

NATIONAL STONE, SAND & GRAVEL ASSOCIATION

MSHA'S FINAL HAZARD COMMUNICATION RULE (30 CFR 47)

A RULE SUMMARY AND COMPLIANCE PRIMER

The purpose of this document is to explain MSHA's new Hazard Communication (HazCom) rule and, to the extent possible, elaborate on how it will be enforced. In preparing this presentation, NSSGA drew chiefly from the final rule, its preamble, MSHA's draft *Compliance Guide* for its interim final rule, dated October 2000, the HazCom tool kit (*Telling Miners About Chemical Hazards* for the final rule- July 2002), and MSHA's Program Policy Letter P02-III-1, dated 7/18/02.

In issuing the final rule, MSHA amended 5 of its existing regulations and deleted two others. Most importantly, Parts 46 and 48 were amended so that all training beyond initial training would be covered under those two regulations. The labeling provisions of three standards, 56/57.16004 and 77.208, were amended to accommodate the new labeling provisions of HazCom (47.41-47.44). Two labeling standards, 56/57.20012, were deleted altogether.

Who Is Covered/Effective Dates

HazCom covers all mines in all mining sectors. There are no exemptions. It also covers all miners, including office workers and independent contractors, who may be exposed to a hazardous chemical during the regular course of their work or in a foreseeable emergency. A "foreseeable emergency" is any potential occurrence that could result in an uncontrolled release of a hazardous material. Foreseeable emergencies are limited to what you should reasonably expect might occur. For example, spills of fluids can be expected, and hence are considered as foreseeable emergencies. But speculative emergencies and events that are only remotely possible are not covered.

The effective date, for individual mine sites with more than 5 employees, is September 23, 2002. For mines with 5 or fewer miners, the effective date is March 21, 2003. These dates mean that, for the affected mines, all provisions of HazCom must be implemented by those dates.

MSHA says that operators who now comply with OSHA's Hazard Communication Standard (HCS) will be in compliance with MSHA's HazCom program, provided they also comply with the hazardous waste provision in HazCom.

Exemptions

Articles are exempt 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. An article is an item, other than a fluid or particle, whose end use depends on the specific shape or design to which it is made during manufacture. Steel bars, chisels, buckets, bricks, etc. are articles. Tires, for example, fall into this category, too, but would fall out of it and into coverage under HazCom if they were burned. Why? Two reasons. First, burning tires is not a normal condition of their use, and, second, they would release significant amounts of one or more hazardous chemicals that could pose a risk to miners.

Toner cartridges for copiers are articles, but MSHA does not exempt them if they contain a hazardous substance and are handled by office staff because MSHA believes there is a foreseeable possibility the chemical could accidentally be released from the cartridge. You'll know if there's a hazardous substance inside if the cartridge is labeled as containing hazardous materials and is accompanied by a Material Safety Data Sheet that lists any hazardous ingredients.

Also exempt are biological hazards (poisonous plants, insects, micro-organisms such as fungus and molds) and consumer products, as long as the consumer product is used for the purpose intended by the manufacturer, and such use does not expose the miner to hazardous substances more often or for longer periods of time than ordinary consumer use would. How the consumer product is used determines if it is exempt. Example: a miner is called upon to change brakes on mobile equipment 2-3 times per year, and must use brake cleaner to do so. Under these conditions of use, the brake cleaner would be exempt. However, if the miner is a mechanic and changing brakes is a part of his/her job, brake cleaner would not be exempt. Obviously, application of this exemption is going to involve judgment calls, so be careful. Wood and wood products, including lumber, are exempt, too, but wood dust is not. Neither is wood that has been chemically treated.

Items for personal consumption are exempt if they are labeled and packaged for retail sale and intended only for personal consumption or use. Exempt are foods, food and color additives, drinks, including alcoholic beverages, drugs, cosmetics, tobacco and tobacco products, medical and veterinary devices, including materials intended for use as ingredients in such products. You might consider the office secretary's perfume a hazardous substance, but MSHA doesn't for purposes of HazCom. Aspirin and sterilizing alcohol in the first-aid kit are exempt. That awful stuff coming out of the food vending machine in the locker room is exempt from HazCom as well.

Nuisance particulates; i.e., mine dust and dirt, are exempt as well as long as the only hazard they present is mechanical irritation. Nuisance particulate is not exempt if it presents a chemical irritation, contains greater than 0.1% respirable crystalline silica or presents other physical or health hazards. All forms of radiation and such non-chemical-specific physical hazards such as heat or cold stress, ergonomics hazards and high noise levels are also exempt.

For exemptions from labeling requirements, see "Labeling and Other Forms of Warning" below.

Hazard Determination

HazCom requires operators to evaluate each chemical brought on mine property and each chemical produced on mine property to determine if they are hazardous; i.e., a physical or health hazard. Physical hazards are combustible liquids, compressed gases, explosives, flammables, organic peroxides, oxidizers, pyrophorics, and chemicals that are unstable or water-reactive. Health hazards are chemicals that cause acute (short-term) or chronic (long-term) harmful effects including those that cause cancer; reproductive problems or birth defects; are irritants, corrosives or sensitizers; are toxic or highly toxic; or damage the liver, kidneys, nervous system, blood or lymphatic systems, stomach or intestines, lungs, skin, eyes, or mucous membranes. “Chemical” is defined broadly to include any element, chemical compound or mixture, and ranges from welding rods to solvents.

To determine the hazardous nature of chemicals brought to the site, operators may rely on the Material Safety Data Sheet (MSDS) or the container label. For chemicals produced at the mine, the operator may judge its hazardous nature by checking to see if the chemical is the subject of an MSHA standard at 30 CFR chapter I; an OSHA standard at 29 CFR 1910, subpart Z; listed in the American Conference of Governmental Industrial Hygienists’ (ACGIH) booklet entitled *Threshold Limit Values and Biological Exposure Indices* (2001 edition); in the National Toxicology Program (NTP) *Ninth Annual Report on Carcinogens* (ROC) (January 2001); or IARC monographs or related supplements, volumes 1-77. Here’s the website addresses for the ACGIH TLV Booklet and the NTP’s ROC, respectively: <http://www.acgih.org/store/> and <http://ehp.niehs.nih.gov/roc/>.

Consider hazardous any mixture produced at the mine that demonstrates physical or health hazards when tested as a whole. If it has not been tested as a whole, then use available scientifically valid evidence to determine if it is a physical or health hazard based on its ingredients. For a mixture to be considered a health hazard, follow this guideline: a non-cancer causing ingredient is a health hazard that makes up more than 1% by weight or volume of the mixture. Assume the mixture is a carcinogenic health hazard if a component that makes up more than 0.1% by weight or volume has been labeled as a known or probable carcinogen or reasonably likely to be a carcinogen by NTP or the International Agency for Research on Cancer (IARC).

Written Program

The rule requires all mine operators regardless of size, without exception, to prepare a written program that explains how HazCom will be implemented at that mine site. You may devise a one-size-fits-all written program as long as it accurately reflects the circumstances that exist at all sites covered by the written program. For example, if one site has a different labeling system than another, each plan must reflect those differences. Additionally, since the program includes the hazardous chemical inventory and it is unlikely that any two sites will have the same hazardous chemicals, the chemical lists in most cases will be unique to each job site. The plan must cover the following topics:

- Your system for labeling and other forms of warning

- How you will perform hazard determinations
- Your list (inventory) of hazardous chemicals
- The location and accessibility of MSDSs or equivalent for all hazardous chemicals
- Training requirements
- At multi-employer mine sites, how you will inform these other operators of your HazCom program.

MSHA has prepared a bare-bones written program meeting the minimum requirements of HazCom that is contained in its tool kit, downloadable from its website (<http://www.msha.gov/REGS/COMPLIAN/Guides/Hazcom/HazComToolKit.pdf>). The tool kit (pub. #OT-49) can also be ordered by calling Mary Lord at 304-256-3257). For those so inclined, a more comprehensive sample written program is available from the draft *Compliance Guide*, although this document is no longer available on MSHA's website. The agency has promised to place model programs on its website (www.msha.gov), and suggests you may turn to OSHA's website (www.osha.gov) for additional sample programs that might be suitable.

MSHA says the written program need not "be lengthy or complicated." The written program must be updated when changes occur that require it. It must be retained for as long as a hazardous chemical is known to be at the mine.

In its draft *Compliance Guide*, MSHA said it would issue just one citation under the "HazCom program contents" provision. An MSHA spokesperson told NSSGA the agency was considering carrying that decision over to the comparable provision (Part 47.32) in the final rule.

Labels and Other Forms of Warning

You must assure that containers of hazardous chemicals are appropriately labeled. "Containers" are broadly defined, but do not include ponds, ditches, pipes or piping systems, conveyors, or engines, fuel tanks or other operating systems or parts of a vehicle. "Labels" may include printed or graphic material, as long as they convey the required information.

The required information on labels consists of the identity of the chemical, its physical and health effects, measures miners can take to protect themselves and information where a user can go for more information. Labels must be accurate, legible, prominently displayed and in English. Labels on chemicals you purchase should already conform to MSHA's HazCom requirements. Operators are not responsible for inaccurate labels on hazardous products made by others. Nevertheless, to assure your employees are not harmed because they took direction from an inaccurate label, if you have knowledge the label is in error, you should contact the manufacturer or supplier to get them to make it right.

If a label falls off a container of a hazardous chemical, you must replace it. The same holds true if the label is defaced or is otherwise unreadable. It is illegal to remove existing labels on hazardous chemical containers. If the label on a manufacturer-supplied container of a hazardous chemical becomes outdated, you must replace it with an updated label when the supplier sends you the updated label. If significant, new information on a chemical becomes available that is not reflected on the existing labels, you have up to three months to update the label. Labels that conform to OSHA's HCS rule conform to MSHA's.

If you generate a hazardous chemical on site, you must label it with the required information, as noted above. When you write the identity of the hazardous chemical on your label, the identity must be provided in a way that allows cross-referencing among the label, the inventory and the MSDS. For example, if the label identifies the hazardous chemical as hydrochloric acid, the inventory and MSDS must call it that, too. Muriatic acid is another name for hydrochloric acid, but you cannot call it by one name on, say, the label, and the other name on the MSDS and/or inventory.

Besides the chemical identity, you must specify its harmful effects, giving preference to the most serious effects in cases where the chemical is known to have a multitude of health effects. In these cases, MSHA says, "at a minimum, you must specify all serious hazards on the label." MSHA provides this example: chromium VI in a welding fume is carcinogenic, causes liver and kidney damage, blood abnormalities, respiratory irritation, perforation of the nasal septum, eye damage, sensitization dermatitis and skin ulcers. The label could then say:

Causes cancer, liver and kidney damage, blood abnormalities,
and irritation of the skin, eyes and mucous membranes.

The agency cautions that you must consider both short-term (acute) and long-term (chronic) health effects when deciding what to put on the label.

You must be specific when conveying a hazard warning. "Danger," considered a general warning, would be insufficient. "Flammable" and "combustible" are acceptable. As the indented example above illustrates, you must list affected target organs if that information is available. A warning of carcinogenicity is required only when the substance is known to cause, probably causes or is reasonably likely to pose a risk of human cancer; lesser carcinogenic classifications such as "suspected carcinogen" or "potential carcinogen" do not require the cancer warning. MSHA accepts carcinogen classifications from the IARC and the NTP, but does not expect you to use other sources, such as the ACGIH cancer designations.

Since both IARC and NTP have identified crystalline silica as causing cancer, MSHA expects products that contain more than 0.1% respirable crystalline silica to carry a cancer warning. Hazard warnings may be presented in words, pictures, symbols or other means as long as the message is conveyed.

Your label must also include the name and address of the operator, presumably your employer if you are preparing the label, who can provide additional information. Your name as a safety and health professional is not to go on the label.

For individual, stationary process containers such as pipes, you may use signs, placards, process sheets, batch tickets, operating procedures or other label alternatives. However, the alternative must identify the container to which it applies, communicate the same information as required on the label and be readily available throughout each work shift to miners in the work area.

HazCom does not specify any particular format criteria or coding scheme, which means you can use any you choose. The American Chemistry Council suggests you consider ANSI Z129.1-2000 (available from <http://webstore.ansi.org/ansidocstore/find.asp> for \$65.00). However you choose to set up your labeling scheme, you should be sure it is consistent throughout the mine and the company as well.

MSHA's advice on providing hazardous chemical information in other languages is vague. "You must make sure that your miners receive the information in a manner that they can understand," MSHA warns, but the agency goes on to say that you *could* [emphasis added] provide labeling information in other languages if a significant number of your miners do not read English. Suffice it to say you can probably expect a citation if a Spanish-only speaking miner fumbles when an inspector holds up an English language label on a hazardous container and asks him to tell the inspector what's inside.

HazCom is silent on requirements for labels on containers of hazardous chemicals that leave the mine site. That's because this situation is covered by other federal labeling statutes, which already require labeling. Nonetheless, HazCom stipulates that you must provide customers, upon request, with the label of any hazardous chemical produced at the mine or a copy of the label information, along with the chemical's MSDS. The means for providing this information is performance-oriented.

Temporary, portable containers are not defined, but refer to generally small containers used on a temporary basis by a miner to aid in the completion of a specific task. For example, a mechanic transfers brake fluid from a 55-gallon drum to a tin can to service mobile equipment. Under HazCom, these temporary, portable containers need not be labeled as long as the user knows the identity of the hazardous chemical, its physical and health hazards and how to protect himself/herself from harm. In such instances, you must leave the container empty at the end of the shift. However, if you decide instead to label the container with the identity of the hazardous chemical, you can leave the chemical in the container for miners on the next shift.

Hazardous substances, consumer products, and pesticides are exempt from labeling if they are retained in their original packaging. This is because they already fall under other federal labeling statutes. Also exempt are hazardous substances that are the subject of remedial or removal action under EPA regulations. EPA-regulated hazardous waste, and wood or wood products, including lumber, are exempt from labeling, too. The raw

material you mine or process is exempt from HazCom labeling while the raw material is on mine property. But labels are required if you mix the raw material with another hazardous substance and the mixture is determined to be hazardous.

Inventory

The chemical inventory, which is a part of the HazCom written program, identifies the hazardous chemicals present at the mine. Its purpose, MSHA says, is to serve as a quick reference so that everyone, including MSHA inspectors and government researchers such as NIOSH, can see at a glance what hazardous chemicals are present. There are three requirements the inventory must meet. First, it must identify *all* hazardous chemicals covered by HazCom. Second, it must permit cross-referencing of the chemical's identity with labels and MSDSs. Third, it must be kept up-to-date. Since HazCom training requirements stipulate that you provide miners with location-specific information on hazardous chemicals, document on the inventory where the hazardous chemicals are stored at the mine. No time limit is specified for updating the list, but expect a gig from an inspector if he discovers a non-exempt hazardous product, and doesn't see it listed on the inventory.

MSHA allows you to keep a single list for the entire mine site, or individual lists for specific sectors of the mine. The latter probably makes sense if many hazardous chemicals are used in just one area of the mine, such as the lab or shop, but nowhere else.

A word of advice: if you plan to use the inventory as a starting point for collecting your MSDSs, be sure to collect the part # off the label, if there is one, as well as the name and phone number of the manufacturer or supplier who has the MSDS. Our experience has been that some manufacturers can't locate the MSDS for their product without the part #.

It's also probably a good idea to collect additional information while doing the inventory, such as the quantities of each hazardous material you have and the type of container they are in. Our bet is, while doing the inventory, you will discover (1) hazardous substances present that you never dreamed were there, and (2) that will lead to a desire to rid yourself of some of them. Knowing how much of what you have and where it is will help if you decide to dispose of it. Keep in mind that most hazardous substances become hazardous waste when you decide to rid yourself of them. Hazardous waste transportation and disposal fall under EPA, whose regulations on hazardous waste are strict and penalties for violators are high. Illegal dumping of hazardous waste is a very serious crime. Contract with a reputable hazardous waste firm if you need to remove hazardous waste; a start in determining their credentials is asking for their EPA ID number and verifying the number with your regional EPA office.

MSDSs

MSDSs are detailed fact sheets about a hazardous chemical. Under HazCom, they are the principal source of information about a hazardous chemical. You must have an MSDS or equivalent for each hazardous chemical readily accessible at the mine. Be sure you have

an up-to-date MSDS or equivalent for every chemical on your inventory. It's a guaranteed citation if you don't, with one exception. The agency allows the use of generic MSDSs to cover several products containing hazardous substances, as long as these products contain the same hazardous ingredients. For example, if you have six different types of paint from a manufacturer, all of which contain the same hazardous ingredients, only in different amounts, MSHA will allow the use of a single MSDS that covers all of them, rather than six separate MSDSs.

MSDSs may be obtained from companies that make the hazardous chemical, or, if you are the originator of the hazardous chemical, HazCom requires you to develop the MSDS yourself. You may also obtain MSDSs from other sources, including fax-on-demand services and from the internet. NSSGA has offered six MSDSs on rock products to MSHA for mass distribution.

Miners are not permitted to work with a hazardous chemical until they are given instruction on its hazards, how miners can recognize the hazard and how they can protect themselves from harm. There are no exceptions to this requirement. However, in rare instances, you may have to use a new chemical that poses a hazard before the MSDS becomes available to you. MSHA allows this, but expects the MSDS to be available within a week of when the new chemical is put to use.

MSHA allows the use of MSDSs, International Chemical Safety Cards, and Workplace Hazardous Material Information Sheets. In fact, the agency will allow the use of "any document available to miners that contains all the information required" by the regulation. That required information is:

1. Identity – the chemical and common names of the hazardous chemical if it is a single substance, and the hazardous ingredients if it is a mixture. As previously mentioned, the identity must permit cross-referencing with the inventory and label.
2. Properties – the physical and chemical properties of the substance.
3. Physical hazards.
4. Health hazards
5. Cancer classification
6. Exposure limits. You may use the OSHA exposure limit, the MSHA exposure limit or both. Based on the judgment of the person preparing the MSDS, HazCom requires that the MSDS include any other exposure limit used or recommended by the preparer, such as the ACGIH Threshold Limit Value or the limit recommended by NIOSH.
7. Safe use – any generally applicable precautions for safe handling and use, such as appropriate hygienic measures, protective measures during repair and maintenance, procedures for cleanup of spills and leaks, and special disposal requirements.
8. Control measures – e.g., ventilation, process controls, restricted access, protective clothing, respirators, goggles.

9. Emergency information – special instructions for firefighters, first-aid procedures, and the name, address and telephone number of the responsible party who can provide additional information.
10. Date prepared – the date of preparation of the MSDS or the last change to it.

As with labels, HazCom does not mandate a standard format for presentation of the information. However, MSHA recommends you consider using the OSHA 174 form or ANSI Z400-1. MSHA will not permit a blank space to appear on the MSDS for any required information. If no exposure limit is available for the substance or it is not a carcinogen, write “not applicable” in the appropriate spaces – don’t leave them blank. If you receive an MSDS from a supplier with blanks for required information, MSHA expects you to call the supplier’s attention to the deficiency, although it is doubtful you will be cited for the oversight of others. Expect a citation, though, if the blank is on an MSDS prepared by your employer.

It goes without saying (but we will anyway) that MSDSs you produce must be accurate. MSHA will not hold you responsible for the accuracy of MSDSs you obtain from others. Still, as mentioned above, MSHA expects you to notify the MSDS supplier if there is an obvious problem with their MSDS, although, if you fail to do so, it is not likely you will be cited. As with labels, MSDSs must also be legible and written in English. MSHA says you are required to communicate the required information about a hazardous chemical to non-English-speaking employees, but stopped short of requiring MSDSs in other languages. At multi-lingual sites, MSHA suggests the use of symbols.

HazCom requires you to keep MSDSs up to date, and you must do that within three months after you become aware of significant new information. Significant new information is information that is likely to have a major effect that was unknown before, and that is important to the health and safety of miners. A significant change, for example, would be a change in the chemical composition of the hazardous material or a new IARC pronouncement that it causes cancer; an insignificant change would be a revised date on the MSDSs (regardless, MSHA recommends you retain the newest version). MSHA will not cite you if an MSDS changes, but the change is not significant.

When you replace an old MSDS on a product with a revised version, you may discard the older copy without telling miners you are doing so, but if you decide to discontinue use of a hazardous chemical altogether, you are required to alert miners three months before you do away with it. The purpose of this provision is to allow miners time to secure a copy for themselves if they so choose. MSHA does not stipulate how you inform the miners.

You must make MSDSs of hazardous chemicals miners may be exposed to available to miners in their work area. This does not mean the MSDS has to be physically present. If it is readily available by fax or the internet, for example, MSHA accepts that arrangement. But expect a citation, for example, if you rely on a fax, no MSDS is present, and the miner either does not have ready access to the fax machine or doesn’t know the number to call to obtain the MSDS. Even if the miner has all the tools he/she

needs to readily obtain an MSDS by fax, the agency cautions that you still might be cited for circumstances beyond your control, such as a power failure, unavailability of the fax-on-demand operator, etc. Expect a citation, too, if the miner is working the overnight shift, and the fax machine or computer terminal are locked in the office until morning, preventing the miner in an emergency from “ready access” to this equipment. You must make MSDSs available to your customers if they ask for them.

As previously noted, MSHA allows the use of a single MSDS for a class of chemicals or for mixtures with similar hazards and contents, as opposed to obtaining an MSDS for every chemical in that class. For instance, chemicals with the same ingredients only in differing percentages, such as paints, organic solvents, fuels and lubricants might fall into this category. Likewise, you can prepare a single MSDS to cover a process, as long as you include all the chemical hazards created during the process and any likely to be created if there is an accident or malfunction. You do not have to prepare an MSDS for an intermediate chemical if its hazards are addressed on the MSDS for the source chemical.

If your operation has a permit to burn EPA-regulated hazardous waste, MSHA exempts you from preparing or obtaining an MSDS for it, although MSHA says that, if you already have an MSDS for the waste, you must give miners access to it. However, you are required to give miners access to any information about the hazardous waste that indicates its identity or that of its components, describes the physical and chemical hazards involved and specifies appropriate protective measures. If no MSDS is available, the manifest for the waste may contain the required information. The EPA hazardous waste exemption for MSDSs (and labels), however, does not apply if you generate waste not covered by an EPA permit. In the case of hazardous waste other than EPA-regulated hazardous waste, all provisions of HazCom apply.

Training

HazCom has two major training segments: (1) initial training before the effective dates of the final rule, and (2) training after the rule becomes effective.

Initial Training

MSHA gives you two options for how you conduct initial training, which must be completed before September 23, 2002 or March 21, 2003, whichever is appropriate for your site. You can complete initial training under 30 CFR 47, or under 30 CFR Parts 46 or 48. If you choose Part 47, the HazCom instructor does not need to be a competent person or MSHA-approved instructor. Also, your Part 46/48 training plan does not need to be changed, and you need not keep a record of the training. However, MSHA says it will verify whether or not HazCom training was completed by asking miners questions about HazCom. Therefore, we strongly advise that you record this initial training, even though you are not required to do so; i.e., instructor’s name, date, length and location of training, subjects taught, and the names of those who received the training. Some operators ask miners to verify with their signature that they received training.

Your second option for completing initial HazCom training before the effective dates is to do it under Part 46 or Part 48. If that is your choice, the regulations require that you properly record training took place. To properly document initial HazCom training under Part 46, MSHA advises that you write “Initial HazCom Training” on the form used to certify Part 46 annual refresher training. For Part 48, the agency suggests that you fill out your 5000-23 form as you normally would, then check the box “other” in Section 2 and write in: “Initial HazCom Training.”

The two regulations also require that you modify your training plan, but MSHA has decided to grant operators who choose to perform initial HazCom training through Parts 46 or 48 a one-time waiver of the training plan modification requirement, provided that the training is done as part of refresher training and it lasts for no longer than two hours. If initial HazCom training extends beyond two hours, the waiver of the requirement to modify your training plan does not apply. Of course, as the Part 46 and 48 regulations now require, a competent person or MSHA-approved instructor, respectively, must provide the instruction.

HazCom Training after the Effective Dates

HazCom training that is done after the effective dates falls under either Part 46 or Part 48. The provisions of these regulations that relate to the competency/certification of instructors, documentation of training and training plan modifications are all applicable.

Who Is to be Trained

Under Part 46 and Part 48, HazCom training must be provided to new miners and newly hired experienced miners before they begin work. HazCom training is also required under task training when a miner is assigned a new task in which the miner has no previous experience, when a new chemical hazard is introduced into a miner’s work area and when an existing chemical is found to pose a new hazard. Note that task training is required only when a new chemical *hazard* is introduced, not a new hazardous chemical. In other words, if you bring in a new chemical, but it has the same hazards as existing chemicals, no additional training is required.

Under the conforming amendments to Parts 46 and 48 brought about by the passage of the HazCom rule, HazCom training is also recommended, as necessary, as part of Part 46 and 48 annual refresher training. However, it is a mandatory refresher training topic under Part 46 if any changes occur in the use, location or potency of hazardous chemicals. Since refresher training under Part 48 requires instruction on mandatory health and safety standards, HazCom is a mandatory training requirement there.

What Subjects You Are Required to Cover

Training must be provided in the following three general areas: the physical and health hazards of hazardous chemicals in the miner’s work area, measures miners can use to

protect themselves from those hazardous chemicals and the contents of the mine's written HazCom program. More specifically, you must identify what hazardous chemicals the miners are or may be exposed to, explain the physical and chemical hazards associated with those chemicals, the locations and operations in which those chemicals are present and the specific procedures in place at the mine to protect miners from hazardous chemical exposure. These procedures include, as appropriate, any engineering controls, work practices, emergency procedures, personal protective equipment, and how a miner can detect the presence or release of a hazardous chemical in his or her work area.

Training about the content of the HazCom program must cover its hazard determination procedures, the written program, inventory, labeling system and other forms of warning, MSDSs and training. As part of this training, you must tell the miners where they can find the written program and how they can gain access to MSDSs.

Changes to the Training Plan

In lesson 6 of its new interactive training program on HazCom, available on MSHA's [website](#), the agency has provided an example of how Part 46 and 48 training plans can be modified to accommodate the training requirements of HazCom. Operators may simply attach a copy of this model training plan modification to their existing training plans. However, you will still have to supplement what MSHA has developed for you with information on the estimated length of time needed to cover each subject in training and who the competent person/MSHA-approved instructor is. If you submitted your training plan for approval, you need not resubmit it if you plan to use MSHA's model training plan addendum. MSHA will consider your previously approved plan as still approved, provided you attach the agency's model training plan addendum to it.

Under Parts 46 and 48, any significant changes to your training plan must be provided to the miners' representative, or, in the absence of such a person, either be posted or individually provided to each miner two weeks prior to implementation. This requirement must be followed for any changes made to the training plan, and that includes the addition of MSHA's HazCom training plan addendum. NSSGA's sample training plan, available to members on our [website](#) has been modified to accommodate HazCom. We acknowledge the assistance Dick Seago of Vulcan Materials in this endeavor. Training records and certificates must also be changed as appropriate to incorporate HazCom requirements.

Training Providers

MSHA does not expect you to hire consultants to provide HazCom training. MSHA has already provided HazCom training to some 20 state grants personnel; therefore, you may be able to draw upon them to assist with HazCom training compliance. Relevant training provided to miners under other MSHA standards, OSHA, EPA, DOT, etc. may be credited toward HazCom training. For example, if your workers are covered under OSHA's HCS rule and you have already give them instruction as required by that regulation, you should only need to provide instruction on provisions of MSHA's

HazCom rule that are unique to it, such as, but not limited to, the compliance dates and the hazardous waste provision.

Interactive Training Program

MSHA has developed an interactive training program which trainers may use to familiarize themselves with HazCom, or which miners may use for HazCom training. It is available on MSHA's [website](#).

Access

You must give miners and their designated representatives access to written HazCom materials when they request them. These materials consist of the written program, the chemical inventory, labeling information, MSDSs and training records. MSHA inspectors and NIOSH representatives are also entitled to this information. The means by which you provide access is performance-oriented. For instance, you can hand over the original material, and point the requesting party to the office copier, where they can copy the material themselves. You can post it on your intra-company website, and direct them there.

The rule does not require you to provide miners or their designated representatives with copies of specific training materials, such as videos or booklets. However, you must allow miners or their representatives to examine these materials, if they ask to see them. Persons who request HazCom information do not need to put their request in writing. You are expected to comply with such requests within 24 hours of receiving the request. First copies are free to the requesting party; the cost of subsequent copies must be "reasonable." The price for copying must be the same for everyone who requests copies, and you are expressly forbidden from refusing to provide copies.

End

Rev. 8/02