

§ 46.12

who is accompanied at all times by an experienced miner who is familiar with hazards specific to the mine site.

§46.12 Responsibility for independent contractor training.

(a)(1) Each production-operator has primary responsibility for ensuring that site-specific hazard awareness training is given to employees of independent contractors who are required to receive such training under §46.11 of this part.

(2) Each production-operator must provide information to each independent contractor who employs a person at the mine on site-specific mine hazards and the obligation of the contractor to comply with our regulations, including the requirements of this part.

(b)(1) Each independent contractor who employs a miner, as defined in §46.2, at the mine has primary responsibility for complying with §§46.3 through 46.10 of this part, including providing new miner training, newly hired experienced miner training, new task training, and annual refresher training.

(2) The independent contractor must inform the production-operator of any hazards of which the contractor is aware that may be created by the performance of the contractor's work at the mine.

PART 47—HAZARD COMMUNICATION (HazCom)

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

Sec.

47.1 Purpose of a HazCom standard; applicability.

47.2 Operators and chemicals covered; initial miner training.

Subpart B—Definitions

47.11 Definitions of terms used in this part.

Subpart C—Hazard Determination

47.21 Identifying hazardous chemicals.

Subpart D—HazCom Program

47.31 Requirement for a HazCom program.

47.32 HazCom program contents.

30 CFR Ch. I (7–1–04 Edition)

Subpart E—Container Labels and Other Forms of Warning

47.41 Requirement for container labels.

47.42 Label contents.

47.43 Label alternatives.

47.44 Temporary, portable containers.

Subpart F—Material Safety Data Sheets (MSDS)

47.51 Requirement for an MSDS.

47.52 MSDS contents.

47.53 Alternative for hazardous waste.

47.54 Availability of an MSDS.

47.55 Retaining an MSDS.

Subpart G [Reserved]

Subpart H—Making HazCom Information Available

47.71 Access to HazCom materials.

47.72 Cost for copies.

47.73 Providing labels and MSDSs to customers.

Subpart I—Trade Secret Hazardous Chemical

47.81 Provisions for withholding trade secrets.

47.82 Disclosure of information to MSHA.

47.83 Disclosure in a medical emergency.

47.84 Non-emergency disclosure.

47.85 Confidentiality agreement and remedies.

47.86 Denial of a written request for disclosure.

47.87 Review of denial.

Subpart J—Exemptions

47.91 Exemptions from the HazCom standard.

47.92 Exemptions from labeling.

AUTHORITY: 30 U.S.C. 811, 825.

SOURCE: 67 FR 42383, June 21, 2002, unless otherwise noted.

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.
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.

TABLE 47.11—DEFINITIONS—Continued

Term	Definition for purposes of HazCom
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—
	<ul style="list-style-type: none"> (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)	<p>Written or printed material concerning a hazardous chemical which—</p> <ul style="list-style-type: none"> (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	<p>A chemical for which there is scientifically valid evidence that it is—</p> <ul style="list-style-type: none"> (1) <i>Combustible liquid</i>: <ul style="list-style-type: none"> (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. (2) <i>Compressed gas</i>: <ul style="list-style-type: none"> (i) A contained gas or mixture of gases with an absolute pressure exceeding: <ul style="list-style-type: none"> (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. (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. (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. (5) <i>Organic peroxide</i>: An explosive, shock sensitive, organic compound or an oxide that contains a high proportion of oxygen-superoxide. (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. (7) <i>Pyrophoric</i>: Capable of igniting spontaneously in air at a temperature of 130 °F (54.4 °C) or below. (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.

TABLE 47.11—DEFINITIONS—Continued

Term	Definition for purposes of HazCom
Produce	(9) <i>Water-reactive</i> : A chemical that reacts with water to release a gas that is either flammable or a health hazard. 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.

[67 FR 42383, June 21, 2002; 67 FR 57635, Sept. 11, 2002]

Subpart C—Hazard Determination
§ 47.21 Identifying hazardous chemicals.

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

The operator must evaluate each chemical brought on mine property and

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	The chemical is hazardous if any one of the following that it is a hazard: (1) Available evidence concerning its physical or health hazards. (2) MSHA standards in 30 CFR chapter I. (3) Occupational Safety and Health Administration (OSHA), 29 CFR part 1910, subpart Z, <i>Toxic and Hazardous Substances</i> . (4) American Conference of Governmental Industrial Hygienists (ACGIH), <i>Threshold Limit Values and Biological Exposure Indices</i> (2001). (5) U.S. Department of Health and Human Services, National Toxicology Program (NTP), <i>Ninth Annual Report on Carcinogens</i> , January 2001. (6) International Agency for Research on Cancer (IARC), Monographs and related supplements, Volumes 1 through 77.
(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. (2) If a mixture has not been tested as a whole to determine its hazards— (i) Use available, scientifically valid evidence to determine its physical hazard potential; (ii) Assume that it presents the same health hazard as a non-carcinogenic component that makes up 1% or more (by weight or volume) of the mixture; and (iii) Assume that it presents a carcinogenic health hazard if a component considered carcinogenic by NTP or IARC makes up 0.1% or more (by weight or volume) of the mixture. (3) If evidence indicates that a component could be released from a mixture in a concentration that could present a health risk to miners, assume that the mixture presents the same hazard.

Subpart D—HazCom Program
§ 47.31 Requirement for a HazCom program.

Each operator must—
 (a) Develop and implement a written HazCom program,

(b) Maintain it for as long as a hazardous chemical is known to be at the mine, and
 (c) Share relevant HazCom information with other on-site operators whose miners can be affected.

§ 47.32 HazCom program contents.

The HazCom program must include the following:

(a) How this part is put into practice at the mine through the use of—

- (1) Hazard determination,
- (2) Labels and other forms of warning,
- (3) Material safety data sheets (MSDSs), and
- (4) Miner training.

(b) A list or other record identifying all hazardous chemicals known to be at the mine. The list must—

- (1) Use a chemical identity that permits cross-referencing between the list, a chemical's label, and its MSDS; and
- (2) Be compiled for the whole mine or by individual work areas.

(c) At mines with more than one operator, the methods for—

- (1) Providing other operators with access to MSDSs, and
- (2) Informing other operators about—
 - (i) Hazardous chemicals to which their miners can be exposed,
 - (ii) The labeling system on the containers of these chemicals, and
 - (iii) Appropriate protective measures.

[67 FR 42383, June 21, 2002; 67 FR 57635, Sept. 11, 2002]

Subpart E—Container Labels and Other Forms of Warning

§ 47.41 Requirement for container labels.

(a) The operator must ensure that each container of a hazardous chemical has a label. If a container is tagged or marked with the appropriate information, it is labeled.

(1) The operator must replace a container label immediately if it is missing or if the hazard information on the label is unreadable.

(2) The operator must not remove or deface existing labels on containers of hazardous chemicals.

(b) For each hazardous chemical produced at the mine, the operator must prepare a container label and update this label with any significant, new information about the chemical's hazards within 3 months of becoming aware of this information.

(c) For each hazardous chemical brought to the mine, the operator must replace an outdated label when a revised label is received from the chemical's manufacturer or supplier. The operator is not responsible for an inaccurate label obtained from the chemical's manufacturer or supplier.

§ 47.42 Label contents.

When an operator must make a label, the label must—

(a) Be prominently displayed, legible, accurate, and in English;

(b) Display appropriate hazard warnings;

(c) Use a chemical identity that permits cross-referencing between the list of hazardous chemicals, a chemical's label, and its MSDS; and

(d) Include on labels for cutomers, the name and address of the operator or another responsible party who can provide additional information about the hazardous chemical.

[67 FR 42383, June 21, 2002; 67 FR 63255, Oct. 11, 2002]

§ 47.43 Label alternatives.

The operator may use signs, placards, process sheets, batch tickets, operating procedures, or other label alternatives for individual, stationary process containers, provided that the alternative—

(a) Identifies the container to which it applies,

(b) Communicates the same information as required on the label, and

(c) Is readily available throughout each work shift to miners in the work area.

§ 47.44 Temporary, portable containers.

(a) The operator does not have to label a temporary, portable container if he or she ensures that the miner using the portable container—

(1) Knows the identity of the chemical, its hazards, and any protective measures needed, and

(2) Leaves the container empty at the end of the shift.

(b) Otherwise, the operator must mark the temporary, portable container with at least the common name of its contents.

Subpart F—Material Safety Data Sheets (MSDS)

§ 47.51 Requirement for an MSDS.

Operators must have an MSDS for each hazardous chemical which they produce or use. The MSDS may be in any medium, such as paper or electronic, that does not restrict availability.

(a) For each hazardous chemical produced at the mine, the operator must prepare an MSDS, and update it with significant, new information about the chemical's hazards or protective measures within 3 months of becoming aware of this information.

(b) For each hazardous chemical brought to the mine, the operator must rely on the MSDS received from the chemical manufacturer or supplier, develop their own MSDS, or obtain one from another source.

(c) Although the operator is not responsible for an inaccurate MSDS obtained from the chemical's manufacturer, supplier, or other source, the operator must—

(1) Replace an outdated MSDS upon receipt of an updated revision, and

(2) Obtain an accurate MSDS as soon as possible after becoming aware of an inaccuracy.

(d) The operator is not required to prepare an MSDS for an intermediate chemical or by-product resulting from mining or milling if its hazards are already addressed on the MSDS of the source chemical.

§ 47.52 MSDS contents.

When an operator must prepare an MSDS for a hazardous chemical produced at the mine, the MSDS must—

(a) Be legible, accurate, and in English;

(b) Use a chemical identity that permits cross-referencing between the list of hazardous chemicals, the chemical's label, and its MSDS; and

(c) Contain information, or indicate if no information is available, for the categories listed in Table 47.52 as follows:

TABLE 47.52—CONTENTS OF MSDS

Category	Requirements, descriptions, and exceptions
(1) Identity	The identity of the chemical or, if the chemical is a mixture, the identities of all hazardous ingredients. See § 47.21 (Identifying hazardous chemicals).
(2) Properties	The physical and chemical characteristics of the chemical, such as vapor pressure and solubility in water.
(3) Physical	The physical hazards of the chemical including the potential for fire, explosion, and reactivity.
(4) Health hazards	The health hazards of the chemical including— (i) Signs and symptoms of exposure, (ii) Any medical conditions which are generally recognized as being aggravated by exposure to the chemical, and (iii) The primary routes of entry for the chemical, such as lungs, stomach, or skin.
(5) Exposure limits	For the chemical or the ingredients of a mixture— (i) The MSHA or OSHA permissible limit, if there is one, and (ii) Any other exposure limit recommended by the preparer of the MSDS.
(6) Carcinogenicity	Whether the chemical or an ingredient in the mixture is a carcinogen or potential carcinogen. See the sources specified in § 47.21 (Identifying hazardous chemicals).
(7) Safe use	Precautions for safe handling and use including— (i) Appropriate hygienic practices, (ii) Protective measures during repair and maintenance of contaminated equipment, and (iii) Procedures for clean-up of spills and leaks.
(8) Control measures	Generally applicable control measures such as engineering controls, work practices, and personal protective equipment.
(9) Emergency information	(i) Emergency medical and first-aid procedures; and (ii) The name, address, and telephone number of the operator or other responsible party who can provide additional information on the hazardous chemical and appropriate emergency procedures.
(10) Date prepared	The date the MSDS was prepared or last changed.

[67 FR 42383, June 21, 2002; 67 FR 57635, Sept. 11, 2002]

§ 47.53 Alternative for hazardous waste.

If the mine produces or uses hazardous waste, the operator must provide potentially exposed miners and designated representatives access to available information for the hazardous waste that—

- (a) Identifies its hazardous chemical components,
- (b) Describes its physical or health hazards, or
- (c) Specifies appropriate protective measures.

§ 47.54 Availability of an MSDS.

The operator must make MSDSs accessible to miners during each work shift for each hazardous chemical to which they may be exposed either—

- (a) At each work area where the hazardous chemical is produced or used, or
- (b) At an alternative location, provided that the MSDS is readily available to miners in an emergency.

§ 47.55 Retaining an MSDS.

The operator must—

- (a) Retain its MSDS for as long as the hazardous chemical is known to be at the mine, and
- (b) Notify miners at least 3 months before disposing of the MSDS.

Subpart G [Reserved]

Subpart H—Making HazCom Information Available

§ 47.71 Access to HazCom materials.

Upon request, the operator must provide access to all HazCom materials required by this part to miners and designated representatives, except as provided in § 47.81 through § 47.87 (provisions for trade secrets).

§ 47.72 Cost for copies.

- (a) The operator must provide the first copy and each revision of the HazCom material without cost.
- (b) Fees for a subsequent copy of the HazCom material must be non-discriminatory and reasonable.

§ 47.73 Providing labels and MSDSs to customers.

For a hazardous chemical produced at the mine, the operator must provide customers, upon request, with the chemical's label or a copy of the label information, and the chemical's MSDS.

Subpart I—Trade Secret Hazardous Chemical

§ 47.81 Provisions for withholding trade secrets.

(a) Operators may withhold the identity of a trade secret chemical, including the name and other specific identification, from the written list of hazardous chemicals, the label, and the MSDS, provided that the operator—

- (1) Can support the claim that the chemical's identity is a trade secret,
- (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 professional 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 purposes indicated in the written statement of need;
 - (2) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages;
 - (3) Must allow the exposed miner, the miner's designated representative, or the health professional to disclose the trade secret chemical identity to MSHA;
 - (4) May provide that the exposed miner, the miner's designated representative, or the health professional inform the operator who provided the trade secret chemical identity prior to or at the same time as its disclosure to MSHA; and
 - (5) May not include requirements for the posting of a penalty bond.
- (b) Nothing in this subpart precludes the parties from pursuing non-contractual remedies to the extent permitted by law.

§47.86 Denial of a written request for disclosure.

- To deny a written request for disclosure of the identity of a trade secret chemical, the operator must—
- (a) Put the denial in writing,
 - (1) Including evidence to substantiate the claim that the chemical's identity is a trade secret,
 - (2) Stating the specific reasons why the request is being denied, and
 - (3) Explaining how alternative information will satisfy the specific medical

or occupational health need without revealing the chemical's identity.

(b) Provide the denial to the health professional, miner, or designated representative within 30 days of the request.

§ 47.87 Review of denial.

(a) The health professional, miner, or designated representative may refer the written denial to MSHA for review. The request for review must include a copy of—

- (1) The request for disclosure of the identity of the trade secret chemical,
- (2) The confidentiality agreement, and
- (3) The operator's written denial.

(b) If MSHA determines that the identity of the trade secret chemical should have been disclosed, the operator will be subject to citation by MSHA.

(c) If MSHA determines that the confidentiality agreement would not suffi-

ciently protect against unauthorized disclosure of the trade secret, MSHA may impose additional conditions to ensure that the occupational health services are provided without an undue risk of harm to the operator.

(d) If the operator contests a citation for a failure to release the identity of a trade secret chemical, the matter will be adjudicated by the Federal Mine Safety and Health Review Commission. The Administrative Law Judge may review the citation and supporting documentation "in camera" or issue appropriate orders to protect the trade secret.

Subpart J—Exemptions

§ 47.91 Exemptions from the HazCom standard.

A hazardous chemical is exempt from this part under the conditions described in Table 47.91 as follows:

TABLE 47.91—CHEMICALS AND PRODUCTS EXEMPT FROM THIS HAZCOM STANDARD

Exemption	Conditions for exemption
Article	If, under normal conditions of use, it— (1) Releases no more than insignificant amounts of a hazardous chemical, and (2) Poses no physical or health risk to exposed miners.
Biological hazards	All biological hazards, such as poisonous plants, insects, and microorganisms.
Consumer product or hazardous substance regulated by CPSC.	(1) If the miner uses it for the purpose the manufacturer intended; and (2) Such use does not expose the miner more often and for longer periods than <i>ordinary consumer use</i> . When intended for personal consumption or use.
Cosmetics, drugs, food, food additive, color additive, drinks, alcoholic beverages, tobacco and tobacco products, or medical or veterinary device or product, including materials intended for use as ingredients in such products (such as flavors and fragrances).	When intended for personal consumption or use.
Radiation	All ionizing or non-ionizing radiation, such as alpha or gamma, microwaves, or x-rays.
Wood or wood products, including lumber	If they do not release or otherwise result in exposure to a hazardous chemical under normal conditions of use. For example, wood is not exempt if it is treated with a hazardous chemical or if it will be subsequently cut or sanded.

§ 47.92 Exemptions from labeling.

A hazardous chemical is exempt from subpart E of this part under the condi-

tions described in Table 47.92 as follows:

TABLE 47.92—HAZARDOUS CHEMICALS EXEMPT FROM LABELING

Exemption	Conditions for exemption
Chemical substance, consumer product, hazardous substance, or pesticide.	When kept in its manufacturer's or supplier's original packaging labeled under other federal labeling requirements.

TABLE 47.92—HAZARDOUS CHEMICALS EXEMPT FROM LABELING—Continued

Exemption	Conditions for exemption
Hazardous substance	When the subject of remedial or removal action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in accordance with EPA regulations.
Hazardous waste	When regulated by EPA under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act.
Raw material being mined or processed ...	While on mine property, except when the container holds a mixture of the raw material and another hazardous chemical and the mixture is found to be hazardous under § 47.21—Identifying hazardous chemicals.
Wood or wood products, including lumber	Wood or wood products are always exempt from labeling.

[67 FR 42383, June 21, 2002; 67 FR 42366, Sept. 11, 2002; 67 FR 63255, Oct. 11, 2002]

PART 48—TRAINING AND RETRAINING OF MINERS

Subpart A—Training and Retraining of Underground Miners

Sec.

- 48.1 Scope.
- 48.2 Definitions.
- 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
- 48.4 Cooperative training program.
- 48.5 Training of new miners; minimum courses of instruction; hours of instruction.
- 48.6 Experienced miner training.
- 48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
- 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
- 48.9 Records of training.
- 48.10 Compensation for training.
- 48.11 Hazard training.
- 48.12 Appeals procedures.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

- 48.21 Scope.
- 48.22 Definitions.
- 48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
- 48.24 Cooperative training program.
- 48.25 Training of new miners; minimum courses of instruction; hours of instruction.
- 48.26 Experienced miner training.
- 48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

- 48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
- 48.29 Records of training.
- 48.30 Compensation for training.
- 48.31 Hazard training.
- 48.32 Appeals procedures.

AUTHORITY: 30 U.S.C. 811, 825.

SOURCE: 43 FR 47459, Oct. 13, 1978, unless otherwise noted.

Subpart A—Training and Retraining of Underground Miners

§ 48.1 Scope.

The provisions of this subpart A set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working in underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working at surface mines and surface areas of underground mines are set forth in subpart B of this part.

§ 48.2 Definitions.

For the purposes of this subpart A—
 (a)(1) *Miner* means, for purposes of §§ 48.3 through 48.10 of this subpart A, any person working in an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works underground on a continuing, even if irregular, basis. Short