

# The Cope...



INCMA's Monthly Fax Newsletter

November 2008

## FRIEND OF THE COURT BRIEF FILED

A recent court decision by the Indiana Court of Appeals involving Steel Dynamics Inc. and IDEM found that IDEM may regulate electric arc furnace dust as a hazardous waste while still in a baghouse silo. This is contrary to EPA determinations that the dust is not a hazardous waste until removed from the silo. This case has raised larger issues of IDEM's (and other state agencies') ability to interpret rules that have been incorporated by the state by reference to federal rules. The Court of Appeals decision appears to give free reign to such agencies to freely interpret those federal rules, even if the EPA has made determinations to the contrary. This leaves the regulated community with uncertainty as to how a state agency might interpret regulations. Given this uncertainty, the INCMA Board voted to join the IMA on an amicus (friend of the court) brief filed last week.

## INDOT UPDATE

INDOT recently released a draft report of their findings on their required use of the microtox test

when using foundry sand in projects. INCMA had hoped the test would be eliminated and while it still could be eliminated, the initial study's draft findings concluded the

test should be retained. It appears they are still open to discussing an appropriate level of testing that might not include microtox testing. Stay tuned...

## IMA EMBRACES TAX CAPS

The IMA Tax Committee recently recommended to their Board of Directors that they modify their current policy to now support tax caps on property assessments. While the IMA recognizes the existing differential between industrial and residential property lacks equality, the vote seems to recognize the political reality that the residential cap will not be eliminated and therefore potentially increase the likelihood that the

business cap of 3% might be unfairly further increased. Efforts to amend the State Constitution to include the caps will be made during the 2009 General Assembly. INCMA has opposed the current caps as unfair given the differential between residential and industrial rates.

## AFS CONGRESSIONAL CAMPAIGN

AFS is launching a national outreach effort to Congress on several key foundry issues including:

- 1) Global Climate Change and related CO2 regulation;
- 2) Employee Free Choice Act which would eliminate secret ballots for union votes;
- 3) Expansion of the Family Medical Leave Act; and
- 4) Continued efforts for fair valuation of China's currency.

INCMA will be contacting state Congressional offices to provide them with information on the issues and to offer assistance in the future. AFS expects the Employee Free Choice Act to be voted

on early in 2009 and possibly even as early as late January.

## IMMIGRATION ISSUE BOILS OVER

After an extremely contentious Session earlier in the year with no resolution on properly managing the issue of illegal immigration, the General Assembly created an interim legislative study committee to study the issues. The 12 member committee met 5 times since Sept. 9 and reviewed numerous issues associated with the issue. A final meeting of the group produced significant disagreement on proposing legislative recommendations and ultimately resulted in no recommendations being offered. It is likely there will be several bills introduced in 2009 with some unfairly targeting businesses again.

INCMA  
P.O. Box 441743  
Indianapolis, Indiana 46244

Phone: 317-974-1830  
Fax: 317-974-1832  
INCMAoffice@ameritech.net  
www.INCMA.org

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