

DEPARTMENT OF LABOR**Mine Safety and Health Administration****[OMB Control No. 1219-0133]****Proposed Extension of Information Collection; Hazard Communication****AGENCY:** Mine Safety and Health Administration, Labor.**ACTION:** Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Hazard Communication.

DATES: All comments must be received on or before September 22, 2023.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late, untimely filed comments will not be considered.

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2023-0038.

- *Mail/Hand Delivery:* DOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act) Public Law 95-164 as amended, 30 U.S.C. 813(h), authorizes Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

30 U.S.C. 811(a)(7) requires, in part, that mandatory standards prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure.

MSHA's hazardous communications (HazCom) standards in 30 CFR 47 require mine operators to evaluate the hazards of chemicals they produce or use and to provide information to miners concerning chemical hazards by means of a written HazCom program including a list of all hazardous chemicals known at the mine, labeling containers of hazardous chemicals, providing access to Material Safety Data Sheets (MSDS) and administering initial miner training.

(1) HazCom Program

(a) 30 CFR 47.31(a) requires each operator to develop and implement a written HazCom program. 30 CFR 47.32(a) requires the program to include hazard determination, labels and other forms of warning, and MSDSs. 30 CFR 47.32(b) provides a list or other record identifying all hazardous chemicals known to be at the mine. The list must use a chemical identity that permits cross-referencing between the list, a chemical's label, and its MSDS; and be compiled for the whole mine or by individual work areas.

(b) 30 CFR 47.31(b) requires each operator to maintain a written HazCom program for as long as a hazardous chemical is known to be at the mine.

(c) 30 CFR 47.31(c) requires each operator to share relevant HazCom information with other on-site operators whose miners can be affected. 30 CFR 47.32(c) provides the methods for information sharing.

(d) 30 CFR 47.32(a)(4) requires miner training for the HazCom program.

(2) Container Labels and Other Forms of Warning

(a) 30 CFR 47.41(a) requires each operator to 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. 30 CFR 47.42 specifies the label contents as: be prominently displayed, legible, accurate, and in English; display appropriate hazard warnings; use a chemical identity that permits cross-referencing between the list of hazardous chemicals, a chemical's label, and its MSDS; and include on labels for customers, the name and address of the operator or another responsible party who can provide additional information about the hazardous chemical.

(b) 30 CFR 47.41(b) requires that 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) 30 CFR 47.41(c) requires that 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.

(d) 30 CFR 47.43 allows each operator to use signs, placards, process sheets, batch tickets, operating procedures, or other label alternatives for individual, stationary process containers provided that the alternative identifies the container to which it applies, communicates the same information as required on the label, and is readily available throughout each work shift to miners in the work area.

(3) Material Safety Data Sheets (MSDS)

(a) 30 CFR 47.51 requires each operator to 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. 30 CFR 47.52 specifies the contents of MSDS to be legible, accurate, and in English; use a chemical identity that permits cross-referencing between the list of hazardous chemicals, the chemical's label, and its MSDS; and contain information, or indicate if no information is available, for the categories listed in 30 CFR Table 47.52(c).

(b) 30 CFR 47.51(a) requires that the operator to prepare and update an MSDS for a hazardous chemical produced at the mine.

(c) 30 CFR 47.51(b) requires that the operator to develop an MSDS for each hazardous chemical brought to the mine, based on the MSDS received from the chemical manufacture or supplier.

(d) If the mine produces or uses hazardous waste, 30 CFR 47.53 requires each operator to provide potentially exposed miners and designated representatives access to available information for the hazardous waste that identifies its hazardous chemical components, describes its physical or health hazards, or specifies appropriate protective measures.

(e) Although the operator is not responsible for an inaccurate MSDS obtained from the chemical's manufacturer, supplier, or other source, 30 CFR 47.51(c) requires each operator to replace an outdated MSDS upon receipt of an updated revision and obtain an accurate MSDS as soon as possible after becoming aware of an inaccuracy.

(f) 30 CFR 47.54 requires each mine operator to make MSDSs accessible to miners during work shift at each work area or an alternative location.

(g) 30 CFR 47.55 requires each operator to retain its MSDS for as long as the hazardous chemical is known to be at the mine and notify miners at least 3 months before disposing of the MSDS.

(4) Making HazCom Information Available

(a) Upon request, 30 CFR 47.71 requires each operator to provide access to all HazCom materials required in Part 47 to miners and designated representatives, except trade secrets hazardous material as provided in 30 CFR 47.81 through 47.87.

(b) 30 CFR 47.72 requires that the operator to provide the first copy and each revision of the HazCom material without cost, and at non-discriminatory and reasonable fees for a subsequent copy.

(c) For a hazardous chemical produced at the mine, 30 CFR 47.73 requires each operator to provide customers, upon request, with the chemical's label or a copy of the label information, and the chemical's MSDS.

(5) Trade Secret Hazardous Chemical

(a) 30 CFR 47.81 allows each operator to 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 can support the claim that the chemical's identity is a trade secret, identifies the chemical in a way that it can be referred to without disclosing the secret, indicates in the MSDS that the

chemical's identity is withheld as a trade secret, and discloses in the MSDS information on the properties and effects of the hazardous chemical. The operator must make the chemical's identity available to miners, designated representatives, and health professionals in accordance with the provisions of this subpart.

(b) 30 CFR 47.82 requires the operator to disclose to MSHA any information that is required for operators related to trade secret hazardous chemicals. The operator is required to make a trade secret claim, no later than at the time the information is provided to MSHA for the Agency to determine the trade secret status and implement the necessary protection.

(c) 30 CFR 47.83 requires upon request, the operator to immediately disclose the identity of a trade secret chemical to the treating health professional in the case of a medical emergency or first-aid treatment. The operator may require a written statement of need and confidentiality agreement as soon as circumstances permit.

(d) 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 under conditions listed in 30 CFR 47.84.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Hazard Communication. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that

should not be publicly disclosed. Full comments, including personal information provided, will be made available on www.regulations.gov and www.reginfo.gov.

The public may also examine publicly available documents at DOL-MSHA, 201 12th South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns provisions for Hazard Communication. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0133.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 15,021.

Frequency: On occasion.

Number of Annual Responses: 621,433.

Annual Burden Hours: 146,902 hours.

Annual Respondent or Recordkeeper Cost: \$55,254.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

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