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### 3. Sample Exclusion

A facility owner/operator generates a spent solvent (F004) from his or her manufacturing process. He/she then sends a sample of the waste to a lab for further testing to determine if it meets any of the characteristics, such as ignitability. Would the sample exclusion at 40 CFR Section 261.4(d) still apply to this waste when it is sent from the generator to the lab? Also, would contaminated laboratory equipment be identified as F004 via the "contained-in" policy or would such material only be checked for characteristics before disposal?

Yes, the sample exclusion still applies to the waste when it is sent to the laboratory because there is nothing at 40 CFR Section 261.4(d) that precludes listed hazardous waste from the exclusion.

However, at the lab, any wastes generated from the analysis that contain the F004 spent solvent are also identified as P004 under the "contained-in" policy. It is possible that some of the wastes from the analysis (such as a pipet) may meet the definition of a container and therefore are not subject to the hazardous waste regulations if they are defined as empty per 40 CFR Section 261.7.