

Summary
Financial Assurance Board
Indiana Government Center South
Conference Center Room A
Indianapolis, Indiana
Thursday, August 10, 2017

1. CALL TO ORDER

Chair Mark Ehrman called the meeting to order at 1:34 p.m. A quorum was present.

Members present: Mark Ehrman, representing Refinery/Supply; Kim Forster, representing Environmental Interests; Tom Navarre, representing Convenience Stores; Greg Cobb, representing Independent Petroleum Wholesale Distribution/Marketing; Kim Logan, Proxy, State Treasurer's Office; and Amy E. Smith, Proxy, IDEM. Chair Ehrman introduced new board member Mr. Sanka Prasad, representing Environmental Consulting.

IDEM Staff Present: Nancy King, Board Counsel, Office of Legal Counsel (OLC); Doug Louks, Branch Chief, Underground Storage Tanks (UST), Office of Land Quality (OLQ); Brian Pace, Section Chief, Excess Liability Trust Fund (ELTF) Section, OLQ; Tom Newcomb, Section Chief, UST Section; Tim Veatch, Section Chief, Leaking Underground Storage Tank (LUST) Section; Colleen Rennaker, Environmental Manager, UST Section.

2. APPROVAL OF MEETING SUMMARY

Chair Ehrman called for approval of the April 13, 2017, meeting summary, which was approved as presented.

3. REPORTS

Financial Reports

Ms. Amy Smith, Deputy Assistant Commissioner, OLQ, presented the Excess Liability Trust Fund (ELTF) and the Petroleum Trust Fund Revenue (PTFR) updates and summaries: ELTF beginning balance for Fiscal Year 2017 was \$104,266,821; IDEM's Total revenue was \$53,372,716; and the beginning fund balance for the PTRF update was \$2,104,598. Total revenue for the year was \$1,016,211 and total expenses were \$877,912.

Ms. Smith reviewed Excess Liability Trust Fund Schedules A, B, C, and D. Chair Ehrman asked what the gross amount was on the reimbursement percentage divided by the gross amount requested. Ms. Smith replied that it was the claim amount.

Underground Storage Tank Branch Update

Ms. Smith introduced Doug Louks who explained the UST Branch had begun a comprehensive review of all internal processes and procedures. He said because the UST Section, LUST Section, and ELTF Sections interact, there will continue to be Branch Updates presented in the future. Tom Newcomb, Tim Veatch, Brian Pace, and Colleen Rennaker spoke for their respective areas.

4. RULEMAKING ACTION

LSA #15-231, Excess Liability Trust Fund

Chair Ehrman opened the hearing for preliminary adoption of rules at 328 IAC 1, the Excess Liability Trust Fund Rule. Mr. Dan Watts, Rule Writer, Rules Development Branch (RDB), OLC, spoke for the

agency. Mr. Watts said these amendments to 328 IAC 1 would align the rule requirements for the Excess Liability Trust Fund with the statutory changes that were enacted by the General Assembly during the 2016 and 2017 legislative sessions. He said the statutory changes modified ELTF definitions and requirements for eligibility, claims, general eligible costs, payment and deductible limits, and clarified some statutory requirements and ELTF administrative procedures, and also deleted some statutory language. Mr. Watts said the statutory changes caused some inconsistencies between the ELTF statutory requirements and the ELTF rule requirements which he said is the main issue that IDEM is addressing with this rulemaking. He said it also improves clarity, accuracy and organization of the rules without affecting the meaning of the rule language and requirements.

There were no questions and no board discussion.

Commenter Christopher Braun spoke on behalf of the Indiana Petroleum Marketers and Convenience Store Association (IPCA), and said they supported the preliminary adoption of the rule.

Commenter Ms. Karla McDonald, Golars Environmental and Remediation Services, provided a letter of comments to the board members. She said they appreciated the efforts of IDEM's LUST group. Regarding the rules, they believe there are some fiscal impacts to owners, operators, and off-site property owners regarding some of the definitions that are provided in the new rule. She said they feel the cost-effectiveness definition in the rule is rather vague and said they would like more clarity in that definition.

Commenter Om Narla, Golars Environmental, spoke about the monitoring well data which was presented by IDEM. Golars has worked in six states and said they have seen some programs in other states where a lot of programs go bankrupt, and they come back. He said it was very common and very inconsistent with programs in several states. He said Indiana has one of the best programs and thanked the board for keeping it straight. He inquired if IDEM has evaluated the remaining 35 states, and how Indiana is doing compared to other states. He questioned if ELTF funds are available in those 13 states. He had questions about the quality of the data.

The hearing was concluded.

Mr. Forster moved to preliminarily adopt the rule, and Mr. Cobb seconded. The rule was adopted unanimously.

5. OPEN FORUM

Mr. Christopher Braun, IPCA, spoke regarding progress made with IDEM's adoption and incorporation of legislation the last two years and their action upon recommendations from two FAB-approved audits recently.

ADJOURNMENT

The next meeting is tentatively scheduled for 1:30 p.m. on November 9, 2017, at the Indiana Government Center South Conference Room A. Chair Ehrman adjourned the meeting at 3:01 p.m.

CHAIRPERSON

The summary is derived from Rules Development Branch staff members' notes. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management and will be made available on the IDEM rules website. To view approved summaries, you may go online to <http://www.in.gov/idem/legal/2334.htm>.