

9441.1993(05)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

April 29, 1993

Mr. Wm. Roger Truitt
Piper and Marbury
Charles Center South
36 South Charles Street
Baltimore, Maryland 21201-3010

Dear Mr. Truitt:

Thank you for your February 25, 1993, letter written on behalf of Eastman Kodak Company (Kodak) and United Parcel Service, Inc. (UPS). In your letter, you asked whether or not the scrap metal exemption found at 40 CFR 261.6(a)(3)(iv) would apply to lead foil used in dental x-ray packages once the foil was removed by dentist office personnel and accumulated under a proposed national recycling program.

The lead foil you describe is likely to exhibit the Toxicity Characteristic for lead found in 40 CFR 261.24. Based on your description, the lead foil contained in the dental x-ray package meets the federal definition of scrap metal in 40 CFR 261.1(c)(6) [". . . bits and pieces of metal parts, (e.g., bars, turnings, rods, sheets, wire)]. Secondary materials that meet the definition of scrap metal as defined in 40 CFR 261.1(c)(6) are excluded from RCRA Subtitle C regulation if they are recycled [40 CFR 261.6(a)(3)(iv)].

Please note that under Section 3006 of RCRA (42 U.S.C. Section 6926), individual States can be authorized to administer and enforce their own hazardous waste programs in lieu of the federal program. When a State is not authorized to administer its own program, the appropriate EPA Region administers the program and is the appropriate contact for any case-specific determinations. Please also note that under Section 3009 of RCRA (42 U.S.C. Section 6926) States retain authority to promulgate regulatory requirements that are more stringent than federal regulatory requirements.

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If you have further questions, please contact me, or Ross Elliott of my staff (202) 260-8551. Thank you for your interest in hazardous waste recycling.

Sincerely,
Sylvia K. Lowrance, Director
Office of Solid Waste