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FROM:

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SUBJECT:

OSHA's Revised Hazard Communication Standard (HCS) (29 C.F.R. § 1910.1200) as Compliance with MSHA's Existing Hazard Communication (HazCom) Standard (30 C.F.R. Part 47)

Scope

This Program Policy Letter (PPL) applies to all mine operators, contractors, miners, miners' representatives, and Metal and Nonmetal and Coal Mine Safety and Health enforcement personnel.

Purpose

The purpose of this PPL is to clarify that, as indicated below, mine operators compliant with OSHA's Hazard Communication Standard (HCS) are also in compliance with MSHA's Hazard Communication (HazCom) standards.

Policy

MSHA's HazCom standards (30 C.F.R. Part 47 Hazard Communication) require mine operators to develop, implement, and maintain a written HazCom program. Operators must identify chemicals, make a hazard determination, ensure that containers of hazardous chemicals have labels, have and make available a Material Safety Data Sheet (MSDS) for each hazardous chemical used or produced at the mine; and instruct miners on the physical and health hazards of the chemicals in the miners' work area, protective measures, and contents of the HazCom program.

OSHA recently published an update to its Hazard Communication Standard, 29 C.F.R. § 1910.1200 (77 F.R. 17574), incorporating the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Major changes to OSHA's HCS include a new system of classifying types and degrees of hazards, changes to labeling requirements, and changes to the Safety Data Sheet (SDS) (formerly the MSDS).

Hazard Determination

Section 47.21 requires operators to 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. Under Table 47.21, one basis for determining if a chemical (including a chemical mixture) is hazardous is whether available evidence of its hazards exists. OSHA's HCS (§ 1910.1200(d)) requires hazard determinations in accordance with Appendix A (health hazards criteria) and Appendix B (physical hazards criteria) of that standard. Hazard determinations made using OSHA's HCS and Appendices A and B meet the requirements of MSHA's existing standard § 47.21.

Container Labels and Other Forms of Warning

Section 47.41 requires operators to ensure that each container of a hazardous chemical has a label. Operators must prepare a container label for each hazardous chemical produced at the mine. When the operator must prepare a label, section 47.42 requires that the label include a chemical identity and appropriate hazard warnings. On labels for customers, operators also must include contact information for the operator or other responsible party. OSHA's HCS (§ 1910.1200(f)) states that those required to make labels for hazardous chemicals include on the label the product identifier and chemical identity, which meet MSHA's chemical identity requirement. The label also must include a signal word (such as "danger"), hazard statement, pictogram (visually depicting the hazard), and precautionary statements. These elements constitute "appropriate hazard warnings" under the MSHA standard. Finally, OSHA's labels must include contact information for the responsible party, meeting MSHA's contact information requirement. For these reasons, labels prepared in accordance with 29 C.F.R. § 1910.1200(f) meet MSHA's labeling requirements at 30 C.F.R. § 47.42.

Material Safety Data Sheets (MSDS)

Section 47.51 requires that operators must have an MSDS for each hazardous chemical which they produce or use at the mine, and that operators must prepare an MSDS for each hazardous chemical they produce. When an operator must prepare an MSDS under § 47.52 and Table 47.52, the MSDS must contain the following information: chemical identity, chemical properties, physical and health hazards, exposure limits, carcinogenicity, safe use, control measures, emergency information, and date prepared or revised.

OSHA's (§ 1910.1200(g)) requires chemical manufacturers or importers to develop or obtain a safety data sheet (SDS) for each hazardous chemical. When these parties must prepare the SDS, the SDS must contain the following information, among other things: chemical identification, hazard identification, composition/information on

ingredients, first aid measures, fire fighting measures, accidental release information, handling and storage, exposure controls/personal protection, physical and chemical properties, stability and reactivity, toxicological information, and the date prepared or revised. The SDS includes all information MSHA requires on its MSDS and therefore complies with § 47.52. Also, at § 47.11 MSHA defines an “MSDS” as “[w]ritten or printed material concerning a hazardous chemical;” the SDS satisfies this definition.

Written Program

Mine operators are required to develop and implement a written HazCom program under 30 C.F.R. §§ 47.31 and 47.32 that includes how the HazCom standards are put into practice at the mine through the use of hazard determination, MSDSs, labels and other forms of warning, and miner training. Therefore, if a mine operator makes hazard determinations, develops or uses SDSs, and/or develops or uses labels in accordance with OSHA’s HCS, MSHA expects operators to update their written programs accordingly.

Training

Title 30 C.F.R. § 47.2 requires operators to provide training to miners. Such training includes information about the physical and health hazards of chemicals in the work area, the protective measures a miner can take against these hazards, and the contents of the mine’s HazCom program. MSHA’s HazCom compliance guide found at <http://www.msha.gov/regs/complian/guides/hazcom/hazcomcompguide.pdf> provides further information regarding requirements for miner training under the HazCom standards. MSHA expects operators to provide appropriate training if hazard determinations, SDSs and/or labels are developed or used in accordance with OSHA’s revised HCS.

Background

MSHA developed its HazCom standard to be compatible with OSHA’s HCS. This guidance clarifies that OSHA’s newly revised HCS continues to be compatible with MSHA’s Part 47 HazCom standards. While OSHA’s HCS is compatible with MSHA’s existing HazCom standards, some aspects of the hazard classification may not be compatible with other existing MSHA standards, particularly those standards that define and address safety of physical hazards. Mine operators must comply with all existing MSHA standards concerning physical hazards as they are defined in those standards.

Authority

The Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. § 801 et seq; 30 C.F.R. Part 47.

Internet Availability

This PPL may be viewed on the World Wide Web by accessing the MSHA home page (<http://www.msha.gov>) and by choosing “Compliance Info” and “Program Policy Letters.”

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