings regarding a potential health effect.

Unless manufacturers are required to rely and communicate this kind of information on a safety data sheet and elsewhere, workers could be exposed to a hazardous chemical without even knowing it. When it comes to protecting the health of workers, any erring should be on the side of precaution and more—not less—information, a principle that sits at the heart of right-to-know laws and the Hazard Communication Standard in California.

C. Do not adopt federal OSHA’s language that no testing is required when classifying chemicals.

The federal statement in 29 CFR 1910.1200 (d)(2) and elsewhere that testing is not required in order to classify a chemical should not be adopted because it would make California’s occupational safety and health regulations less effective than they are currently. If the no-duty-to-test statement is included, it would undermine Cal/OSHA’s requirement that manufacturers and importers determine what is in a mixture if they do not already know, a requirement that should be retained.

D. Retain the requirement to revise labels within 3 months when a manufacturer or other entity becomes aware of information not currently reflected on a label.

Federal OSHA extended the time limit to 6 months for revising labels when manufacturers become aware of significant information not currently reflected on those labels. Since the time limit for revising SDSs continues to be 3 months, keeping the 3 month time limit for labels supports greater consistency in communications regarding occupational hazards. Additionally, we are unaware of any evidence supporting the necessity of extending the time limit. California should not follow suit with federal OSHA on this issue; should not go backwards in its protections for workers; and should not sacrifice the health of workers for the sole sake of adopting standards that are identical to those of the federal government.

E. Lower the concentrations levels of substances in mixtures for purposes of defining, classifying, reporting, and other issues related to health hazards delineated in California’s Hazard Communication Standard.

Technology used to detect chemical components has advanced tremendously and is able to detect the presence of chemicals at very low levels. Additionally, we are learning more and more about the dangerous health effects posed by many chemicals, particularly carcinogens and endocrine disruptors, even at very low levels. For instance, bisphenol A, previously thought to be harmless, can have adverse impacts at the parts-per-trillion range. A threshold of 1% or even 0.1% for reporting BPA as a health hazard on SDSs would fail to be protective by several orders of magnitude.

Therefore we recommend:

- Lowering the concentrations to .01% for most chemical hazards;
- Lowering to .001% in the case of carcinogens and endocrine disruptors;
- Where the weight of evidence warrants it, an even lower chemical-specific level should be set.

F. Improve and ensure language access.

Since many of our constituents are Vietnamese-speaking workers and employers, we strongly urge that the HCS in California be improved to ensure greater access to important health and safety information for non-English and non-native English speakers. There are specific that this could be achieved; for instance, in the new federal HCS it is optional for a SDS preparer to use pictograms to communicate a health hazard in section 2:

(b) Signal word, hazard statement(s), symbol(s) and precautionary statement(s) in accordance with paragraph (f) of §1910.1200. (Hazard symbols may be provided as graphical reproductions in black and white or the name of the symbol, e.g., flame, skull and crossbones); (Emphasis added.)

We believe the use of symbols and pictograms should be required—not optional; to do differently runs contrary to a core goal of the GHS which is to improve the clarity of, and therefore access to, important information for workers.

We also believe that, at least in some cases, translation of SDSs and other health and safety information should be required of manufacturers. For instance, it is estimated that 80% of the nail salon workforce in California is Vietnamese. Therefore, in the case of professional nail salon products, requiring that SDSs be translated is clearly warranted.

Thank you for considering our comments and recommendations.

Yours truly,



Catherine A. Porter, JD

Policy Director

(510) 985-1146

catherineAporter@gmail.com