

CALIFORNIA PROP 65 – STYRENE UPDATE

April 22, 2017 was the deadline for composites manufacturers to comply with California’s Proposition 65 (Prop 65) “clear and reasonable” warning requirements for consumer products exceeding Safe Harbor exposure limits for styrene. Styrene was added to the Prop 65 list as a chemical “known to the State of California to cause cancer” on April 22, 2016 <https://oehha.ca.gov/proposition-65/crn/styrene-listed-effective-april-22-2016-known-state-california-cause-cancer>.

The rule applies to styrenated products manufactured and/or sold in California even if produced elsewhere. Failure to comply will leave manufacturers and distributors at risk of lawsuits by bounty hunters. Warnings are not required for companies with less than 10 employees or companies that have a Safe Use Determination (SUD) showing that product exposures are under the proposed “No Significant Risk Level” (NSRL) of 27 micrograms per day for styrene.

Although styrene emissions from the off-gassing of un-cured, residual styrene in finished products are likely under the NSRL, obtaining a SUD is a lengthy and expensive process that would require testing as proof. See <https://oehha.ca.gov/proposition-65/proposition-65-safe-use-determination-sud-process> for more information on the SUD process.

Manufacturers of component parts should work with customers who produce final consumer products to ensure that end-users are provided with appropriate Prop 65 warnings. Indemnity provisions in contracts and sales agreements, as well as an evaluation of the liabilities, risks and impacts of providing (or not providing) warnings should be considered. In certain circumstances, calculations of estimated styrene exposure could be used to help respond to enforcement actions.

Also important to note, amendments to the clear and reasonable warning regulations that include updated labeling requirements will take effect August 30, 2018 <https://oehha.ca.gov/proposition-65/crn/notice-adoption-article-6-clear-and-reasonable-warnings>. For more information on Prop 65, see California’s Frequently Asked Questions for Businesses <https://www.p65warnings.ca.gov/frequently-asked-questions-businesses> and Proposition 65 in Plain Language <https://oehha.ca.gov/proposition-65/general-info/proposition-65-plain-language>.

WALKING AND WORKING SURFACES TRAINING DEADLINE – May 17

OSHA’s Final Rule on Walking-Working Surfaces (WWS) was issued because falls are one of the leading causes of serious workplace injuries and deaths. The rule requires newly hired employees and existing workers who are exposed to fall hazards and who use fall protection equipment to be trained or re-trained by a qualified person no later than May 17, 2017. Training is specified in 29 CFR 1910.30 and must address:

- Installing, inspecting, operating, maintaining, disassembling, and storage of equipment
- Following procedures to minimize fall hazards, and
- Recognizing and understanding the nature of fall hazards in the work area

You may want to take a close at your workplace as you prepare for training to identify all potential fall risks, including those associated with mezzanines, stairways, dockboards, scaffolds, portable and fixed ladders, etc. More information on walking and working surfaces and fall protection standards [29 CFR 1910.21 – 1910.30] and the final rule can be found on OSHA’s Fact Sheet <https://www.osha.gov/Publications/OSHA3903.pdf>.

OSHA's new initiative to promote safety in the workplace, encourage worker involvement, and promote management commitment to safety and health programs is rolling out nationwide June 12-18, 2017.

Participation is easy. Select activities you would like to do or host a public event and when the activities are completed, download a certificate and web badge from OSHA's website to recognize your company and employees.

OSHA is partnering with several entities including American Society Safety Engineers (ASSE), the National Institute of Occupational Safety and Health (NIOSH), and the National Safety Council (NSC) to sponsor safe and sound events across the country. See OSHA's website for more information and examples of activities that you could do at your facility

<https://www.osha.gov/safeandsoundweek/>.



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ANNUAL DOT HAZMAT REGISTRATION – June 30

Don't forget: annual DOT Hazmat Registration and fee payments are due June 30, 2017 for those who offer or transport certain quantities and types of hazardous materials, including hazardous wastes, in commerce. This includes the following categories:

- Class 7 (radioactive) materials
- Explosives (Division 1.1, 1.2 or 1.3) greater than 55 lbs,
- Poisonous by inhalation (Zone A) materials exceeding 0.26 gallons (1 L),
- Hazmat in bulk packaging \geq 3,500 gallons (liquid) or 468 cubic feet (solid),
- Non-bulk shipments \geq 5,000 lbs of one hazard class requiring placarding, and
- Hazardous materials in quantities that require placarding.

A shipper who offers over 1000 pounds of hazardous material or hazardous waste requiring placarding (e.g., 2 or 3 drums) must complete the DOT hazmat registration annually. Failure to register can lead to civil penalties of \$1200.

The registration period runs from July 1st through June 30th. Trucks, tractors or vessels used for the transportation of hazardous material that meet the registration criteria must have proof of the current registration on board. Copies must be kept on file for three years.

Fees are \$250 for small businesses and \$2,575 for other registrants, plus a \$25 processing fee for each form. Instructions for registering either online or by mail can be found at <https://phmsa.dot.gov/hazmat/registration> . If you are registering by mail, consider registering early and allow 4 weeks for the certificate to be delivered.

OSHA'S REVISED RECORDKEEPING RULE [29 CFR 1904]

OSHA recently updated its recordkeeping page <https://www.osha.gov/recordkeeping/index.html> to state that it is not currently accepting electronic submissions of injury and illness logs. Electronic submissions for applicable facilities are required by **July 1, 2017**, however, updates to the webpage will be posted when they are available. Stay tuned.

EPA SECTION 313 TOXIC RELEASE INVENTORY (FORM R) – July 1

The Annual Toxic Release Inventory (TRI) report (also called Form R) is due to EPA by July 1, 2017 for the 2016 Reporting Year. The rule, known as Section 313 of the Emergency Planning and Community Right-to-know Act (EPCRA), applies to facilities in **specific industry sectors** based on the facility six-digit NAICS code, with **10 or more full-time employees** (defined as 20,000 hours or more on payroll), and who **manufacture, process or otherwise use** a EPCRA 313 TRI-listed chemical above threshold levels.

Many composites manufacturers with 10 or more employees will need to file a TRI report. For example, if you use 2 or more drums of resin or gel coat per week, it is likely a TRI report needs to be filed for styrene. To make this assessment easier, EPA has developed a tool to assist facilities in determining applicability (<https://www.epa.gov/toxics-release-inventory-tri-program/tri-threshold-screening-tool>).

Threshold levels are 25,000 pounds for TRI chemicals manufactured/imported or processed, or 10,000 pounds for TRI chemicals “otherwise used”. A select group of chemicals considered persistent, bioaccumulative toxic (PBT) chemicals, have a much lower reporting limit, such as lead, which has a threshold of 100 pounds. The current TRI chemical list includes 690 chemicals and chemical categories including styrene, which is found in resin and gel coat.

New for the 2016 Reporting Year: EPA has added 1-bromopropane to the TRI list of reportable chemicals. The TRI chemical list is found at <https://www.epa.gov/toxics-release-inventory-tri-program/tri-listed-chemicals>.

Reporting is required by using EPA’s TRI-MEweb electronic reporting tool. A new version of the TRI-MEweb reporting tool and resources can be found at <https://www.epa.gov/toxics-release-inventory-tri-program/reporting-tri-facilities>. For more information on TRI reporting see <https://www.epa.gov/toxics-release-inventory-tri-program>.

Ask the Compliance Expert

For questions related to the content in this bulletin, as well as any other regulatory issues, please email us at compliance.expert@compositesone.com. Or visit us at <http://www.compositesone.com/people/health-safetyenvironment/regulatory-assistance/> for more information or to submit an inquiry. We will make every effort to answer your request within 24 – 48 hours.