TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD

Rule Information Sheet

LSA Document #26-13

Overview
IDEM is proposing amendments and adding additional rules at 328 IAC 1 and 328 IAC 3. These changes will affect many facets of the Excess Liability Trust Fund (ELTF) and improve its overall management and fiscal integrity. Specifically, the amendments and additional rules will do the following:

1. Modify and add definitions to provide clarity and consistency for tank owners and operators.
2. Clarify ELTF eligibility.
3. Further specify requirements for the preapproval of work and reimbursements.
4. Specify eligible costs after a "no further action" designation.
5. Incorporate new cost guidelines for work eligible for reimbursement.
6. Incorporate coverage of petroleum aboveground storage tanks.
7. Establish allowable reimbursement for decommissioning and replacing USTs.

The proposed changes are vital to improving the cost effectiveness of ELTF claims and ensuring the long-term financial solvency of the ELTF while complying with statutory requirements.

Affected Persons
This rulemaking will impact owners and operators of facilities containing aboveground and underground petroleum storage tanks.

Reasons for the Rule
The primary reasons for this rulemaking are:

1. Provide fifty-percent reimbursement of the costs of decommissioning or replacing qualified USTs pursuant to statute.
2. Incorporate ASTs into the ELTF program pursuant to statute.
3. Enhance ELTF reimbursement predictability, lower review time, and reduce appeals by adding a task-based reimbursement mechanism and modifying when eligibility limits are determined.

Economic Impact of the Rule
IDEM has determined that the rule will have a positive economic impact. The rule will align 328 IAC 1 with new statutory changes and reimbursement policies as adopted by the agency. The rulemaking also adopts rules for the statutorily required decommissioning and replacement program, which reimburses up to 50% of the costs associated with decommissioning and replacing a UST. These changes will provide a consistent regulatory mechanism for ELTF reimbursement.

The rulemaking will have a positive impact on ELTF claimants and the communities around impacted USTs and ASTs but require more expenditures from the ELTF at the outset. However, the initial expenditures form the ELTF are expected to taper off over the following years.

Scheduled Board Action and Hearings
First Public Hearing: March 26, 2026.

IDEM Contact
Additional information regarding this rulemaking action can be obtained from Seth Engdahl, Rules Development Branch, Office of Legal Counsel, at sengdahl@idem.in.gov, (317) 234-9535, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov.