

# EXHIBIT 1



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August 24, 2023

United States Department of Labor -  
MSHA FOIA Officer  
201 12 St. S  
Room 4E401  
Arlington, VA 22202-5450

**Re: Mine Safety and Health Administration – FOIA Request**

To Whom It May Concern:

This is a request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Department of Labor's FOIA regulations, set forth at 29 C.F.R. § 70, *et seq.* I hereby request the following agency records:

- All records<sup>1</sup> related in whole or in part to the Mine Safety and Health Administration's "Heat Ignition Hazard – Safety Alert," which was posted on

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<sup>1</sup> As used herein, "record" and "document" shall be given their broadest possible meaning and shall include, without limitation, any kind of tangible material, whether written, recorded, microfilmed, microfiched, photographed, computerized, reduced to an electronic or magnetic impulse, or otherwise preserved or rendered, and including, but not limited to, papers, agreements, contracts, notes, memoranda, calendars, correspondence, letters, emails, instant messages, telegrams, telexes, facsimiles, statements, invoices, record books, reports, studies, analyses, minutes, notices, summaries, records, financial statements and records, transcriptions, negotiable instruments, worksheets, ledgers, vouchers, deeds, deeds of trust, photographs, tape recordings, books, pamphlets, catalogues, brochures, extracts, working papers, charts, drawings, graphs, tables, diaries, indices, tapes, wires, films, electronic data processing cards and tapes, recordings, and any and all written, printed, recorded, transcribed, punched, taped, typed, filmed, duplicated, reproduced, or other tangible matter in your possession, custody, or control, including, but not limited to, originals, file copies, or other copies (no matter how or by whom prepared) that differ in any respect from an original, and all drafts prepared in connection with such materials. For purposes of the foregoing, "draft" refers to any earlier, preliminary, preparatory, or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final documents, and the term "copies" means all copies of any documents which

or about May 17, 2023, and is available at <https://www.msha.gov/heat-ignition-hazard-safety-alert>.

- This request includes, but is not limited to, all documents related in any way to any research, events, reports, test results, incidents, or other factors involved in the Mine Safety and Health Administration's development of and/or its decision to release the "Heat Ignition Hazard – Safety Alert," which was posted on or about May 17, 2023, and is available at <https://www.msha.gov/heat-ignition-hazard-safety-alert>.
- This request further includes, but is not limited to, all documents—including without limitation all internal or external communications of the Mine Safety and Health Administration—related in any way to the Mine Safety and Health Administration's development of and/or its decision to release the "Heat Ignition Hazard – Safety Alert," which was posted on or about May 17, 2023, and is available at <https://www.msha.gov/heat-ignition-hazard-safety-alert>.
- This request further includes, but is not limited to, all documents related to the sample image included in the Mine Safety and Health Administration's "Heat Ignition Hazard – Safety Alert," which was posted on or about May 17, 2023, and is available at <https://www.msha.gov/heat-ignition-hazard-safety-alert>, with said image containing the caption "*Improper application of a polyurethane-based foam production filling a high-volume void*," including all documents related in whole or in part to the Mine Safety and Health Administration's decision to include the image in the Safety Alert.
- All records related in whole or in part to the potential combustibility, flammability, or ignition hazard presented by polyurethane foam.
  - This request includes, but is not limited to, all documents related to potential combustibility, flammability, or ignition hazard presented by the use of polyurethane foam in mine roofs or in cavities or voids within a mine.
  - This request further includes, but is not limited to, all documents related to the potential combustibility, flammability, or ignition hazard presented by polyurethane foam due to exothermic chemical reactions generated by polyurethane foam.
  - This request further includes, but is not limited to, any documents related in whole or in part to any test results, reports, or other internal or external data pertaining to the potential combustibility, flammability, or ignition hazard presented by polyurethane foam.

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are not identical in every respect with the documents being produced. "Record" and "document" also encompass and include a request for electronically stored information.

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- This request further includes, but is not limited to, all internal or external communications of the Mine Safety and Health Administration related in any way to the potential combustibility, flammability, or ignition hazard presented by polyurethane foam product.

If you conclude that some materials that are responsive to the above requests are eligible for withholding pursuant to one or more exemptions, please provide an index listing each document withheld and identifying the grounds for withholding each document. In addition, if the grounds for withholding are applicable to only a portion of a document, please provide the balance of such document with the exempt material redacted.

To the extent that any of the requested documents or records cannot be located, reviewed, and released within the deadline, we ask that you not delay the release of those documents or records that can be located, reviewed, and released.

Pursuant to 29 C.F.R. § 70.42, we hereby state our consent to pay fees up to \$1,000 for processing this request.

We request that the above records be provided as soon as possible. I will accept electronic delivery of the records at this email address ([luke.burton@squirepb.com](mailto:luke.burton@squirepb.com)) or by other electronic methods of delivery as necessary. If electronic delivery is not possible or practicable, I will also accept paper or other hard copies of documents at the following address:

Squire Patton Boggs (US) LLP  
Attn: G. Luke Burton, Esq.  
201 E. Fourth Street, Suite 1900  
Cincinnati, OH 45202

If you have questions regarding this request, please contact me at [luke.burton@squirepb.com](mailto:luke.burton@squirepb.com) or by phone at 513-361-1274. Thank you for your time and consideration.

Respectfully submitted,



G. Luke Burton