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4. Definition of Solid Waste

A generator generates a 5% solution of sodium hydroxide from his metal cleaning operation. Another facility can use the generator's waste as a substitute for a commercial product in their process of cleaning cut tanks, except the waste is too dilute to be completely effective. If the generator adds 5% sodium hydroxide to his waste to be made of 10% a solution, would this material be a solid waste?

According to Section 261.2(e)(1)(ii), materials are not solid waste when they can be shown to be recycled by being used or reused as effective substitutes for commercial products. The waste is employed in a particular function or application as an effective substitute for a commercial product (40 CFR 261.1(c)(5)(ii). Since it would function as a product in a normal commercial use, it would not be a solid waste and is not subject to RCRA Subtitle C regulations when generated, transported or used (unless accumulated speculatively).