

HazCom

Hazard Communication for the Mining Industry
30 CFR Part 47

Compliance Guide: Common Questions and Answers

**U.S. Department of Labor
Mine Safety and Health Administration
September 2002**

TABLE OF CONTENTS

<u>Topic</u>	<u>Page</u>
PURPOSE AND SCOPE	3
HAZARD DETERMINATION	6
EXEMPTIONS	8
WRITTEN PROGRAM	10
LIST/INVENTORY	13
LABELING	15
MSDSs (Material Safety Data Sheets)	22
TRAINING	30
TRADE SECRETS	35
EFFECTIVE DATES	36
WHERE TO FIND HELP	37

ACRONYMS USED IN THIS GUIDE

30 CFR	Title 30 of the Code of Federal Regulations
DOT	U.S. Department of Transportation
EPA	U.S. Environmental Protection Agency
HazCom	MSHA's Hazard Communication Standard
HCS	OSHA's Hazard Communication Standard
HMIS	Hazardous Materials Identification System
IARC	International Agency for Research on Cancer
MSDS	Material Safety Data Sheet
MSHA	U.S. Mine Safety and Health Administration
NAPA	National Automobile Parts Association
NFPA	National Fire Protection Association
NIOSH	National Institute for Occupational Safety and Health
NTP	National Toxicology Program
OSHA	Occupational Safety and Health Administration
PPE	Personal Protective Equipment
RCRA	Resource Conservation and Recovery Act

.....

PURPOSE AND SCOPE

We (MSHA) are establishing this final rule on “Hazard Communication” (HazCom) to reduce injuries and illnesses related to chemicals in the mining industry. HazCom requires mine operators to evaluate the hazards of chemicals they produce or use and provide information to miners concerning chemical hazards by means of a written hazard communication program; labeling containers of hazardous chemicals; providing access to material safety data sheets (MSDSs); and initial miner training ... HazCom is based on two safety and health principles: miners have a right to know about the chemicals hazards where they work; and you have the responsibility to know about chemical hazards at your mine.

WHAT HAZCOM REQUIRES

HazCom requires you to inform miners about chemical hazards. This information is important because miners are at risk of harm in the absence of such knowledge. We expect HazCom, by increasing both knowledge and awareness, to bolster good work procedures and safer behavior, thus reducing injuries and illnesses related to chemicals. When put in effect at a mine, HazCom should result in better hazard identification and assessment; more consistent use of personal protective equipment; and greater awareness and care when working near hazardous chemicals.

WHAT HAZCOM DOES NOT REQUIRE OR ADDRESS

HazCom is not a risk-based health standard for measuring exposures, requiring controls, or providing personal protective equipment. Other standards address the problems of significant risk and the methods of controlling it.

Does HazCom force me to seek alternative products for hazardous chemicals?

HazCom does not require you to seek alternative, less hazardous substitutes.

If a product does not have an MSDS or label, is it a violation?

It may or may not be a violation of the standard, depending on the product. Products that are determined not to be hazardous for the purpose of this standard are not required to have MSDSs or labels. Some products are exempt from HazCom entirely, while others are exempt just from labeling. The potential for each product to be a hazard must be assessed separately through hazard determination.

We have to report chemical spills to EPA. Do we also have to report them to MSHA?

HazCom does not require you to report chemical spills. Other MSHA standards, however, may apply.

Will isocyanates still have to be included in my ventilation plan?

Yes. HazCom does not eliminate your responsibility to comply with other MSHA requirements.

Will a citation result if the MSDS says a PPE should be used, but a miner does not wear it? Who makes the decision on when and how much PPE should be used? What happens if MSHA and the employer differ on what PPE should be used?

A citation will not be issued under HazCom on the basis that the PPE used by the miner is not the same as that recommended on the MSDS. HazCom requires you to train miners about the hazards and the need to wear PPE. It does not require you to provide appropriate PPE or miners to wear it. The use of PPE depends on the conditions at the mine and the severity of the hazard. Because an MSDS says that PPE should be worn doesn't mean that it is necessary under all possible exposure conditions. Both you and the Compliance Specialist have the responsibility to determine if the circumstances are such that a PPE is appropriate.

Can MSHA cite our HazCom program? ... personal protective equipment? ... safe use and handling? ... health effects?

You can be cited if your HazCom program fails to meet the requirements of the HazCom rule. You will not be cited under HazCom for unsafe handling or improper PPE, because HazCom does not require safe handling and use of hazardous chemicals nor the use of PPE. HazCom is an information and training rule. You could, however, be cited for violating other MSHA health and safety standards.

Will MSHA have investigative authority on miner's exposures to hazardous chemicals?

Yes. MSHA has investigative authority under the Mine Act and other health and safety standards, including miner's exposures to hazardous chemicals.

Why is there no exposure monitoring required in the rule?

HazCom's purpose is information sharing. It does not limit a miner's exposure. Exposure monitoring is used to decide the amount and types of controls necessary to limit exposures.

APPLICATION and JURISDICTION

To the extent practical, the substance of MSHA's HazCom requirements is the same as that in OSHA's HCS. Also, we have expressly stated that if a HazCom program meets OSHA's HCS requirements, it will satisfy MSHA's requirements except for the coverage of EPA-regulated hazardous waste (OSHA has a separate standard for hazardous waste operations).

If my HazCom program meets OSHA's hazard communication standard, will MSHA accept my program?

Yes, except for the coverage of EPA regulated hazardous waste.

If I am already compliant with my state’s right-to-know laws, am I compliant with MSHA’s HazCom too?

You may or may not be. This will depend solely on the requirements of the state’s right-to-know laws.

If a Compliance Specialist must go to the mine office location where the shop is located, is the shop under MSHA’s jurisdiction and do the HazCom regulations apply at the shop?

HazCom applies at any operation under MSHA jurisdiction, including shops and offices.

How does HazCom differ from OSHA’s HCS?

Major differences between OSHA’s HCS and MSHA’s HazCom are as follows:

MSHA’s HazCom	OSHA’s HCS and other OSHA standards
More than one miner may use an unlabeled temporary, portable container	Only one employee who transferred the chemical from a labeled container can use an unlabeled temporary, portable container
EPA regulated “hazardous waste” covered	EPA regulated “hazardous waste” excluded (Included under Hazardous Waste Operations standard.)
Raw materials exempt from labeling	Raw materials not exempt
Must provide MSDS and label to customer on request	Must send MSDS and label with initial shipment to an employer
Retain MSDS for 3 months	Retain MSDS for 30 years
Training records under parts 46 and 48	No training records

.....

.....

HAZARD DETERMINATION

The final HazCom rule ... includes two basic ways for determining whether or not a chemical is hazardous: one for chemicals brought to the mine and the other for chemicals produced at the mine.

HAZARD DETERMINATION PROCEDURES

Is a hazard determination made on the concentrate or diluted form of a chemical?

Whether in diluted or concentrated form, the hazard determination is made on the miner's likelihood of exposure. If the miner is exposed to the concentrate, you must use the concentrate for the determination; if exposed to the diluted form, you must use the diluted form for the determination.

What if there are post-2001 changes to the 2001 documents from IARC, etc. that you reference?

We only reference the 2001 documents from IARC, NTP, etc.; however, the standard requires that you must include this chemical in your program if evidence becomes available indicating the chemical does pose a physical or health hazard to miners.

Can I use the NFPA codes as a way to make my hazard determination?

Not alone. The hazard may be reflected in the code, but you must also use available evidence to determine the chemical's physical and health hazards.

If I hire a contractor to scrape and paint my old plant, do I have to test the old paint to see if it contains any hazardous chemicals so that I can inform the contractor?

Yes. You will need to test the old paint unless you know what hazardous chemicals are in it from its MSDS, container label, or other information.

Is the respirable crystalline silica in coal going to be listed as a hazardous material?

Yes. Respirable crystalline silica is a hazardous chemical, as is coal.

MIXTURES

The best way to determine the hazards of a mixture is to test the mixture as a whole ... for mixtures not tested as a whole ... you must use available, scientifically valid evidence to determine the mixture's physical hazards and rely on available health hazard information for the mixture's ingredients to determine its health hazards ... HazCom requires you to assume that a mixture presents the same hazard as a component if you have evidence that the component could be released from the mixture in a concentration that could present a health risk to miners.

When I mix chemicals together, how am I supposed to determine the mixture and its hazards?

HazCom does not require you to test the mixture as a whole to determine its hazards, although this would be the preferred way. HazCom allows you to infer the hazards of the mixture based on its ingredients. You must use available, scientifically valid evidence to determine its physical hazards and assume that it presents the same health hazard as a component that makes up 1% or more of the mixture. You must consider the chemical carcinogenic if a carcinogenic component makes up 0.1% or more of the mixture.

If I mix three chemicals at the mine, do I need a label and MSDS for each component or for the mixture? What if the mixture has health effects not addressed in the MSDSs for the individual components?

If the hazards are the same as the individual components, then the label could list all three components and you could use the MSDSs of the source chemicals for the mixture and for training miners. If the mixture created is a new chemical with hazards different from its components, you will have to prepare a label and MSDS for the new chemical and train the miners.

What about ore that contains hazardous contaminants?

If the ore contains hazardous chemical components, it must be treated as having the same hazards as its components that comprise 1% or more of the ore. You must consider the ore carcinogenic if a carcinogenic component makes up 0.1% or more of the ore.

.....

.....

EXEMPTIONS

The final rule ... has two categories of exemptions under HazCom. The exemptions from the HazCom standard and the exemptions from labeling.

ARTICLES

The final rule exempts articles from HazCom under normal conditions of use if they release no more than insignificant amounts of a hazardous chemical and they pose no physical or health risk to miners.

Do we need to provide an MSDS on the miles of conveyor belting at our mine?

Conveyor belting is an article that releases little or no hazardous chemicals during normal use. In these cases, it is exempt from HazCom.

Do we need an MSDS for hazardous decomposition products of articles that could catch fire?

No. You will not need an MSDS for the hazardous decomposition products from articles that catch on fire.

How about a trash bag used to collect garbage or other waste? ... chalk used to write on date boards? ... punctured (empty) aerosol cans? ... fluorescent lights with ballast?

They are all articles exempt from HazCom.

CONSUMER PRODUCTS

The final rule ... exempts consumer products from HazCom if the miner uses the product for the purpose the manufacturer intended and the use does not expose the miner more often and for longer periods of time than ordinary consumer use would.

I made a judgment call that a chemical is exempt as a consumer product and have not provided training on it. If a Compliance Specialist decides that the chemical is not exempt, will I receive a citation for not including the chemical in my HazCom program?

If the explanation of your determination to exclude a chemical from HazCom is reasonable and consistent with the criteria in the rule, the Compliance Specialist will not issue you a citation for failure to include the chemical in the HazCom program.

What are some examples of harmful chemicals in consumer products?

Paints can contain toxic metals, such as lead or mercury which cause brain damage or developmental abnormalities. Solvents contain a wide variety of organic compounds capable of causing an equally diverse range of health

problems. Petroleum products, such as brake cleaners or lubricants, often contain benzene derivatives that can be carcinogenic as well as highly toxic.

What about the use of Windex in the bathhouse? What about the guy who uses cleaning products in the bathhouse? Do I have to have MSDSs on all of our janitorial supplies? What about household cleaning products? What about industrial cleaning products?

If your janitorial cleaning supplies contain a hazardous chemical, and your miner cleans your bathhouse daily, you will have to have an MSDS for them because this would be more frequent than ordinary consumer use and, therefore, not exempt under HazCom.

If I purchase chemicals at NAPA, COSTCO, etc., that are labeled as “industrial-strength” and use them at the mine only as intended by the manufacturer, do I need to list them in the HazCom program?

It doesn't matter where you bought the chemical or if it's labeled “industrial strength”, its frequency and duration of use determines if it is exempt as a consumer product.

HAZARDOUS WASTE

The final rule ... does not exempt EPA-regulated hazardous waste from (HazCom) training. Miners that have this type of hazardous material in their work area need all the information available to protect themselves from chemical hazards and from inadvertent exposure that could cause or contribute to an injury or illness.

Is the acid mine drainage and mine discharge water that I pump out of my underground mine considered a hazardous chemical?

Many mines discharge water with a neutral pH. There may be no hazard associated with the water. If the water is highly acidic or alkaline, there may be no exposure. If there is exposure to hazardous mine drainage or discharge, you must train your miners about the hazards and how to protect themselves, but you do not need to develop an MSDS.

Is fly ash a hazardous waste? ... refuse disposed of on site? ... coal prep plant waste? ... heavy metals in waste?

If a hazardous chemical is defined and regulated as a “hazardous waste” by EPA under RCRA, you do not have to prepare or maintain an MSDS for it or label it. Otherwise, you handle the mine waste and discharge under HazCom the same way you handle any other hazardous chemical produced at the mine.

.....

.....

WRITTEN PROGRAM

All mines must have a written HazCom program. The written program doesn't have to be lengthy or complicated ... MSHA intends the written hazard communication program be your plan for how you will implement HazCom at your mine ... to provide hazard information to miners ... to ensure that other operators at the mine receive the HazCom information they need.

Why do I have to have another written plan? Do I have to have my HazCom program approved by MSHA?

The intent of a written program is to ensure that you consider and implement all aspects of the HazCom standard. It also provides assurance to Compliance Specialists, miners and their representatives that you are addressing all parts of HazCom. MSHA does not have to approve it.

If the HazCom program does not have to be an approved plan, but MSHA does not think it is adequate, can they cite me?

Yes. Your HazCom program must address each item specified in the regulation in § 47.32.

What if I don't have any hazardous chemicals at my mine? Do I have to have a HazCom program to say that HazCom doesn't apply?

No. You do not have to have a written program. However, mines are dynamic work environments that change their methods to adjust to changing needs. You should at least conduct a survey of your mines to know with certainty that chemicals are not present which, under normal conditions of use or in foreseeable emergencies, can put your miners at risk. In our experience, the mining industry is highly dependent on processes and machinery that use, to name a few common examples, grease, diesel fuel, or gasoline.

Am I accountable for the content of my HazCom program? For example, if I include a more stringent requirement in my HazCom program, can MSHA issue a citation if I don't comply with the more stringent requirement?

You are accountable for the content of your HazCom program to the extent that it meets the requirements of the rule. You can be cited if you do not address those provisions required by the standard and if your program is not developed, implemented, or maintained. Unlike some other safety and health plans, it does not have to be approved by MSHA. The Compliance Specialist must determine whether your program is implemented and maintained, and cite you if it is not.

Do I have to post my HazCom program?

No. But you do have to make it accessible to miners, designated representatives, and MSHA and NIOSH personnel.

I have four mine IDs. My crew travels to work at each of the four mine sites. Do I need four HazCom programs?

No. You can list the four mines on one HazCom written program and use the same program for each of the four. You will have to modify the chemical inventory and any other parts of the program if they differ from mine to mine and keep a copy at each mine.

MINE OPERATORS and INDEPENDENT CONTRACTORS AS OPERATORS

Where more than one operator works at a mine, your HazCom program also has to describe – how you inform these other operators about hazardous chemicals to which their miners can be exposed and any protective measures; how you provide other operators with relevant HazCom information; and how you identify hazards on labels and other warnings (the system or symbols you use).

Can I have multiple operators on the same HazCom program and include addenda if the program applies differently at each site? For example, if I have a small trucker contractor that works on my property, can I train him and share my HazCom program? Can the contractor use this arrangement to comply with HazCom?

Yes. The HazCom program, however, must list the contractor and describe your arrangement, and the contractor will have to keep his own copy of the program.

If contractors or miners, such as a mechanic or an electrician, carry chemicals on their trucks and travel between several mine sites, do they have to take MSDSs and related HazCom materials with them?

You have the flexibility under HazCom to determine the best way to meet the requirements for making MSDSs available. The operator must make the HazCom materials accessible and the MSDSs readily available. The miners and contractors may carry a binder of MSDSs or have some other means of obtaining them. The written program would have to specify that practice for the contractors, mechanics, electricians, or others who carry chemicals on their trucks and travel from mine to mine.

What about service providers, such as housekeeping, delivery, or pest control?

Generally, we would not require these service providers to have their own HazCom program. You must provide them site-specific hazard awareness training, as required under 30 CFR parts 46 and 48, which would include chemical hazards.

I am in compliance with HazCom. If I hire a contractor, do I have to make sure they have a HazCom program? If I know the contractor has no HazCom program, can we both be cited for his failure to have a program?

Depending on the circumstances, if you allow an independent contractor on mine property knowing that the contractor's employees are untrained and the contractor does not have a HazCom program, both you and the contractor could be cited. You must get chemical hazard information either from the contractor or

another source. You are responsible for the health and safety of your miners, including training about hazardous chemicals.

Am I responsible for a contractor having a written HazCom program?

No. Under HazCom, you are responsible for sharing chemical hazard information with the contractor if the contractor's employees could be exposed to a hazardous chemical at your mine. If you allow the independent contractor to expose your miners to hazardous chemicals and do not train your miners about those hazards, you are not complying with HazCom.

Should I request a copy of my independent contractor's HazCom program?

It would be wise for you to obtain a copy of the contractors' HazCom programs, but it is not required.

.....

.....

LIST/INVENTORY

The final rule requires you to compile a list of hazardous chemicals and maintain it for as long as a hazardous chemical is known to be at the mine. You are responsible for listing only the hazardous chemicals that you produce or bring to your work areas. The list, or inventory, of hazardous chemicals is a quick reference so that you, miners, other operators working at your mine, and MSHA and NIOSH personnel can see what hazardous chemicals are present ... It must also use a chemical identity that permits cross-referencing between the list, a chemical's label, and its MSDS.

What is the purpose of the HazCom inventory? Will I have to file everything under a user name, compound, or generic name?

The inventory is intended to help you identify the hazardous chemicals at your mine. You can keep your list in whatever format you choose. In some instances, this is a trade or brand name; in others it may be a common or generic name or a product number. You can compile it for the mine as a whole or for individual work areas.

Describe how cross-referencing of MSDSs, the inventory, and labels works for a computer database versus paper system.

They would work the same. You must be able to find the MSDS from the name on the label or inventory. You must be able to find the chemical on the inventory from the name on the label or MSDS.

Do I have to develop a complete list of all chemicals on the inventory or just the hazardous ones?

The chemical inventory should only list the hazardous chemicals known to be at the mine.

Do I need to list the contents of fire extinguishers on the inventory and have an MSDS on file?

Yes, if the chemical contents are hazardous.

Do I need to inventory moving equipment such as draglines, crosspit spreaders, and bucket wheels?

No. These equipment are considered articles and are exempt. The hazardous chemicals used on or in the equipment will be on the inventory because of their use in maintaining this equipment.

How often do I have to inventory my chemicals?

The list has to be kept up-to-date. As new hazardous chemicals are brought to the mine, you must include them on your list before using them.

Are two separate logs required to list hazardous chemicals and MSDSs?

No. The requirement is for a list of the hazardous chemicals that can be cross-referenced to the MSDSs and labels.

.....

.....

LABELING

Labeling containers of hazardous chemicals is a major provision of HazCom ... The final rule ... requires that each container of a hazardous chemical be labeled, tagged, or marked with the identity of the hazardous chemical and appropriate warnings ... A label is an immediate source of information about a hazardous chemical in the work area, providing the identity of the chemical and a brief summary of the chemical's most serious hazards.

LABEL CONTENTS

HazCom requires that you label containers of the hazardous chemicals you produce. The label must be prominently displayed, legible, accurate, and in English.

Many mines hire workers who do not read English. What guidance can be given in this matter?

The final rule requires that the label be in English. If your workforce reads another language, you could add another label in that language.

Define “unreadable” when it comes to labels?

“Unreadable” for the purpose of labeling means the information on a label is illegible.

Do I have to include the name and address of a responsible party on the labels I make for containers that stay on mine property? The miners can get this information from the MSDS.

You only have to include your name and address, or that of another responsible party, on the labels you make for your product that leaves mine property.

REPLACING MISSING LABELS

We receive and store chemicals in barrels. What are my responsibilities if the label falls off?

You must replace a label immediately if it falls off or becomes illegible. You may prepare a label using information from the MSDS or other source or affix the MSDS to the container until a replacement label is prepared or one is obtained from the manufacturer. As required by § 47.42, the label must include a name that can be referenced with the list/inventory and appropriate hazard warnings.

If a Compliance Specialist finds a container label missing, will I be cited?

Yes, if evidence exists that the label has been missing and not replaced by the operator.

How do you define “immediately” when a label is missing?

For purposes of labeling, “immediately” means as soon as possible.

If a label is missing, can I “tag out” a container and not be in violation?

Yes. “Tag out” is an appropriate way to handle this. You will not be in violation of HazCom if you “tag out” the container, move it out of the way to ensure that no miners are exposed, and are in the process of getting another label.

“USED OIL” AND “HAZARDOUS WASTE”

For waste regulated by EPA, what label is required under HazCom?

Hazardous waste regulated by the EPA is exempt from MSHA labeling standards.

I store “used oil” in 55 gallon drums. Do I have to label every drum?

Yes. HazCom would require you to label each drum and we accept the labeling for EPA as appropriate for HazCom. EPA requires you to label “used oil” as such; HazCom does not. However, you have to train the exposed miners about its carcinogenic and other hazards.

LABELING COAL AND OTHER RAW MATERIALS

The final rule exempts containers of raw materials from labeling while they are on mine property because we expect that miners are familiar with the hazards of the material with the hazards of the material being mined ... if you add a hazardous chemical to a container of raw material to form a mixture, you must label the container for the hazardous ingredient ... if you add a chemical to a container of raw material to form a new compound which is no longer the raw material and which meets the criteria in the hazard determination section...then you must label the container for the newly created hazardous chemical.

Do I have to label my mine product (such as coal or crushed stone) while it’s on mine property, such as when it is in a stockpile?

No. HazCom exempts raw materials mined or processed from labeling while on mine property. If antifreeze or another hazardous chemical is added to the raw material, however, it would have to be labeled.

Do all railcars and customer trucks have to have a label of the product (such as coal, sand and gravel, crushed or dimension stone) when they leave the mine property?

No. HazCom does not require the labeling of products leaving mine property. HazCom requires that you provide the product label or labeling information to the customer upon request. Other state or federal agencies, however, may require you to label products going off mine property.

What if my customer requests a label?

HazCom requires you to provide the customer a label “upon request.”

When mine products, such as coal or bentonite, are brought onto mine property, do they have to be labeled?

If a mine product brought to another mine is a hazardous chemical and is placed in a container, such as a tank, you must label it. If the product is placed in a stockpile, you do not have to label it. In either case, all other provisions of HazCom apply.

Do we have to label gob material, which contains some silica?

No. Gob material is a raw material exempt from labeling while on mine property.

LABELING VEHICLES, BUILDINGS, AND OBVIOUS CONTAINERS

Mines typically process materials in bulk quantities ... Label alternatives allows performance-oriented options for identifying chemical hazards to miners. The label alternatives may be signs, placards, process sheets, batch tickets, operating procedures, or other means appropriate for individual, stationary process containers. The alternative must identify the container to which it applies, communicate the same information as a label, and be readily available throughout the shift to miners in the work area.

Do we need to label lube and fuel trucks?

The truck itself does not have to be labeled. However, the containers that hold the lubricants or fuel must be labeled, if they are hazardous.

What about labeling obvious containers, such as oxygen or acetylene bottles?

Oxygen and acetylene bottles are required to be labeled under the requirements of HazCom. Oxygen and acetylene are compressed gases and, therefore, physical hazards. Typically, the supplier will have labeled them.

Must I label drip pans used to collect drips from connections?

No. The drip pan is considered a temporary, portable container. You must ensure that the miner who can be exposed knows what the chemical is, its hazards, and any protective measures. Also, the container must be left empty at the end of the shift. Otherwise, you must put at least the common name of the chemical on the container.

Many mines mix ANFO on site. Would three different labels be required for ammonium nitrate, fuel oil, and the ANFO mixture?

Each container of a hazardous chemical must have a label, so the containers of the fuel oil and ammonium nitrate would have to be labeled. The container housing the ANFO would not have to be labeled if the ANFO is mixed and stored in a temporary container. The miners exposed to the ANFO must be aware that they were working with ANFO, its hazards, and any protective measures needed. The container holding the ANFO must be left empty at the end of the shift.

How about signs used to identify a powder magazine? Are the placards used now okay?

The placards used now are acceptable alternatives to the labeling requirements of HazCom.

Do I have to label a portable water tank on a trailer that I use for mixing different chemicals, such as Round-Up, for spraying applications? If I have to label it, what do I label it with?

The water tank on a trailer would be considered a temporary, portable container and the provisions of temporary, portable containers would apply. If you do not empty the tank at the end of the shift, you must label it with at least the common name of the chemical, such as Round-Up.

TEMPORARY, PORTABLE CONTAINERS

Temporary, portable containers are a common convenience on mine properties ... the final rule ... does not require you to label a portable container if you make sure that the miners using it know the identity of the chemical in the portable container, its hazards, and any protective measures. If you label a temporary, portable container with at least the common name of its contents, you do not have to leave it empty at the end of the shift.

What is MSHA going to accept as labeling for small quantities of hazardous materials left for an oncoming shift?

HazCom requirements, including labeling, can apply to virtually any quantity. If you leave the container for use by the next shift, it has to be labeled with at least the common name of its contents.

What if a temporary container is as large as a 55-gallon drum? Could you consider a 250 gallon wheeled container, that is used to store lubricants temporarily, as a temporary portable container? ... What about small lab containers or samples? Does size matter?

The size of the temporary, portable container does not matter. For it to be left unlabeled, however, it would have to be emptied at the end of each shift.

Does a grease gun require a warning label? What if I don't empty my grease-gun at the end of the shift?

No. The grease gun does not have to be labeled. It is an article and exempt from HazCom. If the grease were hazardous, the manufacturer would label the grease cartridge or the box of grease cartridges. You will have to check the cartridge and box to see if one or both are labeled and make sure the miner knows the grease's hazards.

Do I have to label each welding rod and each stick of roof bolt resin?

This situation is similar to that encountered with grease cartridges. Even if each welding rod or resin stick is not already labeled, you do not have to label them if the box is labeled. The label on the box is acceptable. In many cases, the individual sticks, rods, or cartridges will have a code number to link them to the box. You will have to make sure the miner knows the hazards.

What about labeling a portable container of methanol that we carry on our equipment during the winter? The container is seasonal-use, not one-day-use.

The container would have to be labeled under the requirements of § 47.41(a), labeling requirements, or § 47.44(b), alternative labeling for temporary, portable containers.

Does a portable container have to be labeled if it has multiple users?

Unlike OSHA's HCS, MSHA's HazCom allows more than one miner to use the unlabeled temporary, portable container if each miner knows its contents, its hazards, and any protective measures needed. The container must be left empty at the end of the shift; otherwise, you must put at least the common name of the chemical on the container.

Must tanks which are portable, but not temporary, be labeled?

Tanks, which are portable, but not temporary, must be labeled if they contain a hazardous chemical.

What about containers such as 5-gallon safety cans used for solvents, oils, etc., or 5-gallon cans of hydraulic oil? Is just labeling them with the name of the product and an NFPA label sufficient?

If the can is used as a temporary, portable container, and is not emptied at the end of each shift, you can label it with just the common name of its contents, so long as it is referenced the same way in your list of hazardous chemicals and on the MSDS. Although it's not required, you can use the NFPA label to indicate the chemical's hazards. If you use NFPA's label, you must supplement it with training to address the meanings of the codes.

STATIONARY PROCESS CONTAINERS

What if bulk amines are injected through process lines, which are not labeled, and a leak occurs causing a guy to get sick, would MSHA cite?

MSHA will not issue a citation under HazCom for the pipes not being labeled. HazCom does not require the labeling of pipes or piping systems. It requires that you inform miners who can be exposed under normal conditions of use or in a foreseeable emergency (such as leaks) about the contents of the pipes, the chemical's hazards, and protective measures. A sick miner, however, may indicate that other standards have been violated and may result in a citation.

Our prep plant has several tanks in the process. For example, flocculant is contained in the initial tank and then it goes through several dilution and mixing tanks where it is diluted with water. Are we required to label the tanks? Do all subsequent tanks have to be fully labeled, or can they say “floc dilute”? Once the chemical leaves the initial tank, is it considered to be in “containers” per § 47.41 or is it considered to be in the “process”? What is the separation point for these two? Most newer coal prep plants have “closed circuits” for all their water vehicle processes so everything is confined in a series of tanks, pipes, and separators.

You must first determine whether or not the diluted flocculant is a hazard for the purpose of HazCom. If you determine that the diluted flocculant is not hazardous, then labeling is not required. If you determine that the diluted flocculant is hazardous and there is a potential for exposure, either through normal operations or in a foreseeable emergency, you would have to label the tanks. You would also have to inform miners of the hazards associated with the flocculant. HazCom allows label alternatives, such as a process sheet, for stationary process containers.

Do I have to label the open tanks in a frothing process or can I just label the initial chemical storage supply tanks?

You must first determine if the mixture is hazardous. If the mixture is hazardous, then you must label each tank of a hazardous chemical or use an alternative label, such as a process sheet.

If my property has an underground (buried) diesel storage tank, how do I handle the labeling? Do I have to label the pump?

The diesel storage tank is a container and must be labeled. Because it is impractical to place the label on the tank, you will have to use a label alternative, such as a sign, in accordance with § 47.43. Although you do not have to label the pipes, piping systems, and pumps under HazCom, you may have to meet the labeling requirements of other safety and health regulations for the storage and distribution system.

Does MSHA consider a heat exchanger, as used in a refrigeration system, as a container? What about a speed reducer on a conveyor?

No. The definition of “container” in HazCom specifically excludes pipes and piping systems and conveyors.

LABEL ALTERNATIVES

Do I have to put the NFPA diamond on a tank or barrel even though it has “diesel” marked on it? If I use an NFPA diamond, do I still have to have a label?

The NFPA labeling system by itself is not sufficient. If the name on the container can be cross-referenced with the hazardous chemical’s MSDS and the list/inventory in the HazCom program, adding the NFPA diamond is sufficient to comply with HazCom, provided that you train your miners about the meaning of the labeling system.

Are DOT placards considered proper labels under HazCom? Can we use NFPA 704 symbols/terms on our labels/placards? Can we use HMIS or another system?

HazCom does not require a specific labeling system. The NFPA diamond, DOT placards, HMIS, or other systems are acceptable labeling systems. You also may use a sign, placard, or other alternative for a stationary tank. You may use any labeling system so long as it conveys the appropriate hazard warnings and you communicate the specific physical and health hazards through other parts of your HazCom program, such as MSDSs and training. The labeling system is only as good as the training on the labeling system.

Can the MSDS be used as a label?

Yes, but it is not advisable because the hazard information on the MSDS would not be as obvious as on a label. A label is an immediate source of information about a hazardous chemical. It provides the chemical’s identity and a brief summary of the chemical’s most serious hazards, uncluttered by all the other information on an MSDS.

.....

.....

MATERIAL SAFETY DATA SHEETS (MSDSs)

This final rule requires you to have an MSDS for each hazardous chemical to which a miner can be exposed under normal conditions of use or in a foreseeable emergency ...

Does a mine operator have to have an MSDS “before using” a chemical?

No. The operator has to have the MSDS available. This availability can be by means of a fax-on-demand service or a computer database. However, before a miner can be exposed to a new chemical hazard, the operator must train the miner about the chemical’s hazards, how to recognize the hazard, and how to protect him or herself. This may require you to call the manufacturer and get a copy of the MSDS.

RESPONSIBILITY

Whose responsibility is it for a miner to understand the MSDS? Earlier references were made in the video that ‘everyone has a responsibility to read and get the MSDS.’ What about my obligation to ensure miners understand MSDSs?

HazCom is an information and training standard. You are required to provide information to miners who may be exposed about chemical hazards and protective measures in a way that it can be understood. It’s the miner’s responsibility to use the information to protect him/herself.

Am I responsible if the supplier provides incorrect information on an MSDS?

You are not responsible for an inaccurate MSDS supplied by the manufacturer. After you become aware of the incorrect information, however, you must obtain a correct MSDS.

If an operator’s MSDS is not the proper one at the mine site, how is the agency going to assure that a miner gets correct information?

Operators are required to have the right MSDS available. If not, they will be cited.

There are companies that create a product called synfuel. The manufacturing method is a trade secret. Who produces this MSDS?

The synfuel producer or supplier is responsible for producing the MSDS. HazCom has special provisions for trade secrets.

MSDSs FOR PRODUCTS, HAZARDOUS CHEMICALS

Will I have to keep an MSDS for a non-hazardous substance to prove it is non-hazardous?

No.

If I go to K-Mart and buy a can of starting fluid or epoxy resin, do I have to get an MSDS for it?

If you use these products as an ordinary consumer would, they would be exempt under HazCom as consumer products. Otherwise, you must get an MSDS from the manufacturer. You can try the manufacturer's website or look on the back of the can for contact information.

Is there a generic MSDS for fly ash?

No.

Where do I get MSDSs for crushed limestone, trap rock, sand and gravel, coal, and other mining commodities?

We have MSDSs for some mining commodities on our website, www.msha.gov. Please check this out. MSDSs may also be available on other websites, such as industry trade associations.

I produce a high-silica product. Do I have to prepare a label and MSDS? Can it go on invoice or weigh ticket?

You have to prepare a label and MSDS. Your label can go on the invoice or weigh ticket.

Do I have to go out and get an MSDS when a hazard is part of hazardous waste that comes onto the mine site?

No. However, you have to provide miners and their representatives access to information you have that identifies the wastes' hazardous chemical components, describes their hazards, or specifies protective measures.

We buy scrap steel from a salvage company. We have no idea the grade, ratings, etc. When welded or cut, gases and vapors will be given off. However, the salvage yard does not have an MSDS on the steel. What do we do? How far do we need to chase information about steel?

Until you cut or weld on the scrap steel, it is an article exempt from HazCom. We realize that obtaining MSDSs for scrap steel, and the metal fumes and gases given off when welding or cutting, will be difficult. In lieu of the MSDS, we would expect that you work from the information that is available. Training should be provided to miners on the relevant hazards that you know about.

We are engaged in cutting on a bucket of a loader. We receive welding rods from several different suppliers. Do we need to have an MSDS for each of those?

Different MSDSs may be necessary depending on the specific hazards associated with the welding rods. If you compare MSDSs and ensure the composition is the same, you may use a single MSDS for each similar rod. For example, one 6013 rod is the same as another 6013 rod no matter who manufactures it.

We cut down trees on our mining property. Does that require an MSDS? Do I need an MSDS for every type of wood cut on our property? What if a contractor is cutting wood on our property for construction purposes? Do I need to provide an MSDS to the contractor?

Wood or wood products are exempt from HazCom if they don't release hazardous chemicals under normal conditions of use. However, cutting and sawing trees results in the production of wood dust which can be hazardous. HazCom requires you to obtain an MSDS for the dusts and train miners about its hazards and protective measures. You may be able to find wood-related MSDSs on the internet.

How do I deal with pressure-treated wood? Do I have to label each piece of lumber? Should treated wood have an MSDS?

Treated wood is not exempt from HazCom. If the wood is treated with a pesticide or preservative or another hazardous chemical, you are required to have an MSDS for these hazardous chemicals. Wood and wood products are always exempt from labeling.

Do we have to have an MSDS for drawrock/falling rocks in an underground mine?

No. Drawrock/falling rocks are physical hazards but are not considered hazardous chemicals under HazCom. You do not have to have an MSDS for rocks.

Do I need to include non-potable water? Do I need an MSDS for it?

No. You do not have to include non-potable water, such as that in settling ponds or ground water in the mine, in your HazCom program or create an MSDS for it.

GENERIC MSDS VS. PRODUCT SPECIFIC

The final HazCom rule ... allows you to use a single MSDS for a class or family of chemicals with similar hazards or for mixtures with similar hazards and contents, such as organic solvents or lubricants in which the ingredients are the same but their percentages vary from mixture to mixture.

I have an MSDS for a product and ordered another company's version of the same product. The hazards listed on the old MSDS differ from those included on the second MSDS. If I go back to using the earlier product, what is my responsibility?

You have two different products and you must have the MSDS for whichever product your miners are using.

Do I have to have a separate MSDS for different gasolines or diesel fuels? Can I use a generic MSDS?

Unless you compare MSDSs and ensure the hazardous components are the same, you must have a separate MSDS. Typically the composition varies such

that a generic MSDS is inadequate. For example, additives may only be present in a specific brand or grade, or on a seasonal or regional basis.

I have a case of Gummout with an MSDS. Then I buy “Bob’s” brand, do I have to get another MSDS?

Unless you compare MSDSs and ensure the composition is the same, you must have a separate MSDS. Typically the composition of solvents vary such that a generic MSDS is inadequate.

Do the MSDSs and list of chemicals have to be brand specific or can it list a product such as 10W-30 motor oil instead of Chevron 10W-30?

You may use a common name for your list of chemicals if it can be cross-referenced with the MSDS and label. You must also compare MSDSs and ensure the composition is the same.

“Used oil” at mines often contains other fluids beside oil, in varying quantities, such as transmission fluid or metal from engine wear. Would a generic MSDS for “used oil” suffice in this case?

An MSDS is not required for “used oil” per se. The MSDS of the source chemical should address the hazards of the used oil. However, for “hazardous waste” regulated by EPA, you also are required to provide available information that identifies its hazardous chemical components, describes its physical or health hazards, or specifies protective measures. An MSDS for this “hazardous waste” may or may not be available. You are not required to analyze the oil to determine its constituents.

Some mines mix “used oil” with ANFO. Would a generic MSDS for ANFO suffice in this case?

No. You must prepare an MSDS for the mixture.

AVAILABILITY OF MSDSs

The purpose of requiring MSDSs in the work area where the chemical is stored, handled, or used is so that miners have quick access to critical information in emergency situations. The final rule provides flexibility for you to determine the best way to meet this requirement.

Do MSDSs have to be available in every section?

No. Mine operators may keep MSDSs at an alternative location if they ensure that they are readily available to miners in an emergency.

Do we have to send an MSDS underground if a miner requests information about a chemical?

You must make the information available to the miner and provide them with a copy upon request. For example, you could read the information to the miner over a mine telephone and then give him a copy of the MSDS when the miner comes to the surface.

If the MSDS is on a container, will that be sufficient for accessibility in the work area?

Yes.

Must the MSDS be immediately available? What if power interruptions limit availability?

An MSDS must be available in the event of an emergency. If the MSDS information is kept on a computer, you must provide backup although it can be in any form, such as a laptop computer, fax on demand service, calling the chemical's manufacturer and obtaining the needed information, or keeping hard copies of the MSDS.

We have a large complex which includes an underground mine. What does "readily accessible" mean in relation to where the MSDSs are kept?

The regulation does not define "readily accessible." But the intent of the regulation is that miners have quick access to critical information in emergency situations. The final rule gives you flexibility to determine the best way to meet HazCom's access requirements with respect to MSDSs.

In the preamble it says that accessibility of MSDSs is 24 hours, is that the end of the shift?

The 24-hour reference in the preamble is with respect to § 47.71, Access to HazCom materials. That provision requires you to provide access to all HazCom materials required by the regulation to miners and designated representatives. Access is defined in the regulation as the right to examine and copy records. In the interest of flexibility, the final rule does not specify the time period in which you have to provide copies. Because HazCom requires you to keep all these HazCom materials available at the mine, including those available by computer, you should be able to provide them to miners, designated representatives, and federal officials on the same day or, at most, within 24 hours of receiving the request.

How easy must it be for a miner to get a copy of the MSDS? Would he have to request a specific one or can I just give him a pile of them that he would have to sort through?

Yes, you may have a miner look through a pile of MSDSs to obtain the one he wants.

MSDS RETENTION and NOTIFICATION OF DISPOSAL

The final rule requires that you keep the MSDS for as long as the chemical is at the mine and notify miners at least 3 months prior to disposing of the MSDS...You would have had the flexibility to use any method that notified each miner who may have been exposed...to ensure a miner had the opportunity to request a copy. The miner could then retain this information for future reference and you would not need to maintain the MSDS for an extended period of time.

Once we remove a chemical from our property, can we destroy its MSDS?

You have to notify miners 3 months before disposing of an MSDS.

Suppose we never discard any MSDSs after we stop using chemicals. Is there a problem with having an excess number of MSDSs?

No.

MSDS have to be kept 3 months after notifying miners that it will be removed from mine site. How is that handled if a company uses electronic MSDS?

The MSDS retention requirement is the same for electronic media as it is for a printed copy.

The rule requires that an MSDS be kept for 3 months after the chemical is no longer at the mine. If it has chronic effects, wouldn't it be a good idea to keep it longer? What are the archiving and recordkeeping requirements on MSDSs which cover materials that contain components that may result in disease with a latency period?

HazCom does not require operators to retain and archive MSDSs for chemicals that have potential chronic health effects or result in diseases with a latency period. We determined this access provision is adequate to ensure that a miner could obtain a copy of the MSDS if the miner wants one.

What is meant by a "current MSDS"?

Current MSDSs are the most recently issued.

What does the term "outdated MSDS" mean?

An MSDS become outdated when a manufacturer issues a new MSDS for the hazardous chemical.

Does the notice to miners of my intent to dispose of an MSDS have to be in writing? Do I have to maintain a record that I notified the miners?

No. The notice to miners of intent to dispose of MSDSs does not have to be in writing. You can announce your intent in safety meetings or through contacts with miners during a shift. You may post the notice on the mine's bulletin board, put it in a company newsletter, or use any means that you have to communicate with your miners.

ELECTRONIC MSDS SYSTEMS

... to clarify...our intention to allow internet access or a commercial database as a way to comply with the requirement that you have an MSDS for each hazardous chemical ... You can keep MSDSs at an alternative location, if you ensure that they are readily available to miners in an emergency ... If you wish to comply by retrieving MSDSs electronically from an internet site or a commercial database of chemicals, you must still meet the requirement that MSDSs be readily available to miners.

Can I use electronic file systems or fax-on-demand database systems to comply with the MSDS access requirements of HazCom?

Yes. You may use the internet or a commercial database as a way to comply with the MSDS requirements of HazCom. If you wish to comply by retrieving MSDSs electronically from an internet site or a commercial database of chemicals, however, you must meet the requirement that MSDSs be readily available to miners. In other words, we expect you to make MSDSs available to miners in accordance with the requirements of § 47.54(b). The computer does not have to be connected full time to the internet site; but, miners must know how to use the computer or someone who knows how to access the MSDS electronically must be available anytime miners are exposed. For example, you have a lead mechanic and regular mechanic who perform maintenance work at night. If you are providing access to MSDSs electronically, these miners must be able and know how to retrieve an MSDS from the computer whenever they need or want one. This means that you may not lock the computer away from their use unless you give them a key. Otherwise, the MSDS is not readily available and you are denying them access to the MSDSs.

If I provide web-service and a computer to my miners, does this meet the requirements of the availability of MSDSs?

Yes. The final rule provides flexibility for you to determine the best way to meet this requirement. If you wish to comply by retrieving MSDSs electronically from an internet site or a commercial database of chemicals, you must still meet the requirement that MSDSs be readily available to miners. The computer does not have to be connected full time to the internet site. However, we still expect you to make MSDSs available to miners in accordance with § 47.54(b). Miners must know how to use the computer or someone who knows how to access the MSDSs electronically must be available anytime miners are exposed.

Why doesn't MSHA keep a database for all MSDSs used in mining? It would save paperwork, money, duplication of effort, etc.

MSHA has considered this idea, however, it is impractical for us to maintain MSDSs for every hazardous chemical product produced or used in the US mining community. However, we encourage the mining industry to use whatever database are available as a means for compliance.

Are the various MSDS databases that you mentioned in the national meeting (Cornell University, University of Vermont, etc.) fee-based?

These databases are free; some of the others are fee-based.

INDEPENDENT CONTRACTORS

We recognize that independent contractors especially need this flexibility because they work at different types of mines, typically multiple employer sites. Independent contractors, therefore, must coordinate the accessibility of MSDSs to other operators and miners, as well as their own employees.

When making multiple deliveries of the same material to the same work site, do I need to give an MSDS and a label on each delivery? I have a contractor demanding an MSDS and a label on each delivery. Can I charge him after the first MSDS and label are provided?

You must provide the customer a copy of the label and MSDS upon request and without cost.

Do I have to have an MSDS for “hazardous waste” handled by contractors?

No. The hazardous waste is regulated by the EPA.

I regularly use contractors who bring hazardous chemicals to my mine. Do the contractors have to keep MSDSs for those chemicals? What happens to the MSDSs once the contractor leaves the property? Do I have to get copies of the MSDSs of the contractors’ chemicals? Do I have to notify my miners before disposing of the MSDSs?

Contractors have the same responsibility as you to protect their miners. They must make MSDSs available to their miners and you must have copies for your miners if they can be exposed to the contractors’ chemicals. You must notify your miners, who could have been exposed, of your intent to dispose of the MSDSs for the contractors’ chemicals at least 3 months before you dispose of them.

Who must produce the MSDS for the coal that contractors mine for a parent company? Is the contractor operator responsible or the parent company that actually owns the coal?

The parent company.

Is the operator responsible for any MSDS changes they have made available to contractors?

Yes, and contractors are responsible for MSDS changes they have made available to operators.

.....

.....

TRAINING

The final rule requires operators of mines initially to instruct each miner with information about the physical and health hazards of chemicals in the miner's work area, the protective measures a miner can take against these hazards and the contents of the mine's HazCom program. Subsequent HazCom training must be conducted in accordance with 30 CFR parts 46 and 48 ... The conforming amendments to part 46 and 48 make clear that for initial training, new miner training, newly, employed experienced miner training, annual refresher training, and whenever a new task is assigned, miners will now have a unified approach to provide a better training focus on working with hazardous chemicals.

INITIAL HAZCOM TRAINING

What training must be completed by the effective date of the rule?

You must instruct miners about —

- > The physical and health hazards of the chemicals in the miner's work area;
- > The requirements of HazCom;
- > The mine's HazCom program (including an explanation of the labeling system, the MSDSs, and how they can get the information and use it;
- > Where HazCom materials (labeling information, the list of chemicals, and the MSDSs) are kept and that they're available;
- > The operations or areas of the mine where hazardous chemicals are present;
- > How to tell if a chemical is present or if there's been an inadvertent release (smell, color, etc);
- > What protective measures to take; and
- > The work practices, engineering controls, emergency procedures, and use of personal protective equipment the mine uses to protect miners from hazardous chemical exposures.

If you have already provided some of this training to your employees, you do not need to re-train them on those parts.

Does initial HazCom training, incorporated in annual refresher training, have to be completed by the effective date?

Yes. You must complete it by the effective date.

If I train miners under parts 46 or 48 and give a general overview of HazCom, does that meet the requirements for HazCom training?

You should discuss this question with the EFS Training Specialist in your area. We would need to know more about the training you conducted under parts 46 or 48 before we could answer your question.

If my people were already trained under OSHA's HCS, do I need to re-train them?

If the training complies with OSHA's HCS, you do not have to re-train those miners.

Does the initial HazCom training count under "New Miner" training?

If you hire a new miner before the rule's effective date and provide that person initial HazCom training, you may count it under New Miner training. The training must meet all the standards in parts 46 or 48, such as making a record or using a competent person or approved instructor to oversee the class.

TRAINING MINERS ON SPECIFIC CHEMICALS IN THEIR WORK AREA

If my mine uses 500 different chemicals, do I have to create 500 unique training sessions (i.e., 1 for each chemical)?

No. We encourage operators to find appropriate groupings of chemicals. For example, you may group them by shared hazards or characteristics, such as solvents or fuels or dusts, and train your miners by those groupings.

I already trained my employees about some of the chemicals on my property. Do I have to conduct that training again? For example, if my miners were already trained about the hazards of coal, do I need to provide HazCom training on coal?

If you have trained your miners about specific chemical hazards at your mine to comply with part 46, part 48, or OSHA's HCS, you can apply the training to meet HazCom's requirements to the extent it's relevant. You don't have to re-train them.

What if I have all my MSDSs in the mine office in a binder and have the miners sign off on them. Would that be adequate training?

No.

HAZCOM AND NEW TASK TRAINING

Mine operators must provide any miner who is reassigned to a new task, in which he or she has no previous work experience, with training in the health and safety aspects of the tasks to be assigned, including the safe work procedures of such tasks, information about the physical and health hazards of chemicals in the miners' work area, the protective measures a miner can take against these hazards and the contents of the mine's HazCom program ... MSHA wants to emphasize that if the introduction of a new chemical does not involve a new hazard, mine operators do not have to conduct new task training and, consequently, no paperwork requirement is triggered.

If a miner has been doing a task, such as cleaning parts with a solvent or fueling equipment with diesel fuel, do I have to task train the miner again about the chemical?

No, provided the miner knows the physical and health hazards of the chemical, the protective measures that guard against the hazards, and the content of the HazCom program.

If we receive a new chemical, can we provide the information as an attachment to a weekly paycheck?

Yes. If you provide the information before the potential exposure can take place and it communicates to the miner what the hazards are and the appropriate protective measures, you may attach information to a weekly paycheck.

HAZCOM AND ANNUAL REFRESHER TRAINING

Is training required during annual refresher on hazardous materials and HazCom?

You are not required to conduct refresher HazCom training annually. We modified annual refresher requirements to include HazCom only as a recommended subject, but we modified other training requirements in parts 46 and 48 to include HazCom.

REVISING TRAINING PLANS UNDER HAZCOM

Do I have to submit a revised training plan to MSHA that includes HazCom?

Not if you attach MSHA's pre-approved training plan revisions to your existing training plan.

What is being waived in the training program Policy Letter No. P02-III-1?

MSHA has issued a one-time waiver and waived the requirement to amend your training plan. You may use up to 2 hours of annual refresher training to complete the initial HazCom training. HazCom's effective dates have not been extended. If you have six or more miners, you must have a HazCom program at your mine, including trained miners, by September 23. If you have five or fewer, you must be in compliance by March 21, 2003.

TRAINING RECORDS

Do we have to document initial HazCom training?

You have a choice about initial HazCom training: you may conduct it separately from parts 46 and 48 or you may integrate initial HazCom training into your existing training program. If you conduct initial HazCom training separately from your existing program, you do not need to make a record of it. If you integrate the initial HazCom training with your mine's existing training program, you must make a record as you would any other training conducted under parts 46 and 48.

How will a Compliance Specialist know if a miner has been trained on a certain chemical if no training record is required?

MSHA Compliance Specialists already talk with mine operators and miners during inspections to better understand conditions at a mine and to make judgments. They are expected to talk with operators and miners about the chemicals miners work with and to determine if they have been trained.

Is the Compliance Specialist going to interview more than one miner per mine?

Yes. To get enough information to evaluate the effectiveness of the initial HazCom training, the Compliance Specialist will probably need to interview several miners.

How do we document training after the effective dates?

After the effective dates, your HazCom training will be integrated into your existing training program which is under either part 46 or 48. You will use the same documentation for HazCom that you use for your existing program.

HAZCOM INSTRUCTORS

Does the HazCom trainer have to be an MSHA-approved part 48 trainer?

As explained above, you have a choice about initial HazCom training: you may conduct it separately from parts 46 and 48 or you may integrate it into your existing training program. If you conduct the initial HazCom training separately from your existing program, you are not specifically required to use a “competent person” (as required by part 46) or an “approved-instructor” (as required by part 48). Although there is no provision that requires it, HazCom implies that the instructor be able to communicate effectively with those who are receiving the training. If you integrate the initial HazCom training with your mine’s training program, a “competent person” or an “approved-instructor” must conduct the training.

SITE-SPECIFIC HAZARD TRAINING

What kind of HazCom training must we give to visitors at the mine? What about service providers, such as housekeeping, delivery persons, or lawn and pest control who work on the mine only briefly or infrequently?

You must give them site-specific hazard awareness training. If they are going to be exposed to hazardous chemicals, those hazards must be part of the site-specific training. The level of training must be appropriate to the hazard presented.

CONTRACTOR TRAINING

Do mine operators have to train service repairmen regarding the chemical and physical hazards present at the mine site? Are contractors responsible for training when they are working on mine property?

You are required to inform independent contractors who are operators, including those who provide service and repair work, about the chemical hazards their miners may be exposed to at your mine. Contractors are defined as mine operators under HazCom (as well as under the Federal Mine Safety and Health Act and 30 CFR part 45). Contractors have the same responsibility as production operators to train their employees.

How will this affect contractors that come on site to do a job? Will they have to furnish the mine operator a list of chemicals they bring on site and compare them with the mining company to see if the mining company already has the chemicals listed? If the mine operator does not have the same chemicals on their list, will the contractor have to furnish them one and train the mine operator's employees on the chemicals the contractor brings on site, or will the mine operator have to do their own training on them? To what extent do we need to provide cross-training to a contractor and vice-versa?

You are not required to cross-train contractors or contractor miners. You must provide contractors information about your hazardous chemicals (to which their miners can be exposed) and they must provide you information about their hazardous chemicals (to which your miners can be exposed). Additionally, you each must provide effective training about the hazards and protective measures to your miners. You may conduct cross-training, but the requirement is to provide information to each other. In most cases, however, you each understand best the hazards of your chemicals and the protective measures, and cross-training might provide the best training.

.....

.....

TRADE SECRETS

The “Trade Secrets” subpart balances two important interests: The miner’s interest in obtaining information on hazardous chemicals and your proprietary interest in protecting your business. In general, we believe miner safety and health is best served by full disclosure of a chemical’s identity. We recognize, however, the need to protect trade secrets.

Do the trade secret provisions apply to mixtures or individual chemicals?

The trade secret provisions apply to mixtures or individual chemicals that are considered to be trade secrets by the manufacturer.

What action can the miner take if I withhold or deny a request for trade secret information?

Subpart I – “Trade Secrets” outlines the provisions for withholding trade secrets, disclosure to interested parties, review of denials, and a confidentiality agreement and other remedies.

.....

.....

EFFECTIVE DATES

We have determined that small mines will be able to comply with the HazCom final rule. However, we recognize that mine operations with five or fewer employees, because of their size, have special needs that justify providing them with more time to become familiar with the requirements of the HazCom rule.

My company has 15 mines each with five or fewer miners. Is each mine ID a separate mine? How does this affect my effective date?

MSHA treats each mine ID as a separate mine. All 15 mines would have an effective date of March 21, 2003.

What happens if on September 23, 2002, we have five miners, but on January 14, 2003 we hire another miner and have six miners on our payroll? Do we still have until March 2003 to train everyone in initial HazCom training?

Your compliance date depends on the employment at your mine on September 23, 2002, the effective date of the final rule. If you only had five miners on September 23 and hired another on January 14, your effective date is still March 21, 2003.

One of my contractors employs fewer than five miners. How do I comply if I must comply by September 23 and they don't need to comply until March 21, 2003?

You are responsible for the safety and health of your miners. Ultimately, you are responsible for everything that happens on your property. You must share information about the hazardous chemicals you may expose the contractors' employees to and the contractors must share information about the hazardous chemicals that they may expose your miners to. Some small contractors have HCS programs that are in compliance because the contractors also work under OSHA jurisdiction. These contractors should already have everything you need.

You are liable for any small contractors that you hire to work at your mine. They must meet all HazCom requirements before they begin work, even if under other circumstances, their compliance date would be March 21, 2003.

.....

.....

WHERE TO FIND HELP

MSHA wants to emphasize that we are committed to providing compliance assistance to all mine operations, regardless of size. In fact, there are many HazCom aids already available. MSHA has developed an instruction guide, PowerPoint presentations, videos, model HazCom programs, a brochure, and generic MSDSs, and plans extensive compliance assistance.

www.msha.gov