



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR 17 2000

Ref. Nos. 00-0055
00-0059

Mr. Jeffrey T. Miller
Lead Industries Association, Inc.
13 Main Street
Sparta, NJ 07871

Dear Mr. Miller:

This is in response to your letter and subsequent telephone conversation with a member of my staff concerning the classification for lead compounds under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification pertaining to the use of the entry "Lead compounds, soluble, n.o.s." and whether you must consider the results of the solubility test in Special Provision 138. You state that your lead compounds do not meet the definition of Division 6.1 under § 173.132 and that they are not hazardous wastes, hazardous substances, or marine pollutants.

Special Provision 138 does not apply in your situation. Your material does not meet the definition of Division 6.1; therefore, you may not use the entry, "Lead compounds, soluble, n.o.s.". Under the HMR, unless an entry is preceded by a plus (+) sign in Column (1) of the HMT, a material listed by name that does not meet the corresponding hazard class may not be described using that description. If you determine that your material meets the definition of another hazard class, you must choose the most appropriate proper shipping name with a hazard class assignment applicable to the



000055

material. If you determine that the material does not meet the definition of another hazard class and is not a hazardous substance, hazardous waste or marine pollutant, then the material is not subject to the HMR.

I hope this information is helpful. Please contact this office if you need additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned below the word "Sincerely,".

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards



Lead Industries Association, Inc.

13 Main Street • Sparta, NJ 07871 • Tel. 973-726-LEAD (5323) • Fax 973-726-4484
www.leadinfo.com • Email: miller@leadinfo.com

February 17, 2000

McIntyre
§ 172.102
SP 138
00-0055

U.S. Department of Transportation
Research and Special Programs Administration
DHM10
400 Seventh Street, S.W.
Washington, DC 20590-0001
Attn: Mr. Edward Mazzullo
Director of Hazardous Materials Standards

Per phone call -
Wants in writing,
① USE OF ENTRY "Lead comp. soluble, n.o.s."
② USE OF SP. PROV. 138,

Dear Mr. Mazzullo:

This letter requests, on behalf of the Lead Industries Association, Inc. (LIA), clarification of the proper hazardous material description for lead compounds under the Hazardous Materials Regulations (HMR: 49 CFR 171-180). In question are changes made final in the *Federal Register* (64 *Fed. Reg.* 10141) on March 5, 1999 to "lead compounds, soluble, n.o.s." and Special Provision 138 which defines new solubility test criteria for such compounds. LIA is concerned that these changes may cause confusion and unintended consequences for the classification of lead-bearing materials. These concerns led Jim Bandstra, Assistant Environmental Manager for Hammond Group, Inc. (an LIA member company), to contact your office during the first week of January 2000. Those conversations were very helpful and we are now requesting confirmation that the amendments were not intended to change hazardous materials standards in the United States. We further request confirmation of the Department's view, as expressed in the telephone conferences, that lead-bearing materials that do not meet the hazard class criteria for Division 6.1 poisons in 172.132 will not be regulated as hazardous materials under new Special Provision 138.

LIA members manufacture and ship lead chemicals in domestic and international markets. Some of these lead-bearing products are not currently regulated as hazardous materials because they do not meet any of the hazard class definitions provided in Part 173; they are not hazardous wastes, hazardous substances, or marine pollutants. Specifically, some lead-bearing chemicals do not meet the hazard class criteria for Division 6.1 poisons. Other lead-bearing chemicals are regulated as Class 9 miscellaneous hazardous materials.

The new Special Provision 138, effective October 2000, may cause confusion because it now appears to define soluble lead compounds as Division 6.1 poisons if they fail the new solubility test, performed with hydrochloric acid. It is possible this change could be viewed as bringing currently non-regulated lead chemicals and certain Class 9 lead chemicals under regulation as Division 6.1 poisons due to their solubility alone. More specifically, there may be questions about whether the new special provision is to be used if no other toxicity data are available for lead compounds.

EW

To avoid confusion and the unintended application of a Division 6.1 poison classification to nonhazardous lead-bearing materials or Class 9 miscellaneous hazardous materials, we would appreciate your confirming, as requested above, that the adoption of Special Provision 138 does not subject lead-bearing chemicals to new regulation under the HMR. Please call Jim Bandstra at 219/844-3980 or me at 973/726-5323 if you have questions.

Sincerely,



Jeffrey T. Miller
Executive Director

cc: Ms. Joan McIntyre
Mr. James D. Bandstra