

**KAHN, DEES, DONOVAN & KAHN, LLP**  
ATTORNEYS & COUNSELORS AT LAW

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**IDEM TO ELIMINATE "SPECIAL WASTE" RULES; INDUSTRIAL WASTE REGULATIONS TO GOVERN**

*By Monica E. Edwards*

The **Indiana Department of Environmental Management ("IDEM")** has proposed new industrial waste regulations. The implementation of the new industrial waste regulations will replace and eliminate the old special waste rules. However, the industrial waste regulations share few, if any, similarities with the special waste regulations. The primary focus of the industrial regulations is the source of the waste. IDEM has stressed that an industrial waste is determined by where it comes from and not by its characteristics and composition. Generally, if an entity classified as "industrial" produces a waste, then any non-hazardous waste that entity generates is considered industrial waste unless it comes from the office or lunchroom. Examples of industrial waste include:

- Sludges
- Coal ash
- Baghouse dust
- Plastic
- Cardboard
- Fiberglass
- Floor sweepings
- Light bulbs
- Paint filters

According to IDEM, the goal of the industrial waste regulations is to capture waste that was not previously being regulated that poses a threat to the environment and to direct this waste to landfill cells or units that meet current state and federal design and operational standards ("subtitle D cells"). The new regulations require industrial waste generators to have generator knowledge and/or to develop, through the testing of every waste stream generated by their facility, information relative to the characteristics and composition of each such waste stream. However, the new industrial waste regulations do not mandate that new testing be conducted on those waste streams already tested. Additionally, the regulations also require that all industrial waste generated should be directed to a subtitle D cell unless the landfill permit directs otherwise or the material is being recycled.

The new industrial waste regulations are likely to increase the volume of waste for which an industry is now held accountable because the scope of the present definition of industrial waste captures not only the waste that may pose a threat to the environment, but also inert waste such as cardboard. Inert industrial waste may now consume valuable landfill space simply because the waste comes from an industrial source. The present definition of industrial waste is also discriminatory towards industry, as it ignores commercial waste that is equivalent in characteristic and composition to the industrial waste being regulated simply because it comes from a commercial facility.

IDEM will be holding informative seminars around the state to allow for public input on the proposed regulations, including the scope of the industrial waste definition. IDEM has indicated that no enforcement actions are being taken for non-compliance with respect to these proposed regulations at this time.

## NEW PARTNERS AT KDDK

**Robert F. "Ted" Barron II and Mark S. Samila became KDDK partners on January 1, 2001.**

**Ted**, an alumnus of Mater Dei High School, graduated from Indiana University, the University of Missouri-St. Louis M.B.A. program, and from Indiana University School of Law at Bloomington. He has been with Kahn, Dees, Donovan & Kahn since December, 1996. His primary areas of practice are business, corporate, and health law, commercial and employment litigation. Ted serves on the board of Directors of Leadership Evansville, the Evansville Airport Advisory Team and the St. Vincent's Day Care Center Advisory Board. Ted and his wife, Diane, have three sons, Alex, Jeff, and Ian.

**Mark** graduated from the University of Missouri-Columbia, 1986, and from the University of Missouri-Columbia School of Law in 1989. He has been with Kahn, Dees, Donovan & Kahn since April, 1998. His primary areas of practice are business and corporate, commercial and bankruptcy law, and estate planning. Mark and his wife, Tricia, have two sons, Patrick and Michael.

## ASSOCIATE JOINS KDDK

**Boyd A. Toler** joined KDDK in December, 2000. Boyd grew up in Washington, Indiana. He was admitted to practice in both Indiana and Illinois in 1994. After receiving his J.D. from the University of Illinois College of Law in 1994, he was a law clerk to justice Carl A. Lund in the Illinois Court of Appeals. He received his associates degree from Vincennes University in 1988 and his Bachelors degree from the University of Evansville in 1991. He is a litigator who handles defense of tort claims and civil litigation, involving contracts, real estate, and insurance coverage(including ERISA). Boyd draws upon a broad range of litigation experience when addressing the legal and factual problems of a particular matter. Boyd resides in Oakland City, Indiana with his wife and two children.

