

§ 47.82

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(2) Identifies the chemical in a way that it can be referred to without disclosing the secret,

(3) Indicates in the MSDS that the chemical's identity is withheld as a trade secret, and

(4) Discloses in the MSDS information on the properties and effects of the hazardous chemical.

(b) The operator must make the chemical's identity available to miners, designated representatives, and health professionals in accordance with the provisions of this subpart.

(c) This subpart does not require the operator to disclose process or percentage of mixture information, which is a trade secret, under any circumstances.

§ 47.82 Disclosure of information to MSHA.

(a) Even if the operator has a trade secret claim, the operator must disclose to MSHA, upon request, any information which this subpart requires the operator to make available.

(b) The operator must make a trade secret claim, no later than at the time the information is provided to MSHA, so that MSHA can determine the trade secret status and implement the necessary protection.

§ 47.83 Disclosure in a medical emergency.

(a) Upon request and regardless of the existence of a written statement of need or a confidentiality agreement, the operator must immediately disclose the identity of a trade secret chemical to the treating health professional when that person determines that—

(1) A medical emergency exists, and

(2) The identity of the hazardous chemical is necessary for emergency or first-aid treatment.

(b) The operator may require a written statement of need and confidentiality agreement in accordance with the provisions of § 47.84 and § 47.85 as soon as circumstances permit.

§ 47.84 Non-emergency disclosure.

Upon request, the operator must disclose the identity of a trade secret chemical in a non-emergency situation to an exposed miner, the miner's designated representative, or a health pro-

fessional providing services to the miner, if the following conditions are met.

(a) The request is in writing.

(b) The request describes in reasonable detail an occupational health need for the information, as follows:

(1) To assess the chemical hazards to which the miner will be exposed.

(2) To conduct or assess health sampling to determine the miner's exposure levels.

(3) To conduct reassignment or periodic medical surveillance of the exposed miner.

(4) To provide medical treatment to the exposed miner.

(5) To select or assess appropriate personal protective equipment for the exposed miner.

(6) To design or assess engineering controls or other protective measures for the exposed miner.

(7) To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the following information would not satisfy the purpose described in paragraph (b) of this section:

(1) The properties and effects of the chemical.

(2) Measures for controlling the miner's exposure to the chemical.

(3) Methods of monitoring and analyzing the miner's exposure to the chemical.

(4) Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request describes the procedures to be used to maintain the confidentiality of the disclosed information.

(e) The person making the request enters a written confidentiality agreement that he or she will not use the information for any purpose other than the health needs asserted and agrees not to release the information under any circumstances, except as authorized by § 47.85, by the terms of the agreement, or by the operator.

§ 47.85 Confidentiality agreement and remedies.

(a) The confidentiality agreement authorized by § 47.84—

(1) May restrict the use of the trade secret chemical identity to the health