

Stephen Hammond, P.E.
Director
Division of Solid and Hazardous Materials
New York State Department of Environmental Conservation
50 Wolf Road, Room 488
Albany, New York 12233-7250

Dear Mr. Hammond,

This letter responds to your February 8, 1999 request for a regulatory interpretation regarding the variance from the definition of solid waste found at 40 CFR 260.31(b). This letter stems from a January 14, 1999 conference call involving representatives of your department, representatives of Eastman Kodak, and Mitch Kidwell, of my staff. The specific issue concerns whether hazardous recyclable spent solvents emanating from an industrial manufacturing process may qualify for the variance if less than one hundred percent of the spent solvent generated is sent to the reclamation process.

As Mitch Kidwell stated during the conference call, there is no requirement that one hundred percent of a secondary material generated must be recycled in order to consider and grant a variance for the secondary materials that are recycled. Should the variance be granted, of course, only those secondary materials meeting the factors that were considered would be covered by the variance. All other secondary materials would be subject to the regulatory determinations and regulations normally applicable to such materials.

I hope this has answered your question. Should you have any further questions, please feel free to contact Mitch Kidwell, of my staff, at (703) 308-8644.

Sincerely,

Elizabeth Cotsworth, Acting Director
Office of Solid Waste

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