

MSHA's HazCom Rule: A Start-Up Compliance Primer

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Editor's Note: MSHA's new regulation on hazard communication (HazCom) became enforceable on Sept. 23, 2002, for mines with six or more miners, and will become enforceable for mines with five or fewer miners on March 21, 2003. This article describes a fictional employee's effort to comply with the new rule. It is told in the first person by an aggregates worker who has been ordered to bring his operation into compliance.

My name is Alan, and I've been with Monumental Stone Co. since 1994. Monumental operates a single quarry employing five persons. There is no dedicated safety and health professional here or for 50 miles around.

Mine management has tapped me for the job because of my eight years of experience and because I am the company's point man during MSHA inspections. Monumental is a member of NSSGA, and has learned through the association that a new regulation on chemical safety has been passed.

The compliance date is just a few months off, and my marching orders are to get started *now* to comply rather than risk not being ready in time.

Getting Started

I spent time reading and reviewing the reference materials on HazCom that have been made available to me. Within a week after the HazCom rule was issued in June 2002, NSSGA produced a detailed summary of the rule. Besides that, I received a flyer in the mail from MSHA called "HazCom." On the last page was the name of a contact person in my MSHA District. I called him for assistance, and he faxed me a form that I could use to order additional compliance assistance materials from MSHA. For \$18, I ordered two videos and a toolkit. With NSSGA's comprehensive summary of the rule and the MSHA materials, I figured I had enough to get started.

I realize that the first thing I have to do is find out what chemicals are on the property, and then determine which are hazardous. HazCom requires that I write down the list of hazardous chemicals and attach this list to a written plan that describes how I will implement HazCom at my mine.

MSHA's toolkit includes a form I can use to compile my hazardous chemical list, but it isn't complete enough. I'm forced to customize my own form for the hazardous chemical list after NSSGA advised that I capture more information than MSHA's form

would have. The toolkit also includes a one-page written program template, which, after modifying it slightly for my site, I plan to use.

To be sure I do my hazardous chemical inventory right the first time, I review one of the videos provided by MSHA that explains hazard determination. I learn that MSHA defines a hazardous chemical as a physical or health hazard, which basically means it can hurt you, make you sick, or both.

If labels on the containers holding these chemicals describe hazardous properties, then that chemical is probably hazardous. The video also talks about chemical fact sheets called Material Safety Data Sheets (MSDSs), but I'll worry about them later.

The term "chemical," I come to realize, is defined broadly. It means more than liquid hazards, like you might think, but also includes items like welding rods and crushed stone, sand and gravel, if they contain crystalline silica that you can breathe; even blasting gases from ANFO are covered.

I know that I also have other responsibilities under HazCom, like training, but I can't satisfy that requirement until I know what hazardous chemicals I have, where they are used at the mine and how the miners use them.

Doing the Hazardous Chemical Inventory

I've learned I don't need to include in the inventory consumer products unless they are used more often or in quantities or ways ordinary people wouldn't normally use or consume them. That exemption bumped out of my HazCom program Lysol[®], window cleaner and WD-40[®]. It also took out the hand soap we use, which is exempt because it's a cosmetic, and all the stuff in our first aid kits. Things like pesticides, tires and sheet metal are exempt, too, but not batteries because of the acid that's inside.

I do the inventory over the next couple of days. I find we have no fewer than three types of welding rods, as well as antifreeze, battery acid, diesel fuel, gasoline, propane, cleaners, several types of lubricants, hydraulic fluids, solvents, paints, varnishes, glue, ether for cold starts, water treatment chemicals, and used motor oil—37 hazardous substances in all.

We mine rock, which contains crystalline silica. I know that because I teach the guys about silica in our Part 46 training classes. So, I add mine ore to the list, which raises the total to 38 hazardous materials.

As I do the inventory, I also run across two unlabeled containers that contain dark, foul-smelling liquids. Who knows what they are? I don't have a clue what to do

with them, so I call NSSGA. They tell me my safest bet is to assume they contain hazardous ingredients. Since I want to throw them away, they tell me I should treat the stuff as hazardous waste.

It's illegal to just throw hazardous waste in the trash, and it costs a pretty penny to get rid of it. NSSGA suggests two options: contract with a hazardous waste disposal firm, or find out if the waste disposal agency in town has a hazardous materials collection program. But because Brighton is 35 miles away, it's too much of a hassle to take the stuff there even if they would take it, so I just looked up "hazardous waste disposal" in the phone book and called a company listed there. The NSSGA guy said to be sure to keep all the records of the disposal of this waste, so I made sure I did.

Collecting the Fact Sheets

The NSSGA guidance document recommends that, when I do my inventory, I include the part number listed on the label, since this would be helpful in obtaining the precise MSDS for the product should I need to call the manufacturer or supplier. NSSGA also advised that I record the name of the manufacturer and the phone number, if it was available on the label. That would make it easier to get the MSDSs when the time came to collect them.

NSSGA also recommended that the form include how much of the product we have, where on the property it is stored and in what type of container. So, the goal of the inventory expanded from what I have and where, which is what HazCom wants to know, to how much there is, which is a good thing for me to be aware of.

Although the HazCom rule says I don't actually have to have the MSDSs available on the property at all times, without them I don't see how I can train the miners in the hazards the chemicals pose. Besides, the law requires that the MSDSs be readily available to the miners when they want them or in an emergency.

Our operation is too small to have a computer system, so we have no internet access, and we don't even have a fax machine on site, which means we can't use a fax-on-demand service. So, for us, at least, it's just simpler to have them physically present at the mine all the times.

NSSGA has contracted with a firm that supplies MSDSs, so for a fee, I collected the MSDSs by calling an 800 number and telling the operator what I wanted. Then they mailed them to me.

I told you that I copied the manufacturer contact information off the labels. But that information wasn't available on labels for three of the hazardous chemicals. It

didn't matter. NSSGA's MSDS firm was able to provide MSDSs for these products anyway.

I didn't bother asking for an MSDS for limestone because it was available from the MSHA toolkit. The MSDSs for aggregates products in the toolkit were provided to MSHA by NSSGA.

Once the MSDSs came in, I put them all into a three-ring binder that also included the written program I'd gotten from the toolkit, which I modified to suit my operation, and the completed chemical inventory. I wrote "HazCom Program" in big letters on the front cover.

I plan to use this book in training, to provide it to the MSHA inspector when he or she shows up, to use it if a contractor ever asks for hazardous chemical information, and to store it at a spot at the mine when any miner can have access to it when they want to.

Labels

The regulation says all the hazardous chemicals have to be labeled. It also says the name of the chemical on the label has to match the name on the inventory list and on the MSDS. This requirement won't involve much work because the chemicals are already labeled when we buy them. We don't have to label our own limestone product at the mine, but it would be no problem if we did because we have been providing labels to our customers for years now.

The regulation cuts us a break on labeling of portable containers, which is great because the guys find it convenient to drain liquids from bulk containers into smaller containers for use elsewhere. Under the law, if the miners know what's in the portable container, it doesn't have to be labeled, provided they put the hazardous chemical back in its original, labeled container at the end of the shift.

They can even leave it in the portable container at the end of the shift if they place an identifying label on that container, although I don't intend to encourage this because I don't want the miners in the labeling business. If they do it wrong, I could get a citation from MSHA.

Training

Part of implementing HazCom is making sure I've completed the required training by March 21, 2003. One of the first decisions I have to make is whether I want to cover this initial HazCom training under Part 46 or under HazCom (Part 47). MSHA gives you the choice.

If I do it as refresher training under Part 46 and I can keep the training time under two hours, MSHA says I get a one-time waiver of the requirement to modify my training plan. The waiver does not apply if refresher training extends beyond two hours. Regardless of how long it lasts, though, I still have to record the training on the certificate of training form. If I choose to provide initial training under HazCom instead, I don't have to record the training or change the training plan.

I'm going to opt to do initial training under Part 46, not Part 47, because I think I can get it done under two hours and I want to have a record that I trained the miners on HazCom. I think having a record of HazCom training is important to avoid possible citations even if, under Part 47, it is not mandated.

As for the training plan, I have to modify it anyway after I have completed initial training. Besides, the need to change the training plan is no big deal, because MSHA has provided a sample training plan modification that I can staple to the back of my existing training plan after I modify it to include my name as the competent person and the approximate length of time needed to cover the subject.

What do I have to train on? The toolkit lists the topics:

- Physical and health hazards of the hazardous chemicals
- Requirements of HazCom
- Mine's HazCom program, including the MSDSs, labeling system, how the miners can get and use information on the hazardous chemicals
- Location of the HazCom Book and accessibility information
- How to tell if a chemical is present or if there's been an accidental release
- Protective measures
- What the mine has and does to protect the miners

This seems like a lot to cover, especially with 38 hazardous chemicals, but it's not really. I intend to group the chemicals by the types of hazards they represent, rather than teach about the hazards of each individually. So, for example, all the chemicals that represent physical hazards such as combustibles like fuel oil will be covered under the "combustibles" category; flammables like gasoline, under "flammables," and so forth. The same goes for health hazards; for example "irritants," like some solvents; "respiratory" risks, like silica. Bullets two and three above can easily be combined, as can the final two bullets, and bullet four should take about a minute to explain.

I don't yet feel completely competent to teach about hazardous chemicals myself, but the films I got from MSHA, the help I've received from my state grants people and NSSGA, the MSDSs, and reviewing the toxicology primer at the end of the MSHA toolkit have given me more confidence.

At home, I also went through an interactive training program MSHA has on its website, which I found useful. I tapped into OSHA's website at home for more information, and NSSGA's website also has a list of helpful HazCom videos we can purchase.

After doing all this work to comply with HazCom, I'm going to be very interested to see how the MSHA inspector reacts to my program once enforcement begins. I figure I'll be fine unless the inspector seems unreasonably critical of my program. In that case, I fully intend to voice a complaint with the inspector and to let NSSGA know as well. HazCom enforcement should focus on genuine safety and health issues, not paperwork problems.

SIDEBAR – RESOURCES FOR HAZCOM COMPLIANCE MATERIALS

- MSHA: (202) 693-9400/www.msha.gov– MSHA's web page has an entire section dedicated to HazCom compliance and provides an interactive training program, toolkit and a HazCom program template that you can download and modify to create your site's program.
- NSSGA: (800) 342-1415 / www.nssga.org –NSSGA's website has six MSDSs for common aggregate products available for download. The site also includes a rule summary and compliance primer.
- NIOSH: (800) 35-NIOSH / www.cdc.gov/niosh – Includes an extensive chemical safety/MSDS section, which provides links to MSDS databases, chemical hazard databases and other government chemical safety resources.
- OSHA: (800) 321-OSHA / www.osha.gov – OSHA's HazCom rule is very similar to MSHA's. OSHA's web page offers valuable FAQs, training materials specifically designed for small businesses, labeling information and hazard determination links and resources.

Training Videos

<i>Name</i>	<i>Cost</i>	<i>Online Purchase</i>	<i>Phone</i>	<i>Description of Product</i>
Hazard Communication For The New Millennium	\$99.99	safetyinfowarehouse.com	1-877-582-5457	Standard video
Hazard Communication "A Healthy Responsibility"	\$125.00	vista-start-smart.com	1-800-942-2886	Standard video/compliance with OSHA 1910, 1200
OSHA's Video	\$195.00	osha-safety-training.net/index.html	1-877-922-7233	Standard video, trainers guide, 1 poster, 1 booklet, quiz, certificate
Hazard Communication For The New Millennium	\$99.99	safetyinteractive.com videosafety.com	1-877-789-0807	Standard video
Less Stress	\$99.00	lessstress.com	973-427-6090	ASHI video - 20 mins

Coastal Training Technologies Corp	\$195	coastal.com	1-800-725-3418	Video - 11 mins
abc Safety Training	\$195	abc-safety-training.com	1-877-922-7233	Video, Trainers Guide, 1 Poster, 1 Booklet
Major Safety	\$259.00	majorsafety.com	1-757-855-2088	Video 18 mins, Instructors Guide, 10 employee handbooks, 10 Employee inf. Cards, training log, poster