



## New Rule Definition of Solid Waste 2022

Office of Land Quality

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### Purpose:

The definition of solid waste in Indiana Code (IC) 13-11-2-205 was revised in the 2022 legislative session, and the new definition became effective July 1, 2022. This fact sheet explains how the amended definition applies to materials that would otherwise be considered a solid waste.

The new definition provides that a discarded material is not a solid waste if that material is:

- determined under 40 CFR 262.11 to be nonhazardous, or is exempted or excluded from regulation as a hazardous waste under 40 CFR 261; *and*
- the material is used by a manufacturer as an ingredient in or a component of a product, or as a commodity in a process that results in a product.

Discarded material that is considered a solid waste under this definition is regulated in accordance with the following:

- spent lead acid batteries regulated under IC 13-20-16 and 329 IAC 3.1-11.1;
- salvaged from mobile homes regulated under 329 IAC 11.6;
- alternative fuels regulated under 329 IAC 11.7;
- used oil regulated under 329 IAC 13;
- waste tires regulated under IC 13-20-14 and 329 IAC 15;
- electronic waste regulated under 329 IAC 16;
- legitimate use of iron and steelmaking slags, as described in 329 IAC 11-3-1(11);
- legitimate use of foundry sand, as described in 329 IAC 11-3-1(12);
- engineered wood waste burned as a fuel, as described in 329 IAC 11-3-1(20); *and*
- coal combustion residuals regulated under 40 CFR 3 257 Subpart D, IC 13-19-3, and 329 IAC 10.

Please also note that waste regulated under the Toxic Substance Control Act such as Polychlorinated Biphenyls (PCBs) still needs to be in compliance with those regulations and may not be suitable for use under this statute.

In addition, land application and biomass facilities will still require registrations.

### Management

While discarded material going for use under the exemption in IC 13-11-2-205 is not considered a waste, it may become a waste if not managed appropriately. The exclusion under IC 13-11-2-205 states that the material “is used”, so a facility planning to use a material under the exclusion must take steps to ensure that all the material “is used”. If more than 10% of material accepted by a facility will not be used, IDEM recommends contacting the Solid Waste Permits Section at (317) 232-4473 to determine if a solid waste processing facility permit may be needed.

A person and/or a facility planning to use a material must store the material as a valuable commodity instead of as a waste. Storage should:

- be on a surface that allows all the material placed on it to be picked up and placed into the process (e.g. on an impervious pad or inside a building).
- minimize any movement of the material by wind or water.

- ensure that no material escapes the use property.
- be for a limited amount of time (e.g., less than six months). Please be aware that failure to sell/use an end product may result in it being classified as a solid waste.

Material that does not meet the above storage methods may be considered disposed of and therefore a waste. Additional guidance on appropriate storage methods can be found in the Storage of Type III Foundry Sands Prior to Legitimate Use Non-rule Policy Document (Waste -0027-NPD) located at [www.idem.IN.gov/files/nrpd\\_waste-0027.pdf](http://www.idem.IN.gov/files/nrpd_waste-0027.pdf).

In addition to the above storage methods, IDEM recommends that records be maintained to demonstrate that the material is being used. The records should include the volume of material accepted, the volume of materials sent for use/sold as a commodity/sent for recycling, and the volume of material sent for disposal.

If you have any questions about if your material meets the exemption listed in IC 13-11-2-205, please contact IDEM's Solid Waste Permits Section at 317-232-4473.