

Subpart I—Trade Secret Hazardous Chemical

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EFFECTIVE DATE NOTE: At 67 FR 42382, June 21, 2002, part 47 was transferred to subchapter G and redesignated as part 42 and a new part 47 was added, effective Sept. 23, 2002.

Subpart A—Purpose, Scope, Applicability, and Initial Miner Training

§ 47.1 Purpose of a HazCom standard; applicability.

The purpose of this part is to reduce injuries and illnesses by ensuring that each operator—

- (a) Identifies the chemicals at the mine,
- (b) Determines which chemicals are hazardous,
- (c) Establishes a HazCom program, and
- (d) Informs each miner who can be exposed, and other on-site operators whose miners can be exposed, about

chemical hazards and appropriate protective measures.

(e) As of September 23, 2002, all mines employing six or more miners are required to comply with this part.

(f) As of March 21, 2003, all mines employing five or fewer miners are required to comply with this part.

§ 47.2 Operators and chemicals covered; initial miner training.

(a) This part applies to any operator producing or using a hazardous chemical to which a miner can be exposed under normal conditions of use or in a foreseeable emergency. (Subpart J of this part lists exemptions from coverage.)

(b) Operators of mines which employ six or more miners must 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 by September 23, 2002. Operators of mines that employ five or fewer miners must 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 by March 21, 2003.

Subpart B—Definitions

§ 47.11 Definitions of terms used in this part.

The definitions in Table 47.11 apply in this part as follows:

TABLE 47.11—DEFINITIONS

Term	Definition for purposes of HazCom
Access	The right to examine and copy records.
Article	A manufactured item, other than a fluid or particle, that— (1) Is formed to a specific shape or design during manufacture, and (2) Has end-use functions dependent on its shape or design.
Chemical	Any element, chemical compound, or mixture of these.
Chemical name	(1) The scientific designation of a chemical in accordance with the nomenclature system of either the International Union of Pure and Applied Chemistry (IUPAC) or the Chemical Abstracts Service (CAS), or (2) A name that will clearly identify the chemical for the purpose of conducting a hazard evaluation.
Common name	Any designation or identification (such as a code name, code number, trade name, brand name, or generic name) used to identify a chemical other than by its chemical name.

TABLE 47.11—DEFINITIONS—Continued

Term	Definition for purposes of HazCom
Consumer product	A product or component of a product that is packaged, labeled, and distributed in the same form and concentration as it is sold for use by the general public.
Container	(1) Any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like. (2) The following are not considered to be containers for the purpose of compliance with this part: (i) Pipes or piping systems; (ii) Conveyors; and (iii) Engines, fuel tanks, or other operating systems or parts in a vehicle.
Cosmetics and drugs	(1) Cosmetics are any article applied to the human body for cleansing, beautifying, promoting attractiveness, or altering appearance. (2) Drugs are any article used to affect the structure or any function of the body of humans or other animals.
CPSC	The U.S. Consumer Product Safety Commission.
Designated representative	(1) Any individual or organization to whom a miner gives written authorization to exercise the miner's rights under this part, or (2) A representative of miners under part 40 of this chapter.
EPA	The U.S. Environmental Protection Agency.
Exposed	Subjected, or potentially subjected, to a physical or health hazard in the course of employment. "Subjected," in terms of health hazards, includes any route of entry, such as through the lungs (inhalation), the stomach (ingestion), or the skin (skin absorption).
Foreseeable emergency	Any potential occurrence that could result in an uncontrolled release of a hazardous chemical into the mine.
Hazard warning	Any words, pictures, or symbols, appearing on a label or other form of warning, that convey the specific physical and health hazards of the chemical. (See the definitions for <i>physical hazard</i> and <i>health hazard</i> for examples of the hazards that the warning must convey.)
Hazardous chemical	Any chemical that can present a physical or health hazard.
Hazardous substance	Regulated by CPSC under the Federal Hazardous Substances Act or EPA under the Comprehensive Environmental Response, Compensation, and Liability Act.
Hazardous waste	Chemicals regulated by EPA under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act.
Health hazard	A chemical for which there is statistically significant evidence that it can cause acute or chronic health effects in exposed persons. <i>Health hazard</i> includes chemicals which— (1) Cause cancer; (2) Damage the reproductive system or cause birth defects; (3) Are irritants, corrosives, or sensitizers; (4) Damage the liver; (5) Damage the kidneys; (6) Damage the nervous system; (7) Damage the blood or lymphatic systems; (8) Damage the stomach or intestines; (9) Damage the lungs, skin, eyes, or mucous membranes; or (10) Are toxic or highly toxic agents.
Health professional	A physician, physician's assistant, nurse, emergency medical technician, or other person qualified to provide medical or occupational health services.
Identity	A chemical's <i>common name</i> or <i>chemical name</i> .
Label	Any written, printed, or graphic material displayed on or affixed to a container to identify its contents and convey other relevant information.
Material safety data sheet (MSDS)	Written or printed material concerning a hazardous chemical which— (1) An operator prepares in accordance with Table 47.52—Contents of MSDS; or (2) An employer prepares in accordance with 29 CFR 1910.1200, 1915.1200, 1917.28, 1918.90, 1926.59, or 1928.21 (OSHA Hazard Communication regulations); or (3) An independent source prepares which contains equivalent information, such as International Chemical Safety Cards (ICSC) and Workplace Hazardous Material Information Sheets (WHMIS).
Mixture	Any combination of two or more chemicals which is not the result of a chemical reaction.
Ordinary consumer use	Household, family, school, recreation, or other personal use or enjoyment, as opposed to business use.
OSHA	The Occupational Safety and Health Administration, U.S. Department of Labor.
Physical hazard	A chemical for which there is scientifically valid evidence that it is— (1) <i>Combustible liquid</i> : (i) A liquid having a flash point at or above 100 °F (37.8 °C) and below 200 °F (93.3 °C); or (ii) A liquid mixture having components with flashpoints of 200 °F (93.3 °C) or higher, the total volume of which make up 99% or more of the mixture.

TABLE 47.11—DEFINITIONS—Continued

Term	Definition for purposes of HazCom
	<p>(2) <i>Compressed gas</i>: (i) A contained gas or mixture of gases with an absolute pressure exceeding: (A) 40 psi (276 kPa) at 70 °F (21.1 °C); or (B) 104 psi (717 kPa) at 130 °F (54.4 °C) regardless of pressure at 70 °F. (ii) A liquid having a vapor pressure exceeding 40 psi (276 kPa) at 100 °F (37.8 °C) as determined by ASTM D–323–82.</p> <p>(3) <i>Explosive</i>: A chemical that undergoes a rapid chemical change causing a sudden, almost instantaneous release of pressure, gas, and heat when subjected to sudden shock, pressure, or high temperature.</p> <p>(4) <i>Flammable</i>: A chemical that will readily ignite and, when ignited, will burn persistently at ambient temperature and pressure in the normal concentration of oxygen in the air.</p> <p>(5) <i>Organic peroxide</i>: An explosive, shock sensitive, organic compound or an oxide that contains a high proportion of oxygen-superoxide.</p> <p>(6) <i>Oxidizer</i>: A chemical, other than an explosive, that initiates or promotes combustion in other materials, thereby causing fire either of itself or through the release of oxygen or other gases.</p> <p>(7) <i>Pyrophoric</i>: Capable of igniting spontaneously in air at a temperature of 130 °F (54.4 °C) or below.</p> <p>(8) <i>Unstable (reactive)</i>: A chemical which in the pure state, or as produced or transported, will vigorously polymerize, decompose, condense, or become self-reactive under conditions of shock, pressure, or temperature.</p> <p>(9) <i>Water-reactive</i>: A chemical that reacts with water to release a gas that is either flammable or a health hazard.</p>
Produce	To manufacture, process, formulate, generate, or repackage.
Raw material	Ore, valuable minerals, worthless material or gangue, overburden, or a combination of these, that is removed from natural deposits by mining or is upgraded through milling.
Trade secret	Any confidential formula, pattern, process, device, information, or compilation of information that is used by the operator and that gives the operator an opportunity to obtain an advantage over competitors who do not know about it or use it.
Use	To package, handle, react, or transfer.
Work area	Any place in or about a mine where a miner works.

Subpart C—Hazard Determination

§ 47.21 Identifying hazardous chemicals.

The operator must evaluate each chemical brought on mine property and

each chemical produced on mine property to determine if it is hazardous as specified in Table 47.21 as follows:

TABLE 47.21—IDENTIFYING HAZARDOUS CHEMICALS

Category	Basis for determining if a chemical is hazardous
(a) Chemical brought to the mine	The chemical is hazardous when its MSDS or container label indicates it is a physical or health hazard; or the operator may choose to evaluate the chemical using the criteria in paragraphs (b) and (c) of this table.
(b) Chemical produced at the mine	<p>The chemical is hazardous if any one of the following that it is a hazard:</p> <p>(1) Available evidence concerning its physical or health hazards.</p> <p>(2) MSHA standards in 30 CFR chapter I.</p> <p>(3) Occupational Safety and Health Administration (OSHA), 29 CFR part 1910, subpart Z, <i>Toxic and Hazardous Substances</i>.</p> <p>(4) American Conference of Governmental Industrial Hygienists (ACGIH), <i>Threshold Limit Values and Biological Exposure Indices</i> (2001).</p> <p>(5) U.S. Department of Health and Human Services, National Toxicology Program (NTP), <i>Ninth Annual Report on Carcinogens</i>, January 2001.</p> <p>(6) International Agency for Research on Cancer (IARC), Monographs and related supplements, Volumes 1 through 77.</p>
(c) Mixture produced at the mine	(1) If a mixture has been tested as a whole to determine its hazards, use the results of that testing.