

**FOR VOTE BY DECEMBER 31, 2009**



**IFTA FULL TRACK FINAL BALLOT PROPOSAL  
1-2009**

**Sponsor**

Jurisdiction of Alabama  
Jurisdiction of Connecticut  
Jurisdiction of Montana  
Jurisdiction of Oklahoma  
Jurisdiction of Virginia

**Date Submitted**

March 30, 2009

**Proposed Effective Date**

Upon passage

**Manual Sections to be Amended**

IFTA Articles of Agreement

(January 1996 Version, Effective July 1, 1998, as revised)

R1500 Membership

R1555 Compliance Matters

**Subject**

Disputes arising from findings of non-compliance in program compliance reviews.

**History/Digest**

At the Third Quarter 2003 meeting of the IFTA, Inc. Board of Trustees ("Board"), the Board reviewed a report from the Program Compliance Review Committee ("PCRC") and a subcommittee of the Attorneys' Section, which was formed to review the dispute resolution process. These groups offered a proposal to allow the PCRC to initiate a dispute against a jurisdiction that remains out of compliance with the IFTA following a Program Compliance Review and Reassessment. The Board agreed with this concept and asked the committees to continue their work toward accomplishing this goal.

During the remainder of 2003 and the first six months of 2004, the committees worked on and recommended changes to the Program Compliance Review Guide and the Dispute Resolution Process. The committees recommended that a Program Compliance Enforcement Process be added to the Dispute Resolution Process.

This idea was presented to the member jurisdictions at the 2004 Annual Business Meeting. Some concern was expressed regarding whether or not standards should be established to determine when the PCRC could bring a dispute action against a jurisdiction. The Board ultimately determined that rather than attempting to set standards, it would be prudent to review the IFTA Governing Documents to determine whether there were provisions affecting jurisdiction compliance that should be changed prior to amending the Dispute Resolution Process. The Board formed the Compliance Review Requirements Committee to conduct this review. After receiving the report of this committee, the Board formed the

Compliance Review Ballots Development Committee. This committee reviewed the report and relevant documents. As a result, the committee recommended certain ballot proposals to the Board. Several of these ballots were proposed in 2006. Ballots 1-2006, 2-2006, 4-2006, 5-2006, 6-2006, 8-2006 and 9-2006 were passed by the membership.

FTFBP 12-2006 would have allowed the PCRC to bring a non-compliant jurisdiction to the Dispute Resolution Committee, but the ballot narrowly failed.

Subsequently, the Board of Trustees polled the jurisdictions who voted against FTFBP 12-2006. While some jurisdictions expressed concerns with allowing any committee to bring disputes, other jurisdictions believed that the PCRC's authority to bring disputes should be limited to only those compliance issues affecting the timely and correct transmittal of fuel tax revenue between jurisdictions. The Board identified the article sections meeting these criteria and excluded those sections that had never been the basis for finding a jurisdiction out of compliance.

At the 2007 Annual Business Meeting, membership raised concerns as to when the PCRC could bring a compliance matter to dispute. After discussions, it was suggested that the ballot language be revised to state that a compliance matter could only be brought to dispute after the process outlined in the PCR guide (including the reassessment and follow up process) had been completed and a Final Determination Finding of Non-Compliance had been issued by the PCRC.

Ballot 2-2007 also failed. It appeared that the jurisdictions voting against the proposal were still concerned about allowing a committee to have essentially the same authority to bring a dispute as a member jurisdiction, regardless of limited scope of that authority.

After Ballot 2-2007 failed, the Board discussed an idea presented by Connecticut which involved instituting a process by which the PCRC would recommend to the membership that a dispute be initiated when a member jurisdiction has been subjected to the Program Compliance Review Process and is issued a Final Determination Finding of Non-Compliance. The membership at large would vote on the recommendation similar to the method utilized for amendments to the Agreement and Consensus Board Interpretations.

This concept was presented at the 2008 Annual Business Meeting and was favorably received by the membership. Representatives of the jurisdictions sponsoring this ballot agreed to further develop this concept. A survey was conducted to gain further input from the membership regarding how abstentions should be counted, what level of majority should be required in order for a dispute referral to occur, and whether the voting process should be confidential or open. This ballot is the result of this group's work.

### **Intent**

The intent of this ballot is to amend the IFTA Articles of Agreement to require the PCRC to recommend to the membership that a dispute be initiated against a member jurisdiction that: 1) has been found non-compliant on the subject articles of the governing documents following completion of the Program Compliance Review Process, including a follow-up and/or reassessment; and 2) has been issued a Final Determination Finding of Non-Compliance by the PCRC.

If ratified by the membership, the dispute is forwarded to the IFTA Dispute Resolution Committee for consideration pursuant to the IFTA Dispute Resolution Process.

1 **Interlining Indicates Deletion; Underlining Indicates Addition**

2  
3 **ARTICLES OF AGREEMENT**

4  
5 **R1500 MEMBERSHIP**

6  
7 ***[SECTIONS R1505 THROUGH R1550 REMAIN UNCHANGED]***

8  
9 **R1555 COMPLIANCE MATTERS**

10  
11 **.100 Dispute Resolution Process**

12  
13 Disputes concerning issues of compliance with the International Fuel Tax  
14 Agreement may be resolved pursuant to the IFTA Dispute Resolution Process.  
15 The IFTA Dispute Resolution Process may be utilized to resolve only:

16  
17 .005 Compliance disputes between member jurisdictions; ~~and~~

18  
19 .010 Compliance disputes between member jurisdictions and IFTA licensees  
20 in those matters where no administrative remedy to the IFTA licensee is  
21 available within the member jurisdiction involved in the dispute.

22 Compliance disputes subject to this section shall not include disputes  
23 between member jurisdictions and IFTA licensees over matters of  
24 substantive jurisdiction law, including but not limited to, laws governing  
25 the imposition, assessment, and collection of jurisdiction motor fuel use  
26 taxes collected pursuant to the International Fuel Tax Agreement; and

27  
28 .015 Compliance matters where (i) the Program Compliance Review Process,  
29 including follow-up and/or reassessment, has been completed; (ii) a Final  
30 Determination Finding of Non-Compliance has been issued by the  
31 Program Compliance Review Committee related to Sections R970,  
32 R1210, R1230, R1260, R1270, P1040, A310, A320, or A690; and (iii) a  
33 recommendation for initiation of a dispute from the Program Compliance  
34 Review Committee has been approved by the member jurisdictions as  
35 defined in Article R1555.300.

36  
37 **.200 Submission of a Final Determination Finding of Non-Compliance to the**  
38 **Membership**

39  
40 A Final Determination Finding of Non-Compliance issued by the Program  
41 Compliance Review Committee related to Sections R970, R1210, R1230, R1260,  
42 R1270, P1040, A310, A320, or A690 shall be submitted to the membership to  
43 determine whether a dispute will be initiated.

44  
45 **.300 Initiation of a Dispute Based on a Final Determination Finding of Non-**  
46 **Compliance**

47  
48 .005 Member jurisdictions will have thirty (30) days to vote on the initiation of  
49 a dispute based on a Final Determination Finding of Non-Compliance.

50  
51 .010 Votes on the initiation of a dispute based on a Final Determination  
52 Finding of Non-Compliance must be cast by the IFTA commissioner or a  
53 delegate named in writing by the commissioner.

- 55                    .015    For purposes of this section, a vote submitted electronically through a  
56                    mechanism provided by the International Fuel Tax Association, Inc. is  
57                    deemed a vote in writing.  
58  
59                    .020    An affirmative vote in writing of at least two-thirds of the total written  
60                    votes cast is required to initiate a dispute based on a Final Determination  
61                    Finding of Non-Compliance.  
62  
63                    .025    If the member jurisdictions approve the initiation of a dispute based on a  
64                    Final Determination Finding of Non-Compliance, the Program  
65                    Compliance Review Committee shall forward the Final Determination  
66                    Finding of Non-Compliance to the IFTA Dispute Resolution Committee to  
67                    initiate a dispute.  
68  
69                    **.200.400**    **Expulsion Process**  
70  
71                    .005    The IFTA, Inc. Board of Trustees shall request a resolution to expel a  
72                    member jurisdiction which has failed to bring its IFTA program into  
73                    compliance one year following its loss of voting power under the penalty  
74                    provisions of the IFTA Dispute Resolution Process.  
75  
76                    .010    The Board shall issue a resolution of expulsion to the IFTA membership for  
77                    approval. A ballot by which a member jurisdiction may vote on the  
78                    resolution will be attached to the resolution. A copy of the resolution will be  
79                    sent to the jurisdiction which is the subject of the resolution, but said  
80                    jurisdiction will not be allowed to vote on the resolution.  
81  
82                    .015    A resolution expelling a member jurisdiction from the Agreement shall  
83                    require the affirmative vote in writing of three-fourths of the total member  
84                    jurisdictions, excluding the jurisdiction which is the subject of the resolution.  
85  
86                    .020    Member jurisdictions will have sixty (60) days from the date of issuance of  
87                    the resolution to vote on the resolution of expulsion. Failure of a member  
88                    jurisdiction to submit its vote shall be deemed a vote against the resolution  
89                    of expulsion.  
90  
91                    .025    If the member jurisdictions approve the resolution for expulsion, the Board  
92                    of Trustees will notify the subject jurisdiction of its expulsion from the  
93                    Agreement. A copy of the resolution will be forwarded to the Governor of  
94                    the subject United States jurisdiction or the Premier of the subject Canadian  
95                    Province and to the Secretary of Transportation of the United States.  
96

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD**

**IFTA FULL TRACK FINAL BALLOT PROPOSAL 1-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA		1		1
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
COLORADO	1		1	
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS		1		1
INDIANA	1		1	
IOWA	1		1	
KANSAS		1		1
KENTUCKY	1		1	
LOUISIANA	1		1	
MAINE	1		1	
MANITOBA	1		1	
MARYLAND	1		1	
MASSACHUSETTS	1		1	
MICHIGAN	1		1	
MINNESOTA	1		1	
MISSISSIPPI	1		1	
MISSOURI	1		1	
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA	1		1	
NEW BRUNSWICK	1		1	
NEW HAMPSHIRE	1		1	
NEW JERSEY		1		1
NEW MEXICO	1		1	
NEW YORK		1		1
NEWFOUNDLAND	1		1	
NORTH CAROLINA	1		1	
NORTH DAKOTA		1		1
NOVA SCOTIA	1		1	
OHIO		1		1
OKLAHOMA	1		1	
ONTARIO	1		1	
OREGON		1		1
PENNSYLVANIA		1		1
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	

**IFTA FULL TRACK FINAL BALLOT PROPOSAL 1-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
SOUTH CAROLINA	1		1	
SOUTH DAKOTA		1		1
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VERMONT	1		1	
VIRGINIA	1		1	
WASHINGTON		1		1
WEST VIRGINIA	1		1	
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>47</b>	<b>11</b>	<b>47</b>	<b>11</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

Failure to vote for the ballot language counts as a "No" vote.

Failure to vote for the alternative effective date counts as a "No" vote.

**Number of "YES" votes necessary to pass: 44**

**Effective Date: January 1, 2010**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **47**

NUMBER OF "NO" VOTES RECEIVED: **11**

NUMBER OF VOTES NOT RECEIVED: **0**

**RESULT: PASSED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **47**

NUMBER OF "NO" VOTES RECEIVED: **11**

NUMBER OF VOTES NOT RECEIVED: **0**

**RESULT: PASSED**

**Ballot Intent:**

The intent of this ballot is to amend the IFTA Articles of Agreement to require the PCRC to recommend to the membership that a dispute be initiated against a member jurisdiction that: 1) has been found non-compliant on the subject articles of the governing documents following completion of the Program Compliance Review Process, including a follow-up and/or reassessment; and 2) has been issued a Final Determination Finding of Non-Compliance by the PCRC.

If ratified by the membership, the dispute is forwarded to the IFTA Dispute Resolution Committee for consideration pursuant to the IFTA Dispute Resolution Process.

**FTPBP #1-2009**  
**First Comment Period Ending May 22, 2009**

**SUMMARY**

**43 Comments**

**Support: 34**

**Oppose: 7**

**Undecided: 2**

**ALABAMA**

Support

**ALBERTA**

Support

**ARIZONA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports this ballot

**COLORADO**

Support

**CONNECTICUT**

Support

We believe that non-compliant members need to be held accountable for their actions. This, once and for all, brings credence to the review process, segregates more serious issues of non-compliance discovered, and puts teeth into the Agreement.

**DELAWARE**

Support

Matters of this magnitude should ultimately be decided by the member jurisdictions. Delaware supports this ballot.

**IDAHO**

Support

Idaho agrees with Nova Scotia. If the PCRC is forced to issue a "final determination of non-compliance" to a jurisdiction, that jurisdiction has been given every opportunity to comply with the IFTA governing documents, or the non-compliance finding by the PCRC would not be issued. I agree with the word "shall" in line 42 of the ballot, because it should be left up to the membership to determine if a dispute should be initiated or not. The PCRC should not have to pick & choose what issues of non-compliance are forwarded to the membership for a vote.

**ILLINOIS**

Oppose

Perhaps it would be beneficial in the passage of this ballot if the language did not "require" the committee to recommend a "dispute" but rather that the committee would advise of a finding of non-compliance and the individual jurisdictions would decide what, if any, action should occur.

Illinois would support this ballot if the language were modified to provide a less authoritative role in the dispute process for the committee and assume a more advisory role.

**INDIANA**

Support

**IOWA**

Support

Iowa supports this ballot. It looks like enough safeguards have been put into the process so that only substantive compliance issues will be taken to the DRC . It would be unfortunate to see actions taken against jurisdictions for minor, non-substantive compliance issues.

**KANSAS**

Undecided

Kansas has a concern that this ballot is too broad and may have unintended consequences for a jurisdiction.

**MANITOBA**

Support

**MARYLAND**

Support

**MASSACHUSETTS**

Support

**MICHIGAN**

Support

**MINNESOTA**

Support

Minnesota agrees with the ballot as written. In the event of a finding of progressive continual non-compliance, the next step should be a recommendation that a dispute be initiated. The authority and decision to proceed to dispute resolution by the membership seems to be a logical approach.

**MISSISSIPPI**

Support

**MISSOURI**

Support



**MONTANA**

Support

**NEBRASKA**

Support

Nebraska is comfortable that this process is now sufficiently complicated so that inadvertent cases will not be taken to dispute without careful consideration by both the PCRC and the membership.

**NEVADA**

Support

Nevada supports passage of this ballot, which would provide increased authority to the PCRC to gain compliance from a jurisdiction found to be out of compliance and not willing to change their processes to come into compliance with the Agreement. While variations of this ballot have been proposed for several years, this ballot appears to answer many of the concerns expressed by the membership.

**NEW BRUNSWICK**

Support

New Brunswick supports this ballot as it will strengthen the agreement and provide further incentive for jurisdictions to comply.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Oppose

**NEW YORK**

Oppose

We do not support this ballot

**NORTH CAROLINA**

Support

North Carolina supports this ballot. Having the membership make the call in terms of whether a finding of non-compliance goes to dispute is the right approach.

**NORTH DAKOTA**

Oppose

ND feels that the proposed ballot could be detrimental to the good will that exists between jurisdictions.

## **NOVA SCOTIA**

Support

We agree with the ballot as written. It makes sense to us that if the PCRC has made a finding of non-compliance, then the next logical step is to recommend a dispute be initiated. It is then up to the member jurisdictions to decide whether to proceed with the dispute resolution. Decision making authority still rests with the member jurisdictions, not the PCRC.

## **OHIO**

Oppose

## **OKLAHOMA**

Support

## **ONTARIO**

Support

Ontario supports the concept of calling for an open vote of the membership to determine whether a jurisdiction should be referred to dispute. However, we suggest that the voting process be consistent with the process for ballots or as provided in the bylaws.

## **OREGON**

Oppose

Oppose for same reasons already expressed by Illinois.

## **PENNSYLVANIA**

Oppose

Agree with comments made by Illinois. Also some concerns about the voting provisions as written.

## **PRINCE EDWARD ISLAND**

Support

## **QUEBEC**

Support

The key word is **to recommend**. I agree with New Brunswick as this will be an incentive for jurisdictions to comply.

## **RHODE ISLAND**

Support

## **SASKATCHEWAN**

Support

This ballot outlines a workable solution to a long standing problem - no real repercussions for non-compliance. This solution allows the jurisdictions to collectively determine through ratification whether specific non-compliant instances warrant proceeding with the Dispute resolution Process.

**TENNESSEE**

Support

**VIRGINIA**

Support

Virginia supports this ballot.

**WEST VIRGINIA**

Undecided

**WISCONSIN**

Support

**FTPBP #1-2009**  
**Second Comment Period Ending October 23, 2009**

**SUMMARY**

**Comments: 35**

**Support: 26**

**Oppose: 5**

**Undecided: 4**

**ALABAMA**

Support

**ALBERTA**

Support

**ARIZONA**

Oppose

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports this ballot.

**CONNECTICUT**

Support

We support this ballot. The sponsors of the ballot have addressed each of the concerns membership has had regarding this topic. Enactment of this language enables the membership to address Final Determination Findings of Non-Compliance made by the PCRC on certain substantive core issues that are central to the administration of this Agreement. This is long overdue; it provides protection for the members against the potential failure of a fellow member to comply (after exhaustive attempts at remediation by the PCRC) with those core issues.

**GEORGIA**

Support

**IDAHO**

Support

There has been a lot of discussion (legal & general) regarding how appropriate it would be for the Program Compliance Review Committee (PCRC) to forward an unresolved compliance review finding to the Dispute Resolution Committee (DRC) for resolution. This ballot provides the safe guard, e.g. IFTA membership ratification, to prevent frivolous compliance review issues from turning into disputes that would have to be resolved by the DRC. It is time to change the IFTA governing documents to include this process and move forward. Idaho originally had some legal issues with this concept. But the limitations and restrictions of the issues the PCRC can forward to the DRC, and the membership ratification step, have eliminated Idaho's legal concerns with this concept.

**ILLINOIS**

Undecided

**INDIANA**

Support

**KANSAS**

Undecided

First concern is that, under R1555.320, only "two-thirds of the total written votes cast is required to initiate a dispute." As such, if only 6 jurisdictions vote, a vote of only 4 would be required to initiate a dispute against a jurisdiction. Suggest that vote of two-thirds of the entire membership be required.

**MANITOBA**

Support

**MARYLAND**

Support

Maryland supports this ballot, but with the same concerns some jurisdictions have expressed regarding the suggested voting procedure.

**MASSACHUSETTS**

Support

**MINNESOTA**

Support

Minnesota agrees with the ballot as written. In the event of a finding of progressive continual non-compliance, the next step should be a recommendation that a dispute be initiated. The authority and decision to proceed to dispute resolution by the membership seems to be a logical approach.

**MISSISSIPPI**

Support

**MONTANA**

Support

Montana supports

**NEBRASKA**

Support

**NEVADA**

Support

Nevada supports passage of this ballot, which would provide increased authority to the PCRC to gain compliance from a jurisdiction that is found to be out of compliance with the Agreement but fails to take necessary steps to ensure compliance.

**NEW BRUNSWICK**

Support

New Brunswick supports this ballot as it will strengthen the agreement and provide further incentive for jurisdictions to comply.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Oppose

This would narrow and promote an adversarial environment. If, as Kansas suggests, two-thirds of the membership vote be required, NJ would reconsider.

**NORTH DAKOTA**

Oppose

This ballot will not foster goodwill between jurisdictions and will probably lead to retaliation between jurisdictions. Jurisdiction (x) voted to send my jurisdiction (y) to dispute so jurisdiction (y) will return the favor. The IRP process sends a jurisdiction to dispute and then membership gets involved if dispute is not resolved. To our recollection this has not happened.

**NOVA SCOTIA**

Support

**OKLAHOMA**

Support

Oklahoma supports this ballot. Under this Agreement, we have all agreed to do certain things for one another. If we fail that contract, (especially to do the critical things listed in this ballot) we should be taken to task. The Program Compliance and Dispute Resolution processes, allow more than adequate time and support to correct a problematic area. The only reason a non-compliance issue would invoke the provisions described in this ballot, would be if a jurisdiction simply failed to address the compliance issue after they had been advised repeatedly to correct the condition.

In response to Kansas' concern that an extremely small number of jurisdictions could cause a non-compliant jurisdiction to be brought before the DRC, it should be noted that today, it only takes one jurisdiction to bring another before the DRC.

**ONTARIO**

Support

Ontario supports the concept of calling for an open vote of the membership to determine whether a jurisdiction should be referred to dispute. However, we continue to have concerns over the inconsistent voting method that would result from this ballot. We suggest that voting be consistent with the process applied for ballots (3/4 majority of total membership) or bylaws (2/3 majority of active members).

**OREGON**

Oppose

**PENNSYLVANIA**

Undecided

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**  
Support

We support this ballot.

**TEXAS**  
Support

**UTAH**  
Support

Utah believes this should be a natural process for the PCRC.

**VIRGINIA**  
Support

**WASHINGTON**  
Oppose

**WEST VIRGINIA**  
Undecided

**FOR VOTE BY DECEMBER 1, 2009**



**IFTA SHORT TRACK FINAL BALLOT PROPOSAL  
STFBP #2-2009**

***MOVED TO SHORT TRACK AT THE ANNUAL BUSINESS MEETING***

**Sponsor**

IFTA Program Compliance Review Committee

**Date Submitted**

March 25, 2009

**Proposed Effective Date**

January 1, 2011

**Manual Sections to be Amended**

(January 1996 Version, Effective July 1, 1998, as revised)

IFTA Articles of Agreement  
IFTA Audit Manual  
IFTA Procedures Manual  
IFTA Procedures Manual

R1510 CONDITIONS FOR MEMBERSHIP  
A690 COMMUNICATION OF AUDIT FINDINGS  
P910 LICENSEE RECORDS  
P920 PRESERVATION OF RECORDS

**Subject**

Change the IFTA program compliance review cycle from four (4) to five (5) years.

**History/Digest**

One of the goals on the IFTA, Inc. Strategic Plan was to promote confidence and stability through partnerships between jurisdictions, industries, and other governments. One suggestion was to combine the IFTA Program Compliance Reviews and the IRP Peer Reviews. The first task was to identify jurisdictions operating IFTA & IRP in the same agency and then confirm interest with IRP and form a Committee. Careful planning was used to form the committee. Representatives with both IFTA and IRP audit and administrative backgrounds were sought.

Once the Committee was formed the IFTA and IRP memberships were surveyed. A survey was sent out to IFTA commissioners on August 25, 2005. Of the 56 jurisdictions that responded to the survey, 30



jurisdictions indicated that they would like a combined review. An additional 10 jurisdictions indicated that they would like an “audit only” combined review. The remaining 16 jurisdictions did not want any type of combined review.

The Committee compared the IFTA and IRP Review schedules for 2006 and 2007 to determine potential jurisdictions that could undergo a Combined IFTA / IRP Review. For the 2006 Review year, Minnesota was contacted about being the first test jurisdiction to undergo a Combined IFTA / IRP Review. Wyoming and Oregon were selected for the 2007 Review-year cycle. All agreed to participate in a Combined Review. Alabama requested a combined Review after the project had been completed. Both the IFTA and IRP boards approved the Review teams performing their Reviews at the same time. Nevada and Utah have also requested combined Reviews. Both have been approved and will be scheduled at either their next IFTA or IRP rotation.

The Minnesota Combined Review was conducted July 12-14, 2006. The Wyoming Combined Review was conducted May 16-18, 2007. The Oregon Combined Review was conducted September 18-20, 2007. The Alabama Combined Review was conducted March 12-14, 2008.

IFTA, Inc. representatives led the Reviews with the full support and cooperation of the IRP team. Both teams were copied on all correspondence and documentation with the Jurisdictions. Separate Administrative Licensee/Registrant listings were secured and samples were selected from each. A combined listing for Audit was secured with the assistance of both IFTA and IRP. One audit listing was used in all four Reviews.

Concluding the process, a Closing Conference was held. IRP Closing Conference Report/Remarks were presented by the IRP Review Representatives and the IFTA Closing Conference Report/Remarks were presented by the IFTA, Inc. Representative.

Jurisdictions and Team Surveys were completed and compiled. General Reviews Comments:

- A very positive experience.
- Beneficial for the jurisdictions.
- Overall excellent experience.
- Sign me up for future combined reviews.

### **Intent**

This change would promote combined IFTA and IRP program compliance reviews by aligning both the IFTA and IRP program compliance review cycles to five (5) years. Combined IFTA and IRP program compliance reviews would continue to be optional and would only be conducted upon request by the base jurisdiction. Jurisdictions would be required to retain IFTA records for an additional year. This proposal would not change the record retention requirements for licensees.

**Interlining Indicates Deletion; Underlining Indicates Addition**

1 **R1500 MEMBERSHIP**

2  
3 **\*R1510 CONDITIONS FOR MEMBERSHIP**

4  
5 The applicant shall agree to abide by all terms, conditions, and requirements of the Articles of Agreement,  
6 Procedures Manual, Audit Manual and the Bylaws of the Association and to:

7  
8 ***[SECTION R1510.100 REMAINS UNCHANGED.]***

9  
10 **.200** Submit to a program compliance review to determine compliance with the Agreement. Such  
11 review shall be performed after one year of implementation and once every ~~four~~ five years  
12 thereafter unless a review is ordered as prescribed by this Agreement; and

13  
14 ***[SECTION R1510.300 REMAINS UNCHANGED.]***

15  
16 **A600 THE AUDIT PROCESS**

17  
18 **\*A690 COMMUNICATION OF AUDIT FINDINGS**

19  
20 ***[SECTIONS A690.100 AND A690.200 REMAIN UNCHANGED.]***

21  
22 **.300** Member jurisdictions may request copies of the audit reports and work papers. A copy of the audit  
23 report, work papers, supporting documentation and any pertinent post-audit communications must  
24 be maintained by the base jurisdiction as part of the audit file for ~~a period of four years from the~~  
25 date of completion of the audit the period set forth in P910.

26  
27 ***[SECTIONS A690.400 THROUGH A690.600 REMAIN UNCHANGED.]***

28  
29 **P900 BASE JURISDICTION RECORDKEEPING**

30  
31 **\*P910 LICENSEE RECORDS**

32  
33 The base jurisdiction shall maintain fuel tax records for licensees based in that jurisdiction for a period of  
34 five years or until they have been examined as part of a Program Compliance Review and the Final  
35 Report has been issued, whichever is later. The records shall contain, but not be limited to, the following:

36  
37 **.050** Tax returns;

38  
39 **.100** Applications;

40  
41 **.150** ~~Audit findings and work papers files;~~

42  
43 **.200** Refund requests;

44  
45 **.250** Notifications issued for debit or credit balances by the base jurisdiction;

46  
47 **.300** Payments of taxes made to the base jurisdiction;

48

- 49           **.350**   Funds received from and transmitted to other jurisdictions. Such records shall identify  
50           licensees and remittances from each licensee;  
51  
52           **.400**   Cancellation of licensee requests;  
53  
54           **.450**   Requests for hearing to resolve assessments made by the base jurisdiction; ~~and~~  
55  
56           **.500**   Results of administrative hearing process;  
57  
58           **.550**   Outgoing jurisdictions transmittals; and  
59  
60           **.600**   Incoming billing transmittals.  
61  
62   **\*P920   PRESERVATION OF RECORDS**  
63  
64           **.100**   These records, which may be kept on microfilm, microfiche, or any other computerized or  
65           condensed record storage system which meets the legal requirements of the base  
66           jurisdiction, shall be made available to any member jurisdiction upon request.  
67  
68           ~~**.200** — Tax returns shall be maintained for a minimum of four years.~~  
69  
70           ~~**.300** — Outgoing jurisdiction transmittals and incoming billing transmittals must be retained until~~  
71           ~~they have been examined as part of a Program Compliance Review and the Final Report~~  
72           ~~has been issued.~~  
73

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD**

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 2-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA	1		1	
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
COLORADO	1		1	
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS	1		1	
INDIANA	1		1	
IOWA	1		1	
KANSAS	1		1	
KENTUCKY	1		1	
<b>LOUISIANA</b>				
MAINE	1		1	
MANITOBA	1		1	
MARYLAND		1		1
MASSACHUSETTS	1		1	
MICHIGAN	1		1	
MINNESOTA	1		1	
MISSISSIPPI	1		1	
MISSOURI	1		1	
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA	1		1	
NEW BRUNSWICK	1		1	
NEW HAMPSHIRE	1		1	
NEW JERSEY		1		1
NEW MEXICO	1		1	
NEW YORK	1		1	
<b>NEWFOUNDLAND</b>				
NORTH CAROLINA	1		1	
NORTH DAKOTA	1			1
NOVA SCOTIA	1		1	
OHIO	1		1	
OKLAHOMA	1		1	
ONTARIO	1		1	
OREGON	1		1	
PENNSYLVANIA	1		1	
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 2-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
SOUTH CAROLINA	1		1	
SOUTH DAKOTA	1		1	
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VERMONT	1		1	
VIRGINIA	1		1	
WASHINGTON	1		1	
WEST VIRGINIA	1		1	
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>54</b>	<b>2</b>	<b>53</b>	<b>3</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

Failure to vote for the ballot language counts as a "No" vote.

Failure to vote for the alternative effective date counts as a "No" vote.

**Number of "YES" votes necessary to pass: 44**

**Effective Date: January 1, 2011**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **54**

NUMBER OF "NO" VOTES RECEIVED: **2**

NUMBER OF VOTES NOT RECEIVED: **2**

**RESULT: PASSED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **53**

NUMBER OF "NO" VOTES RECEIVED: **3**

NUMBER OF VOTES NOT RECEIVED: **2**

**RESULT: PASSED**

**Ballot Intent:**

**This change would promote combined IFTA and IRP program compliance reviews by aligning both the IFTA and IRP program compliance review cycles to five (5) years. Combined IFTA and IRP program compliance reviews would continue to be optional and would only be conducted upon request by the base jurisdiction. Jurisdictions would be required to retain IFTA records for an additional year. This proposal would not change the record retention requirements for licensees.**

**FTPBP #2-2009**  
**First Comment Period Ending May 22, 2009**

**SUMMARY**

45 Comments

Support: 43

Oppose: 2

Undecided: 0

**ALABAMA**

Support

**ALBERTA**

Support

**ARIZONA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff support this ballot

**COLORADO**

Support

**CONNECTICUT**

Support

**DELAWARE**

Support

As a jurisdiction with both programs "under one roof", Delaware is definitely in support of this ballot.

**IDAHO**

Support

**ILLINOIS**

Support

**INDIANA**

Support

**IOWA**

Support

Iowa supports this ballot to be in line with IRP for joint peer reviews.

**KANSAS**

Support

**MAINE**

Support

Aligning the IRP and IFTA review schedules to facilitate combined reviews is a good thing.

**MANITOBA**

Support

**MARYLAND**

Oppose

**MASSACHUSETTS**

Support

**MICHIGAN**

Support

**MINNESOTA**

Support

Combined reviews have proven to save staff time and resources in the preparation and the actual performance of the review. This is a positive step in the evolution of the PCR/Peer Review process.

**MISSISSIPPI**

Support

**MISSOURI**

Support

**MONTANA**

Support

Montana supports combining compliance review cycles for IFTA and IRP. However under P910 there is some confusion as to how long a Jurisdiction would have to keep records. It would be helpful to clarify this.

**NEBRASKA**

Support

**NEVADA**

Support

Nevada supports passage of this ballot. Concurrent reviews save staff time both in preparation for the reviews and while the reviews are taking place on-site.

**NEW BRUNSWICK**

Support

This ballot will provide a good basis for future combined reviews in New Brunswick and would place our IFTA Program Compliance Review and the IRP Peer Review in sync on the same year.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Oppose

**NEW YORK**

Support

New York supports the ballot

**NORTH CAROLINA**

Support

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OHIO**

Support

**OKLAHOMA**

Support

**ONTARIO**

Support

Ontario would support the proposed ballot.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support



**QUEBEC**

Support

Definitely in support.

**RHODE ISLAND**

Support

**SASKATCHEWAN**

Support

This is a positive step in the evolution of the PCR/Peer Review process.

**TENNESSEE**

Support

**VERMONT**

Support

**VIRGINIA**

Support

There are a number of jurisdictions that have expressed an interest in combined reviews.

**WEST VIRGINIA**

Support

**WISCONSIN**

Support

**STPBP #2-2009**  
**Second Comment Period Ending October 8, 2009**

**SUMMARY**

**31 Comments**

**Support: 30**

**Oppose: 1**

**Undecided: 0**

**ALABAMA**

Support

**ALBERTA**

Support

**Audit Committee**

Support

The IFTA, Inc. Audit Committee supports this ballot.

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports this ballot

**CONNECTICUT**

Support

We support this ballot. Aligning the IFTA Program Compliance Review cycle with that of the IRP Peer Review program provides a needed change for those jurisdictions that wish to have both programs reviewed simultaneously. This will no doubt cut costs and time required for the combined reviews.

**IDAHO**

Support

The requirement to retain IFTA records for an additional year is a very small price to pay for extending the Program Compliance Review cycle to 5 years.

**ILLINOIS**

Support

**INDIANA**

Support

Indiana supports this ballot

**KANSAS**

Support

**MANITOBA**

Support

Manitoba supports this ballot.

**MASSACHUSETTS**

Support

**MISSISSIPPI**

Support

**MONTANA**

Support

Montana supports

**NEVADA**

Support

Nevada supports passage of this ballot. Concurrent reviews save staff time both in preparation for the reviews and while the review is taking place on-site.

**NEW BRUNSWICK**

Support

This ballot will provide a good basis for future combined reviews in New Brunswick and would place our IFTA Program Compliance Review and the IRP Peer Review in sync on the same year.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Oppose

There is concern over the number of records requiring retention. It would conflict with the State's document retention schedule.

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OKLAHOMA**

Support

**ONTARIO**

Support

Ontario would support the proposed ballot.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**

Support

We support this ballot.

**UTAH**

Support

Utah Strongly supports this ballot. We believe this can cut cost for the Association. and the Jurisdictions.

**VIRGINIA**

Support

**WASHINGTON**

Support

**WEST VIRGINIA**

Support

**WISCONSIN**

Support

By facilitating the completion of peer reviews at the same time, a cost savings may be achieved in review of jurisdictions with IFTA and IRP in the same agency.

**FOR VOTE BY DECEMBER 1, 2009**



**IFTA SHORT TRACK FINAL BALLOT PROPOSAL  
3-2009**

***MOVED TO SHORT TRACK AT THE ANNUAL BUSINESS MEETING***

**Sponsor**

Agreement Procedures Committee

**Date Submitted**

February 19, 2009

**Proposed Effective Date**

Upon Passage

**Manual Sections to be Amended**

(January 1996 Version, Effective July 1, 1998, as revised)

IFTA Articles of Agreement

R345.100

**Subject**

License renewal provisions to ensure that a licensee who is in a suspended status is not renewed.

**History/Digest**

A renewal license and decals should only be renewed for the following calendar year if the licensee is not in a revoked, suspended or cancelled status. The current wording in the Agreement does not include the term 'suspended'. This ballot amends the current language to include 'suspension'.

**Intent**

The intent of this ballot is to provide greater clarity and amend the current language by adding the term "suspension" and therefore ensuring that a licensee is not renewed if they are in a suspended status.

1 **Interlining Indicates Deletion; Underlining Indicates Addition**

2  
3 **ARTICLES OF AGREEMENT**

4  
5 **APPLICATION AND RENEWAL**

6  
7 **\*R345 LICENSE RENEWAL**

8  
9 **.100** A renewal license and decals for the following calendar year will be issued upon  
10 application if the license is not revoked, suspended or canceled, all tax returns  
11 have been filed, and all motor fuels use taxes, penalties and interest due have  
12 been paid and the applicant is in compliance with the base jurisdiction's laws.  
13

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD**

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 3-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA	1		1	
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
COLORADO	1		1	
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS	1		1	
INDIANA	1		1	
IOWA	1		1	
KANSAS	1		1	
KENTUCKY	1		1	
<b>LOUISIANA</b>				
MAINE	1		1	
MANITOBA	1		1	
MARYLAND	1		1	
MASSACHUSETTS	1		1	
MICHIGAN	1		1	
MINNESOTA	1		1	
MISSISSIPPI	1		1	
MISSOURI	1		1	
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA	1		1	
NEW BRUNSWICK	1		1	
NEW HAMPSHIRE	1		1	
NEW JERSEY	1		1	
NEW MEXICO	1		1	
NEW YORK	1		1	
<b>NEWFOUNDLAND</b>				
NORTH CAROLINA	1		1	
NORTH DAKOTA	1			1
NOVA SCOTIA	1		1	
OHIO	1		1	
OKLAHOMA	1		1	
ONTARIO	1		1	
OREGON	1		1	
PENNSYLVANIA	1		1	
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	

**IFTA SHORT TRACK FINAL BALLOT PROPOSAL 3-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
SOUTH CAROLINA	1		1	
SOUTH DAKOTA	1		1	
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VERMONT	1		1	
VIRGINIA	1		1	
WASHINGTON	1		1	
WEST VIRGINIA	1		1	
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>56</b>	<b>0</b>	<b>55</b>	<b>1</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

Failure to vote for the ballot language counts as a "No" vote.

Failure to vote for the alternative effective date counts as a "No" vote.

**Number of "YES" votes necessary to pass: 44**

**Effective Date: December 2, 2009**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **56**

NUMBER OF "NO" VOTES RECEIVED: **0**

NUMBER OF VOTES NOT RECEIVED: **2**

**RESULT: PASSED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **55**

NUMBER OF "NO" VOTES RECEIVED: **1**

NUMBER OF VOTES NOT RECEIVED: **2**

**RESULT: PASSED**

**Ballot Intent:**

**The intent of this ballot is to provide greater clarity and amend the current language by adding the term "suspension" and therefore ensuring that a licensee is not renewed if they are in a suspended status.**



**FTPBP #3-2009**  
**First Comment Period Ending May 22, 2009**

**SUMMARY**

45 Comments

Support: 44

Oppose: 0

Undecided: 1

**ALABAMA**

Support

**ALBERTA**

Support

**ARIZONA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports this ballot

**COLORADO**

Support

**CONNECTICUT**

Support

**DELAWARE**

Support

**IDAHO**

Support

**ILLINOIS**

Support

**INDIANA**

Support

**IOWA**

Support

**KANSAS**

Support

**MAINE**  
Support

**MANITOBA**  
Support

**MARYLAND**  
Support

**MASSACHUSETTS**  
Support

**MICHIGAN**  
Support

**MINNESOTA**  
Support

Minnesota concurs with the concept of denying registration for a carrier with an IFTA license suspension status. Suspension indicates non compliance, therefore licensee should be held accountable to a valid status before renewal of license.

**MISSISSIPPI**  
Support

**MISSOURI**  
Support

**MONTANA**  
Support

It would be helpful to the licensee and to the jurisdictions to define terms such as 'suspension', in the definition section.

**NEBRASKA**  
Undecided

Nebraska would be more inclined to support this ballot if there were a corresponding ballot that would include a definition of suspension.

**NEVADA**  
Support

Nevada supports passage of this ballot. Currently, if a carrier has only been 'suspended' but not revoked, certain member jurisdictions can renew the carrier and issue an IFTA license/decals to that carrier, enabling a 'suspended' carrier to travel through any jurisdiction. Carriers under suspension should be required to clear up the suspension prior to renewing their account with any jurisdiction. If a carrier has been suspended, Nevada does not renew the carrier.

**NEW BRUNSWICK**  
Support

New Brunswick would experience little or no effect from the proposed ballot as the terminology "suspension" is not currently used by our Province.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Support

**NEW YORK**

Support

New York supports the ballot

**NORTH CAROLINA**

Support

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OHIO**

Support

Ohio feels that "suspension" and "revoked" should be defined if in fact there is any distinction between the two terms.

**OKLAHOMA**

Support

**ONTARIO**

Support

Ontario would support the proposed ballot.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**

Support

Even if we are not using the terminology "Suspension" we support the ballot.

**RHODE ISLAND**

Support

**SASKATCHEWAN**

Support

**TENNESSEE**

Support

**VERMONT**

Support

**VIRGINIA**

Support

This ballot should help to clarify this provision.

**WEST VIRGINIA**

Support

**WISCONSIN**

Support

**STPBP #3-2009**  
**Second Comment Period Ending October 8, 2009**

**SUMMARY**

**30 Comments**

**Support: 30**

**Oppose: 0**

**Undecided: 0**

**ALABAMA**

Support

**ALBERTA**

Support

**BRITISH COLUMBIA**

Support

BC is not impacted by this proposal as our legislation already permits the director to not issue a renewal to a suspended carrier.

**CALIFORNIA**

Support

California IFTA staff supports this ballot.

**CONNECTICUT**

Support

We support this ballot. Renewal privileges for suspended accounts should be withheld (until the suspended status is resolved) in the same fashion as revoked, cancelled, delinquent, and deficient accounts.

**IDAHO**

Support

Idaho does not use the "suspended status" option for its IFTA licensees. But if a jurisdiction does use that option, a "suspended" licensee should not be able to renew an IFTA license until the issue that caused the suspension is resolved.

**ILLINOIS**

Support

**INDIANA**

Support

**KANSAS**

Support

**MANITOBA**

Support

Manitoba supports this ballot.

**MASSACHUSETTS**

Support

**MISSISSIPPI**

Support

**MONTANA**

Support

Montana supports

**NEVADA**

Support

Nevada supports passage of this ballot. Currently, if a carrier has only been 'suspended' but not revoked, certain member jurisdictions can renew the carrier and issue an IFTA license/decals to that carrier, enabling a 'suspended' carrier to travel through any jurisdiction. Carriers under suspension from a jurisdiction should be required to resolve the suspension prior to renewing their account with any jurisdiction. If a carrier has been suspended, Nevada does not renew the carrier.

**NEW BRUNSWICK**

Support

New Brunswick would experience little or no effect from the proposed ballot as the terminology, "suspension", is not currently used by our Province.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Support

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OKLAHOMA**

Support

This ballot provides much needed clarity to the idea that licensee's who are not compliant with their obligations under the agreement are prohibited from renewing their license until they become compliant.

**ONTARIO**

Support

Ontario would support the proposed ballot.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**

Support

Even if we do not use the terminology "Suspension" we still support this ballot.

**UTAH**

Support

Utah agrees that a carrier who is suspended should not be renewed.

**VIRGINIA**

Support

**WASHINGTON**

Support

**WEST VIRGINIA**

Support

**WISCONSIN**

Support

**FOR VOTE BY DECEMBER 31, 2009**



**IFTA FULL TRACK FINAL BALLOT PROPOSAL  
4-2009**

**Sponsor**

IFTA, Inc. Board of Trustees

**Date Submitted**

March 2, 2009

**Proposed Effective Date**

Upon Passage

**Manual Sections to be Amended** (January 1996 Version, Eff. July 1, 1998, as revised)

IFTA Articles of Agreement	R1600 Amendments
	R1800 Administration
	R1810 International Fuel Tax Association, Inc.

**Subject**

Establishing the Clearinghouse Advisory Committee as a Standing Committee

**History/Digest**

At the Fourth Quarter 2003 meeting of the IFTA, Inc. Board of Trustees, the Board, by Motion, created the Clearinghouse Advisory Committee as a special Committee of the Board. The Clearinghouse Advisory Committee (CAC) was created to provide technical guidance as well as recommendations from users regarding structure and components of the IFTA, Inc. Clearinghouse (Clearinghouse) established by the IFTA Articles of Agreement, Section R2110. The purpose of the CAC is to enhance membership in, and use of, the Clearinghouse in the administration of the IFTA.

The Committee was instrumental in developing the Clearinghouse field definitions, the Funds Netting Rules, Funds Netting Calendar, and the Clearinghouse User Documentation. With the passage of Ballot 1-2008 the Clearinghouse will begin to facilitate the electronic exchange of data and funds among Clearinghouse participants which in turn will ultimately increase the committee's responsibilities to ensure that the data in the Clearinghouse is accurate and that additional functionality is added when necessary.



The CAC will provide quality control on a regular basis. Because of the added and increased responsibilities the CAC membership will be expanded. The Committee meets on a monthly basis via conference call and this will continue. Additional calls may be added as responsibilities increase.

**Intent**

The intent of this ballot is to create the Clearinghouse Advisory Committee as a standing committee of the International Fuel Tax Agreement and to authorize the committee to propose ballots.

**Interlining Indicates Deletion; Underlining Indicates Addition**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

**ARTICLES OF AGREEMENT**

**\*R1600 AMENDMENTS**

Proposals for amendment of the Agreement, Procedures Manual, or Audit Manual may be made by any member jurisdiction, the Audit Committee, the Agreement Procedures Committee, the Clearinghouse Advisory Committee, the Law Enforcement Committee, the Program Compliance Review Committee or the Board of Trustees of the Association.

**ARTICLES OF AGREEMENT**

**R1800 ADMINISTRATION**

**\*R1810 INTERNATIONAL FUEL TAX ASSOCIATION, INC.**

***[SECTION .100 REMAINS UNCHANGED]***

***[SECTIONS .200.010 THROUGH .060 REMAIN UNCHANGED]***

**.070 Clearinghouse Advisory Committee**

There is established a Clearinghouse Advisory Committee which has the responsibility of advising the Board and the Executive Director of IFTA, Inc. of business rules for the operation of the Clearinghouse, ensuring the Clearinghouse operates within the IFTA requirements, suggesting enhancements to the Clearinghouse, proposing ballots, and serving as a technical resource for membership.

***[SECTIONS .300, .400 AND .500 REMAIN UNCHANGED]***

**NO REVISIONS FOLLOWING THE SECOND COMMENT PERIOD**

**IFTA FULL TRACK FINAL BALLOT PROPOSAL 4-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
ALABAMA	1		1	
ALBERTA	1		1	
ARIZONA	1		1	
ARKANSAS	1		1	
BRITISH COLUMBIA	1		1	
CALIFORNIA	1		1	
COLORADO	1		1	
CONNECTICUT	1		1	
DELAWARE	1		1	
FLORIDA	1		1	
GEORGIA	1		1	
IDAHO	1		1	
ILLINOIS	1		1	
INDIANA	1		1	
IOWA	1		1	
KANSAS	1		1	
KENTUCKY	1		1	
LOUISIANA	1		1	
MAINE	1		1	
MANITOBA	1		1	
MARYLAND	1		1	
MASSACHUSETTS	1		1	
MICHIGAN	1		1	
MINNESOTA	1		1	
MISSISSIPPI	1		1	
MISSOURI	1		1	
MONTANA	1		1	
NEBRASKA	1		1	
NEVADA	1		1	
NEW BRUNSWICK	1		1	
NEW HAMPSHIRE	1		1	
NEW JERSEY		1		1
NEW MEXICO	1		1	
NEW YORK	1		1	
NEWFOUNDLAND	1		1	
NORTH CAROLINA	1		1	
NORTH DAKOTA	1		1	
NOVA SCOTIA	1		1	
OHIO	1		1	
OKLAHOMA	1		1	
ONTARIO	1		1	
OREGON	1		1	
PENNSYLVANIA	1		1	
PRINCE EDWARD ISLAND	1		1	
QUEBEC	1		1	
RHODE ISLAND	1		1	
SASKATCHEWAN	1		1	

**IFTA FULL TRACK FINAL BALLOT PROPOSAL 4-2009  
VOTING RESULTS**

JURISDICTION	LANGUAGE		EFFECTIVE DATE	
	YES	NO	YES	NO
SOUTH CAROLINA	1		1	
SOUTH DAKOTA	1		1	
TENNESSEE	1		1	
TEXAS	1		1	
UTAH	1		1	
VERMONT	1		1	
VIRGINIA	1		1	
WASHINGTON	1		1	
WEST VIRGINIA	1		1	
WISCONSIN	1		1	
WYOMING	1		1	
<b>TOTALS</b>	<b>57</b>	<b>1</b>	<b>57</b>	<b>1</b>

**Bold font in the voting total columns and shading indicate that the jurisdiction did not vote.**

**Failure to vote for the ballot language counts as a "No" vote.**

**Failure to vote for the alternative effective date counts as a "No" vote.**

**Number of "YES" votes necessary to pass: 44**

**Effective Date: January 1, 2010**

**LANGUAGE:**

NUMBER OF "YES" VOTES RECEIVED: **57**

NUMBER OF "NO" VOTES RECEIVED: **1**

NUMBER OF VOTES NOT RECEIVED: **0**

**RESULT: PASSED**

**ALTERNATIVE EFFECTIVE DATE:**

NUMBER OF "YES" VOTES RECEIVED: **57**

NUMBER OF "NO" VOTES RECEIVED: **1**

NUMBER OF VOTES NOT RECEIVED: **0**

**RESULT: PASSED**

**Ballot Intent:**

**The intent of this ballot is to create the Clearinghouse Advisory Committee as a standing committee of the International Fuel Tax Agreement and to authorize the committee to propose ballots.**

**FTPBP #4-2009**  
**First Comment Period Ending May 22, 2009**

**SUMMARY**

45 Comments

Support: 43

Oppose: 1

Undecided: 1

**ALABAMA**

Support

**ALBERTA**

Undecided

**ARIZONA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports making this committee a standing committee. We recommend the following language revision:

"There is established a Clearinghouse Advisory Committee which has the responsibility of advising the Board and the Executive Director of IFTA, Inc. of business rules for the operation of the Clearinghouse, ensuring the Clearinghouse operates within the IFTA requirements, suggesting enhancements to the Clearinghouse, and serving as a technical resource for membership."

**COLORADO**

Support

**CONNECTICUT**

Support

**DELAWARE**

Support

**IDAHO**

Support

**ILLINOIS**

Support

**INDIANA**

Support

**IOWA**

Support

**KANSAS**

Support

**MAINE**

Support

With the advent of funds netting, the importance of the clearinghouse warrants making the Clearinghouse Advisory Committee a standing committee. The CAC was created as an ad hoc committee in 2003, and has been working continually since that time.

**MANITOBA**

Support

**MARYLAND**

Support

**MASSACHUSETTS**

Support

**MICHIGAN**

Support

**MINNESOTA**

Support

Since the organization is progressing toward fuel tax funds netting, a logical next step for the committee is the evolution to a standing committee. The committee needs to be a major player in the deployment of funds netting.

**MISSISSIPPI**

Support

**MISSOURI**

Support

**MONTANA**

Support

**NEBRASKA**

Support

**NEVADA**

Support

Nevada supports passage of this ballot. Elevating the IFTA Advisory Clearinghouse Committee from an Advisory Committee to a standing Committee is an important step forward towards full implementation of funds netting through the Clearinghouse.

**NEW BRUNSWICK**

Support

New Brunswick supports this ballot.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Oppose

**NEW YORK**

Support

New York supports the ballot.

**NORTH CAROLINA**

Support

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OHIO**

Support

**OKLAHOMA**

Support

**ONTARIO**

Support

Ontario would support the proposed ballot. The board may also want to consider adding the Clearinghouse Advisory Committee as a committee that can propose amendments, as provided in Section R1600.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**

Support

We support this ballot despite the fact that we are not part of the Clearinghouse.

**RHODE ISLAND**

Support

**SASKATCHEWAN**

Support

SK strongly supports this ballot.

**TENNESSEE**

Support

**VERMONT**

Support

**VIRGINIA**

Support

This change recognizes the ongoing importance of this Committee to the Clearinghouse.

**WEST VIRGINIA**

Support

**WISCONSIN**

Support



**FTPBP #4-2009**  
**Second Comment Period Ending October 23, 2009**

**SUMMARY**

**Comments: 35**  
**Support: 35**  
**Oppose: 0**  
**Undecided: 0**

**ALABAMA**

Support

**ALBERTA**

Support

**ARIZONA**

Support

**BRITISH COLUMBIA**

Support

**CALIFORNIA**

Support

California IFTA staff supports this ballot.

**CONNECTICUT**

Support

We support this ballot. With funds netting and other enhancements making the Clearinghouse even more critical to the members than it already is, it makes sense to formally recognize this committee as a standing committee of the Agreement.

**GEORGIA**

Support

**IDAHO**

Support

The electronic exchange of data & money has become an essential part of the way the IFTA membership exchanges the fuels taxes we collect on behalf of one another. Establishing the Clearinghouse Advisory Committee as a standing committee with the ability to propose ballots, is a necessary step to ensure the membership has a working group for technical assistance and oversight to make the 'funds netting' concept work for the good of the membership.

**ILLINOIS**

Support

**INDIANA**

Support

**KANSAS**

Support

**MANITOBA**

Support

**MARYLAND**

Support

**MASSACHUSETTS**

Support

**MINNESOTA**

Support

Since the organization is progressing toward fuel tax funds netting, a logical next step for the committee is the evolution to a standing committee. The committee needs to be a major player in the deployment of funds netting.

**MISSISSIPPI**

Support

**MONTANA**

Support

Montana supports

**NEBRASKA**

Support

**NEVADA**

Support

Nevada supports passage of this ballot. Due to the increase in responsibilities as the Clearinghouse funds netting is fully implemented, elevating the IFTA Advisory Clearinghouse Committee from an Advisory Committee to a Standing Committee is an important step forward.

**NEW BRUNSWICK**

Support

New Brunswick supports this ballot.

**NEW HAMPSHIRE**

Support

**NEW JERSEY**

Support

**NORTH DAKOTA**

Support

**NOVA SCOTIA**

Support

**OKLAHOMA**

Support

**ONTARIO**

Support

Ontario supports the proposed ballot.

**OREGON**

Support

**PENNSYLVANIA**

Support

**PRINCE EDWARD ISLAND**

Support

**QUEBEC**

Support

We support this ballot.

**TEXAS**

Support

**UTAH**

Support

**VIRGINIA**

Support

**WASHINGTON**

Support

**WEST VIRGINIA**

Support



observed and that a calculated credit must be honored regardless of its basis. There are other members who believe that jurisdictional tax should not be refunded or credited when the records do not permit a verification of the true tax liability in said jurisdiction. The general opinion within the auditing community is that the Agreement does not make clear the authority of a member jurisdiction to deny generated tax credits which are the result of a review of records that are either inadequate or do not comply with the Agreement. There are sections of the governing documents that either define recordkeeping requirements or allude to such authority (R700, R1100, R1210.100.015, P160, P530, P670.500, A540.200, A550, A730). Although several of the aforementioned sections provide for the withholding of refunds when the payment of tax is deficient or delinquent, the sections do not make it clear that such withholding may take place as a result of an audit.

While there are substantial differences between the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA), there is sufficient commonality in the records maintenance requirements placed upon the licensee (registrant); particularly in the area of distance accrual recordkeeping. The IRP has clearly stated provisions that allow a member jurisdiction to deny generated credits that are the result of a review of records that are deemed inadequate or non-compliant. It cannot be denied that the distance records used as the basis for vehicle apportionment fees (IRP) are the same records that are used to accrue distance for total and jurisdictional distance for IFTA. Moreover, these same records ultimately are used in the calculation of the fleet miles per gallon or kilometers per liter factor; thus, impacting the tax liability due each member jurisdiction. If the miles per gallon or a kilometer per liter factor is based on inadequate or non-compliant records, the accuracy of the resultant tax due becomes questionable. Inasmuch as the records are deemed inadequate under the IRP, thereby allowing a member jurisdiction to deny any calculated credits, should not the IFTA member jurisdictions have the same authority?

**Intent**

The intent of this ballot is to amend the IFTA governing documents to clarify the member jurisdictions authority to deny any calculated credits that are the result of a review of inadequate, non-compliant, or absent records.

1 Interlining Indicates Deletion; Underlining Indicates Addition

2  
3 **AUDIT MANUAL**

4  
5 **\*A550 INADEQUATE LICENSEE RECORDS/ASSESSMENT**

6  
7 *[Sections A550.100 through A550.200 remain unchanged]*

8  
9 **A550.300 Non-Compliant Distance Records**

10  
11 If the licensee's records are non-compliant with the recordkeeping provisions stated in Procedures  
12 Manual Sections P500 through P670, or are unable to support any tax return filed by the licensee, the  
13 base jurisdiction shall have the authority to hold the member jurisdictions harmless by accepting the  
14 individual jurisdictional taxes as reported by the licensee.

15  
16 This does not preclude the ability of the base jurisdiction to make pre or post audit adjustments for  
17 differences between reported and audited distance in jurisdictions where verifiable differences in distance  
18 is found; or the use of additional actions as provided for in Section A550.100 and A550.200.

19  
20  
21  
**WITHDRAWN**

# **FTPBP #5-2009**

## **First Comment Period Ending May 22, 2009**

### **SUMMARY**

**49 Comments**

**Support: 9**

**Oppose: 27**

**Undecided: 12**

### **ALABAMA**

Oppose

We support ballot language to require jurisdictions to deny credits for non-compliant records; however, we do not support ballot language that would require follow-up examinations of licensees.

### **ALBERTA**

Undecided

Language of the ballot is confusing. A penalty to the licensee for poor record keeping may be simpler.

### **ARIZONA**

Oppose

### **ATA**

Oppose

**STRONGLY OPPOSE**

Commenting on this proposal is to a great extent useless since, except for a few particulars, the ballot is so poorly drafted it is impossible to know what it means. It should be rejected in its current form for that reason alone. The comments that follow are largely in response to the concepts set out in the introductory language to the ballot.

The stated intent of the proposal is to attempt to legitimize a practice – the denial of fuel tax credits for noncompliant records – that’s already established in some jurisdictions. There is currently no justification for this practice anywhere in IFTA, and there is strong reason to suppose the denial of substantiated fuel tax credits to be unconstitutional. The supposed analogy with IRP in this regard is mistaken: payment of a registration fee represents the purchase of a privilege to operate and is very different legally from reporting a fuel use tax, which is a complement to the taxes levied on the purchase of fuel.

Even if the denial of credits were legal, the temptation would be strong for auditors to abuse this power to inflate assessments and to force inequitable settlements on IFTA licensees. This practice will inevitably involve IFTA in scandal and controversy.

The proposal draws a clear distinction between noncompliant records and inadequate records. For what purpose? If records are adequate for an auditor to assess the accuracy of filed tax reports, what if those records fail to comply, especially in irrelevant detail, with some arbitrary criterion? See FTPBP 6-2009 in this regard, for the two proposals must be read together. This

proposal, especially if the changes suggested by Ballot 6 are adopted would, in effect, relieve jurisdictions from doing compliance audits and allow them simply to look for noncompliance in a licensee's paperwork and write up the resulting assessments.

The proposal is to be effective upon passage. This leaves licensees no time to adjust their record keeping practices before they're audited under the new rules. There is not even a pretense of fairness in this.

It is said that IFTA Commissioners overwhelmingly favor this proposal. Since no one can know just what the proposal means, this is implausible. A glance at the Audit Committee's survey and the answers to it shows that the statement is also inaccurate.

The proposal's six-month waiting period, whatever exactly it may mean, will be impossible to administer in practice.

The penalties that IFTA already provides for licensees, whose records are inadequate to support their tax returns, are strong and sufficient: This proposal is not only dangerous for IFTA, but unnecessary.

### **BRITISH COLUMBIA**

Undecided

BC supports the concept of the ballot but finds that the language of the ballot is confusing.

### **CALIFORNIA**

Undecided

This ballot may have unintended consequences. California IFTA staff would like to hear the discussion at the Annual Business Meeting before taking a position on this ballot.

### **COLORADO**

Undecided

Colorado supports the concept of this ballot. There seems to be some concerns about the language in the second paragraph. Perhaps eliminating the sentence, "The licensee shall have six months from the issuance of the Licensees Audit Report to come into Compliance....." and changing the second sentence to read "Failure to provide accurate records at the time of the audit will result in a Best information Audit.....", would clear up some confusion.

The articles of the agreement already have a records requirement for the carrier and the audit manual requires that the carrier be given 30 advance notice of the audit. If the carrier does not have the proper documentation at the time of the audit, they can appeal the BIA audit finding through the individual jurisdictions appeal process.

### **COMDATA**

Oppose

It is abundantly clear that the intention of these two ballots is to limit the auditors' discretion when analyzing taxpayers' records. Reasonableness would no longer be considered a mitigating factor in formulating audit assessments.



Technology utilized in the transportation industry for mileage reporting has experienced tremendous strides and it is only appropriate for audit procedures utilized in the collection and analysis of data to be equally efficient and effective.

Recognizing that any data collection process' integrity is compromised by human intervention, handwritten trip sheet provided by a driver is the least reliable source of information. GPS based data collection for mileage reporting is widely used throughout the industry and offers a level of accuracy and efficiency far superior to hand written driver reports.

The use of GPS based data collection for mileage reporting has made the IFTA requirement for beginning and ending odometer readings for each trip obsolete. Using a GPS system, the carrier is able to take continuous GPS position readings at set intervals and calculate actual mileage traveled based on such position readings. Based on the way GPS technology works, a carrier should be considered compliant without recording beginning and ending odometer readings for each traditional trip.

Any requirement of mandatory enforcement of the odometer requirement in connection with a GPS based data collection system is an attempt to hijack the audit function from that of a compliance review to that of revenue generation.

In addition, allowing a jurisdiction to deny credits based on a failure to provide beginning and ending odometer readings when the carrier is using a GPS based data collection system does nothing to promote accurate mileage tax reporting, and is a further attempt to move the audit function from compliance to revenue generation.

### **CONNECTICUT**

Support

We do not believe that state tax money should be refunded when the taxpayer's records do not permit verification that the taxpayer is entitled to the refund or credit.

### **DELAWARE**

Oppose

### **IDAHO**

Oppose

Idaho opposes this ballot for many of the reasons already stated by other jurisdictions and because of the confusing language found in lines 16-20 of the ballot. Idaho can not support ballot language that requires a 6-month follow-up examination or audit of the licensee. Jurisdictions do not have the time and resources to conduct follow-up compliance activities due to an audit. All issues identified while conducting the licensee's audit should be addressed in the initial audit result / report.

### **ILLINOIS**

Oppose

Comments from our Audit Administration:

We don't agree with the "licensee shall have six-months from the issuance of the Licensee Audit Report to come into compliance with the provisions of Procedures Manual Sections P500 through P670. Failure to comply within the prescribed timeframe will result in the issuance of a Best Information Audit (BIA) whereas true liability cannot be established; and any jurisdictional credits

or refunds resulting from adjustments made to the reported distance and/or fuel shall be denied by the base jurisdiction."

The way we read that is we would have to wait six-months before finalizing an audit where the taxpayer isn't providing information or doesn't have information available. This may also prevent assessment issuance when the statute of limitations is a factor.

Adding more "shall"s to the agreement is bad enough on its own but then allowing a noncompliant TPer 6 months to comply is not fair or equitable to those who are compliant.

The last sentence in the ballot does nothing to offset the preventions in the first paragraph.

We can not legally allow a taxpayer to knowingly remain noncompliant for up to 6 months yet this ballot would expose jurisdictions to noncompliance findings for taking action against a noncompliant TPer within the six month time frame.

### **INDIANA**

Oppose

Indiana does not support this ballot in its current format. Only after significant modification would Indiana support this ballot.

### **Industry Advisory Committee**

Oppose

STRONGLY OPPOSE

As stated in A100 of the Audit Procedure Manual: "The purpose of these guidelines is to establish a uniform procedure for International Fuel Tax Agreement (IFTA) jurisdictions to follow in establishing jurisdiction audit procedures, employing and supervising audit staff, planning and conducting audits, and reporting audit findings." It is not the purpose to introduce a new concept to the Agreement. And here we are with a "non-compliant record", which is not referenced or defined in the Agreement, and is not defined in this ballot (and do not look to ballot #6, you will not find it there either). What is inadequate? Should there not be a question of substance, or quality, or impact? Do we ignore the concept of accurate documentation and focus instead on finding fault with the form?

And do not be fooled with the phrase: "Overwhelmingly, the responding Commissioners supported..." Only 25 Tax Commissioners/Asst. Commissioners responded to the survey, and as few as 10 or 11 may have actually supported the language of the questions, depending on which question you are attempting to justify.

It should be and has been the purpose of an audit to verify the accuracy of the tax returns filed by the licensee; yet this ballot abandons that notion in favor of locating a record that is "non-compliant". The concept of auditing for accuracy becomes irrelevant. It does not have to have any impact on the accuracy of the tax returns filed, it does not have to have any impact on the legitimate and verified credits due a licensee for the overpayment of taxes to a jurisdiction; all a non-compliant record need do is exist, and the credit "shall be denied". No room for common sense, no room for technology, no room for accuracy. This directly contradicts A540.400 of the APM: "...The auditor must use discretion when verifying the licensee's records. All documentation required to be maintained in accordance with Section P540 of the IFTA Procedures Manual, and any other records used by the licensee to substantiate its distance

traveled, must be considered by the auditor(s) in determining an acceptable distance reporting system and the accuracy of reported distance traveled.”

The 6 month waiting period makes no sense. Do you really want to re-visit every audit after 6 months? And, by the way, by this provision **every single jurisdiction** will be faced with a non-compliant Peer Review for failing to meet your 3% audit minimum. You will spend the first 6 months of the calendar year issuing 6 month notices (no licensee will be perfect all the time for a 4 year audit period). You will spend the 2<sup>nd</sup> half of the year re-visiting the audits for the 1<sup>st</sup> half of the year. Even if you have the staffing to do this, every audit begun after June 30<sup>th</sup> will not be completed until the next calendar year.

This ballot is absolute, with no discretionary power, left to the jurisdictions. Licensees who have made an honest effort to report their mileage correctly and pay the tax due deserve the opportunity to prove their records are accurate, without any capricious and arbitrary criterion. It is a contradiction to the concept behind uniformity and fairness in the administration of motor fuel taxes and should be readily dismissed as inappropriate, poorly written and unnecessary.

### **IOWA**

Oppose

Iowa does not support this ballot as it is written. Iowa agrees there should be a provision to disallow credits in IFTA audits where records are found to be non-compliant, so that IFTA and IRP rules will be consistent. However, the way it is written now, it looks like there is going to be a lot of time spent in tracking and doing re-audits.

### **KANSAS**

Undecided

Kansas has concerns that this ballot may have unintended consequences. Kansas suggests that the IFTA Audit Committee and Board request a review of this ballot by the IFTA Attorney's Section Committee.

### **MAINE**

Support

### **MANITOBA**

Support

Our IFTA auditors support this ballot.

### **MARYLAND**

Undecided

### **MASSACHUSETTS**

Undecided

### **MICHIGAN**

Oppose

Our audit and processing systems are driven by miles and gallons. The ballot does not address a method for denying calculated credits. Should we “freeze” the MPG by increasing fuel usage, thereby magnifying the deficiencies to jurisdictions where miles have increased? Will tax paid gallons be reduced to credit jurisdictions to eliminate credits (even though the taxpayer can substantiate fuel purchases)? Both of these options require “falsifying” known data on the

taxpayer returns. How will audited return data be sent to the Clearinghouse if we simply adjust tax and the return doesn't calculate correctly? It seems that this will require sending a supplement to the Clearinghouse transmittal with audited return data – something we should avoid.

The Overview speaks of audited values that result in an increase to MPG. The ballot proposal does not contain this limitation and could be used to deny credits regardless of changes to MPG. If distance records are non-compliant and fuel records are in compliance, is it the intent of the proposal to authorize denial of credits resulting from audit changes to tax paid gallons? In audits where records are non-compliant but all available information is adequate to make a proper determination of tax for each jurisdiction, is the intent of the ballot to authorize denial of credits?

The third paragraph of the proposal appears to allow the auditor discretion in applying the authority granted in the first paragraph. Since the first paragraph does not require any action by the auditor, why is paragraph three necessary?

The extreme ambiguity of the second paragraph is evidenced by numerous comments from others. Jurisdictions already have authority to conduct follow up audits at their discretion. There is no need for this provision.

### **MINNESOTA**

Oppose

The ballot proposal language seems to conflict with the intent. The language is confusing especially lines 16-20 which leads to interpretation defeating the purpose of uniformity and consistency. Lines 16 to 20 will be very difficult to administer to ensure compliance.

Further discussions are needed for a resolution to a tax assessment for "inadequate non compliant" record keeping. There are currently various interpretations in the community in determining and defining "inadequate" and/or "non compliant" taxpayer records.

The language is ahead of its time as we need to step back, discuss and research this issue. In addition, Minnesota has a concern with the legality of this proposed language and being able to defend this action in tax court.

In this industry, jurisdictions face daily unique situations, conditions, and circumstances that do not fit the mold. This language has the potential to take away common sense, judgment and discretion of the auditor. Denying credit per tax line could result in unnecessary complications to the audit tax netting procedure.

### **MISSISSIPPI**

Oppose

This ballot as written would require jurisdictions to conduct another audit of the licensee after two quarters returns have been filed to verify compliance. This would place an unnecessary burden on the jurisdiction and the carrier. Also, in times when jurisdictions have limited resources, it could affect the number of audits a jurisdiction conducts.

### **MISSOURI**

Oppose

Missouri supports the intent of this ballot and agrees it is a good idea; however, the wording does not convey the intent. We suggest the committee review the language.

### **MONTANA**

Oppose

Language of the ballot is confusing. The six month waiver process would, as written, seem to require additional reviews six months after the original review, which would equate to additional resources.

### **NEBRASKA**

Oppose

Although Nebraska agrees that the IFTA agreement needs to address penalties for bad records, we do not support the language in this ballot.

### **NEVADA**

Support

Nevada supports passage of this ballot. Failure to maintain compliant records should not be rewarded with a refund from an affected jurisdiction. A tax refund should only be allowed if the carrier has compliant documentation from which the auditor can determine accurate routes and distance. A member jurisdiction should not be compelled to refund fuel taxes to a non-compliant licensee.

### **NEW BRUNSWICK**

Oppose

If a licensee is found to be in non-compliance, New Brunswick would assess them immediately and deny any credits until supporting documentation can be obtained. New Brunswick supports the concept and intent of the ballot, however the proposed wording (line 13-14) does not support the intent. The wording as it currently appears, allows the licensee to be held harmless. New Brunswick requires the continued ability to deny credits immediately, after six months we would then revisit to ensure compliance.

### **NEW HAMPSHIRE**

Undecided

Would like the audit committee to rework the ballot language to remove some of the ambiguity.

### **NEW JERSEY**

Oppose

### **NEW YORK**

Oppose

We do not support the ballot. We see more disputes coming out of this proposal that would outweigh the benefits of eliminating "ambiguity" of current Agreement as it pertains to denying generated tax credits.

### **NORTH CAROLINA**

Oppose

This ballot seems to go much further than its stated intent of clarifying that refunds do not have to be given when records are not in compliance. Another concern is that it will be confusing to the

taxpayer to get the original Audit Report with no changes and then six months later get a BIA for the same period that they receive a no change audit.

**NORTH DAKOTA**

Support

ND's audit staff supports this ballot.

## **NOVA SCOTIA**

Support

We support this ballot because we already deny credits when doing an audit/assessment. What's different about denying the same type of "credit" in a refund (and thus the refund itself)? The 6 month time requirement is for the TAXPAYER. This does not mean we have to do an audit within 6 months, but rather the taxpayer must be compliant within 6 months. You can re-audit them in a year or two years, but I would ask jurisdictions to consider why they wouldn't follow-up on a seriously non-compliant taxpayer at the earliest possible time. There is empirical evidence in tax administration that shows a taxpayer that is non-compliant is highly likely to continue to be non-compliant, even after an initial audit. You have to audit them again and again until they prove they are compliant. But this ballot does not require the jurisdictions to audit within 6 months, so I am not clear as to where the concern is here with some of the jurisdictions.

## **OHIO**

Undecided

Ohio feels there should be a mechanism that would allow the auditor to deny credit (as currently exists in the IRP) in those cases where the records are marginal. We do not believe the jurisdiction should be required to wait 6 months in order to use this tool. Just for clarification, we are talking primarily about miles and not fuel credits; fuel credits have always been denied when a fuel receipt could not be provided.

## **OKLAHOMA**

Oppose

Ballot 5 paragraph one, if read literally, would give a jurisdiction the authority (if taxpayer records are deemed non-compliant), to accept the return as filed and take no action. Surely, this was not the intent of the drafters but it is what a plain reading of the language leads one to conclude.

Paragraph 2 appears to require some kind of re-audit or revisitation at the six month point. "Failure to comply within the prescribed timeframe *will result* (emphasis added) in the issuance of a Best Information Audit (BIA)...". We agree with other jurisdictions who have taken issue with this provision. There are potential statute of limitation issues, and additional burdens on the base jurisdiction that make this provision unpalatable.

## **ONTARIO**

Undecided

Although Ontario understands the reasons behind the concept of denying credits when a licensee's records are non-compliant, we have concerns with the additional resources needed to manage and conduct follow-ups. Also, this ballot does not clarify when an audit would be considered complete and the issue of materiality when the liability amounts are minimal.

## **OREGON**

Oppose

Ballot proposal number 5, read literally, would deny any credits for tax paid on fuel purchases to an IFTA licensee if an audit found the licensee's records to be less than perfect. Confusingly worded. Does it mean we have to re-audit in 6 months? We can't count a 6-month audit period as an audit. It states what to do if licensee fails to comply but doesn't state what to do if they do come into compliance.

## **PENNSYLVANIA**

Oppose

Ambiguous language and/or intent.

Taking away discretion from the on-site auditor is not a direction we would like to see pursued for the best interest of IFTA.

## **PRINCE EDWARD ISLAND**

Oppose

We are opposed to this ballot because the wording in paragraph one does not provide a clear indication of the intention of the paragraph.

We are also concerned that the wording in paragraph two could be interpreted to mean that the Jurisdiction must re-audit the carrier after six months. This would put a strain on our limited audit resources and negatively impact our ability to audit a representative cross section of the trucking industry on PEI. In addition, the six-month period may not provide sufficient account records to generate an audit finding of compliance.

We do support the idea of denying credits when a carrier does not maintain adequate records. However, this ballot needs to be rewritten.

## **QUEBEC**

Oppose

We don't need to receive further e-mails to interpret this ballot. It should be clarified and then we vote. Lots of confusion.

## **RHODE ISLAND**

Support

## **SASKATCHEWAN**

Undecided

SK supports additional tools to deal with carriers who repeatedly fail to maintain acceptable records. However, we are concerned that a jurisdiction would be allowed to accept returns that are not supported by records. If the carrier comes into compliance after the six month period, is the jurisdiction still required to complete a BIA on the original audit period as provided by A550.200? The ballot should address this.

## **TAX TRAX SERVICES LLC**

From: John Jabas

If all else fails highway robbery will prevail and the untrained IFTA auditors will assess monstrous audit assessments in lieu of perceived complete and 100% accurate records.

That's how I read this ballot! It's not bad enough to level a 4 mpg or charge excessive interest rates of \*12%. Now you want to deny all fuel credits to further "hose" the industry!

The current IFTA audit guidelines are sufficient if proper audit training is provided.



\* Note: Canadian interest rates properly charged

**TENNESSEE**

Oppose

Tennessee would not support this ballot based on the statement "The licensee shall have six-months from the issuance of the Licensee Audit Report to come into compliance with the provisions of Procedures Manual Sections P500 through P670." From this change a jurisdiction would be required to do follow-up to the original audit to see if the company came into compliance which would put an audit in a pending status for at least six months.

**VERMONT**

Support

**VIRGINIA**

Oppose

The ballot language is unclear and leaves a lot to interpretation. As such we are not certain what impact the ballot would have on jurisdictions and licensees. Like Alabama, we are concerned about the language that appears to require jurisdictions to conduct follow-up compliance evaluations either as part of the initial audit or as a secondary action.

**WEST VIRGINIA**

Support

**WISCONSIN**

Undecided

The audit staff supports the ballot. WI is receptive to the concept and if the ballot can be modified would consider support.



**IFTA FULL TRACK FINAL BALLOT PROPOSAL  
6-2009**

**Sponsor**

IFTA, Inc. Audit Committee

**Date Submitted**

March 10, 2009

**Proposed Effective Date**

Upon passage

**Manual Sections to be Amended**

IFTA Procedures Manual

(January 1996 Version, Effective July 1, 1998, as revised)

P500 Recordkeeping

P540 Distance Records

P600 Electronic Data Recording Systems

P640 Data Collection Requirements

**Subject**

Waiver(s) of routes of travel, beginning and ending odometer readings of the trip, or both.

**Overview:**

In 2007-2008 a survey was conducted among the IFTA Commissioners in each jurisdiction by the Audit Procedures Subcommittee for the IFTA Audit Committee. The purpose of the survey was two-fold. 1) Identify specific areas of the IFTA where ambiguity exists; and 2) Identify what, if any, changes would be supported by the member jurisdictions. Overwhelmingly, the responding Commissioners supported a change to the language regarding the waivers of odometers and/or routes of travel. This proposed ballot responds to the specific concerns and proposed solution identified by the Commissioners.

**History/Digest**

The recordkeeping requirements for distance (i.e. miles or kilometers) defined in Sections P540.200 and P640.100 of the IFTA Procedures Manual provide for the base jurisdiction to waive "route of travel", "beginning and ending odometer or hub-odometer readings of the trip", or both. Member jurisdictions may elect to either enforce the requirement(s) or waive them. Such waivers may be the result of a jurisdictional regulation or policy or on a case by case basis. However, it appears that "written" waivers prior to an audit are rarely, if ever, granted by any jurisdiction.

Therefore, auditors are in essence granting "waivers" during a Best Information Available (BIA) audit. This results in an inequitable enforcement of Agreement standards and mandates within the members'

audit programs; and ultimately results in licensees subject to the same tax laws, accruing fuel use tax liabilities in the same jurisdiction(s) being treated differently.

The use of odometers or hub-odometers to measure distance has a lengthy history. The integrity of the miles per gallon/kilometers per liter factor is dependent on the accuracy of the reported total distance and fuel. Without the maintenance of odometers or hub-odometers, the calculation of the miles per gallon/kilometers per liter factor may not truly reflect the usage rate of fuel thereby compromising the fleet's fuel use, and ultimately the fuel use tax liability in the member jurisdictions. Routes of travel are critical to providing a complete and thorough trail of where the qualified motor vehicle went and how (routes used) they completed the trip itinerary. Using pre-determined routes of travel to complete the tax return does not provide the licensee with a "free pass" for reporting true jurisdictional distance. Routing software is to be used as a tool and failure to use actual routes of travel when completing a tax return subjects the licensee to reporting errors. The routes provide a cross referencing with the accrued and reported distance. The routes taken and the accrued distance of the trip are equally important components of a compliant distance recordkeeping system.

### **Intent**

The intent of this ballot is to amend the IFTA Procedures Manual to require that the licensee maintain either the routes of travel or the beginning and ending odometer/hub-odometer or life to date meter readings of the trip, thereby making the recordkeeping requirements uniform with the IRP Audit Procedures Manual.

It is also intended to establish the difference between compliant records and non-compliant records by the licensee. It is not intended to preclude the base jurisdiction from conducting a Best Information Available (BIA) audit.

WITHHOLD DRAFT

1 Interlining Indicates Deletion; Underlining Indicates Addition

2  
3 **PROCEDURES MANUAL**

4  
5 **P500 RECORDKEEPING**

6  
7 **\*P540 DISTANCE RECORDS**

8  
9 ***[Section P540.100 remains unchanged]***

10  
11 **P540.200** An acceptable distance accounting system is necessary to substantiate the information  
12 reported on the tax return filed quarterly or annually. A licensee's system at a minimum  
13 must include distance data on each individual vehicle for each trip and be recapitulated in  
14 monthly fleet summaries. The base jurisdiction may waive either item (.015 or .020), but  
15 may not waive both items (.015 and .020). Supporting information ~~should~~ shall include:

- 16  
17 .005 Date of trip (starting and ending);  
18 .010 Trip origin and destination;  
19 .015 Route of travel (may be waived by base jurisdiction);  
20 .020 Beginning and ending odometer or hubodometer, or other perpetual life to date  
21 reading of the trip (may be waived by base jurisdiction);

22  
23 ***[Section P540.200.025 through P540.200.050 remain unchanged]***

24  
25 **\*P600 ELECTRONIC DATA RECORDING SYSTEMS**

26  
27 **\*P640 DATA COLLECTION REQUIREMENTS**

28  
29 To obtain the information needed to verify fleet distance and to prepare the "Individual Vehicle Distance  
30 Record", the device must collect the following data on each trip. The base jurisdiction may waive either  
31 item (.015 or .020), but may not waive both items (.015 and .020).

32  
33 **P640.100 Required Trip Data**

- 34  
35 .005 Date of trip (starting and ending);  
36  
37 .010 Trip origin and destination (location code is acceptable);  
38  
39 .015 Routes of travel or latitude/longitude positions used in lieu thereof (may be  
40 waived by base jurisdiction). If latitude/longitude positions are used, they must  
41 be accompanied by the name of the nearest town, intersection or cross street. If  
42 latitude/longitude positions are used, jurisdiction crossing points must be  
43 calculated or identified;  
44  
45 .020 Beginning and ending odometer or hubodometer, or other perpetual life to date  
46 readings of the trip (may be waived by base jurisdiction);

47  
48 ***[Section P640.100.025 through P640.100.045 remain unchanged]***

WITHDRAWN FOLLOWING THE SECOND COMMENT PERIOD

WITHDRAWN

# **FTPBP #6-2009**

## **First Comment Period Ending May 22, 2009**

### **SUMMARY**

**47 Comments**

**Support: 16**

**Oppose: 20**

**Undecided: 10**

### **ALABAMA**

Undecided. Consider language that would create uniformity between IFTA and IRP distance record keeping requirements.

### **ALBERTA**

Support

### **ARIZONA**

Oppose

### **ATA**

Oppose

### **STRONGLY OPPOSE**

This proposal should be read together with Ballot 5. Combined, the two changes would introduce a very different audit regime into IFTA, one that would feature the elimination of true compliance audits in favor of searches for imperfections in IFTA licensees' record keeping systems, and punitive and unjustifiable assessments when these are found.

No set of licensee records will be fully compliant in every respect to any given criterion. Licensees are not in business to keep perfect tax records; nor is the purpose of an IFTA audit to gauge compliant records against some arbitrary standard, when the records are adequate to support the reports filed.

The proposal wholly eliminates the use by an auditor – and an administrator – of common sense and discretion in gauging the accuracy of a licensee's records and tax reports, which is what an IFTA audit is supposed to be about.

In part, this ballot is aimed at carriers that use GPS systems, for which some existing IFTA requirements are unnecessary and are not, perhaps, always observed by licensees. Applied properly, there is no doubt that record keeping based on GPS data is fully adequate for IFTA purposes, and in fact yields more accurate results than driver-created distance and route records. The requirements of this ballot would put licensees, and IFTA, in an unrealistic straightjacket when, as is likely, GPS systems are mandated for some or all of the industry for regulatory purposes.

The record keeping pattern this proposal would require simply does not fit many licensee operations. It applies a rigid mandate that would be burdensome and expensive for many taxpayers – and which is wholly unnecessary to an adequate IFTA audit program.

The Committee says that IFTA Commissioners overwhelmingly favor this concept. A glance at the Committee's survey questions and the answers to them shows the Committee's statement is mistaken.

Effectiveness upon passage gives licensees who could comply no time to do so before being subjected to audits under the new and very different rules. If this is not an oversight on the drafters' part, it is shameful.

It is very evident that strong feelings of distrust of jurisdictions for one another's audit practices underlie these two ballots. IFTA does have some fundamental problems with its overall audit program, but ballots such as this one are not the way to address or to remedy those problems. A more reasoned approach, such as that being undertaken by IRP with respect to Plan audit and compliance, and in which IFTA is beginning to participate, is a better course for IFTA to take.

### **BRITISH COLUMBIA**

Undecided

BC supports the concept of the ballot but cannot support it as it removes all discretions from the individual jurisdiction.

### **CALIFORNIA**

Oppose

California IFTA staff agrees with the comments posted by the jurisdiction of Virginia.

### **COLORADO**

Support

### **COMDATA**

Oppose

It is abundantly clear that the intention of these two ballots is to limit the auditors' discretion when analyzing taxpayers' records. Reasonableness would no longer be considered a mitigating factor in formulating audit assessments.

Technology utilized in the transportation industry for mileage reporting has experienced tremendous strides and it is only appropriate for audit procedures utilized in the collection and analysis of data to be equally efficient and effective.

Recognizing that any data collection process' integrity is compromised by human intervention, hand written trip sheet provided by a driver is the least reliable source of information. GPS based data collection for mileage reporting is widely used throughout the industry and offers a level of accuracy and efficiency far superior to hand written driver reports.

The use of GPS based data collection for mileage reporting has made the IFTA requirement for beginning and ending odometer readings for each trip obsolete. Using a GPS system, the carrier is able to take continuous GPS position readings at set intervals and calculate actual mileage traveled based on such position readings. Based on the way GPS technology works, a carrier should be considered compliant without recording beginning and ending odometer readings for each traditional trip.

Any requirement of mandatory enforcement of the odometer requirement in connection with a GPS based data collection system is an attempt to hijack the audit function from that of a compliance review to that of revenue generation.

In addition, allowing a jurisdiction to deny credits based on a failure to provide beginning and ending odometer readings when the carrier is using a GPS based data collection system does nothing to promote accurate mileage tax reporting, and is a further attempt to move the audit function from compliance to revenue generation.

## **CONNECTICUT**

Support

We believe the information required by this ballot is necessary for adequate administration of an audit program

## **DELAWARE**

Oppose

Auditors should have the flexibility to utilize all available information to determine jurisdictional travel.

## **IDAHO**

Support

## **ILLINOIS**

Oppose

Included in the commentary is the following sentence:

**Therefore, auditors are in essence granting “waivers” during a Best Information Available (BIA) audit.**

The absence of a waiver does not constitute the granting of a waiver.

There is no precedent for using "essence" to determine the granting of any waivers provided by IFTA. Do all vehicles have odometer or hubodometers? If not, how can we mandate such as in "shall include". Discretion and auditor judgment should not be limited in this fashion.

By using "shall" this is one more area for a non-substitutive noncompliance finding.

What's next, limiting the discretion for enforcement officers?

## **INDIANA**

Oppose

Indiana does not support this ballot, because it would take away auditor flexibility when we are auditing carriers. We also support all of the other comments made by the other jurisdictions who oppose this ballot.

## **Industry Advisory Committee**

Oppose

STRONGLY OPPOSE

This is a poorly justified and shallow attempt to impose a draconian administrative burden on the licensees while depriving most jurisdictions of their ability to exercise good and fair judgment in their administration of the Agreement. It implies that this is the will of most Tax Commissioners, when in fact less than half of the Tax Commissioners even responded to the question, and as few as 11 may have actually agreed with the question. And that is after the following instructions for how these questions were to be answered: "Please answer the following questions based upon how your jurisdiction audits motor carriers subject to IFTA." It was not intended to ask what the respondents thought should be the case, but rather what they understood to be the current policy of their jurisdiction. The leap to this ballot was made independent of reality.



The justification for this ballot is that waivers must be written, although there is no requirement for it. It states that this change is necessary for a “compliant distance recordkeeping system”. Up until now the purpose was and should be to determine an accurate distance recordkeeping system, but apparently accurate is no longer deemed relevant.

It assumes that if every trip does not have a beginning and ending odometer, and routes of travel for each trip, then the distance reported cannot be correct. It suspends the auditor's ability to apply common sense, and rejects most technologies that in many cases are more accurate than the tools available to an auditor to confirm the distance reported. It is likely that most everyone can think of several examples where the distance information can be assuredly correct, but would not meet the mandatory requirement that every trip have beginning and ending odometer readings and routes of travel. The vast majority of licensees can be found “non-compliant” by the terms of this ballot, because there is no quantitative minimum standard provided, and it will not matter if their tax returns are supported and accurate.

Also, while the stated ballot intent was to establish the difference between “compliant records” and “non-complaint records”, it does not. You will not find either of those terms anywhere in the proposed language of the ballot. It is implied that if any record does not meet the mandatory requirements for all the information required for each trip, it is then considered “non-compliant”; and that opens up the goodie bag that is Ballot #5. At no time is the accuracy of the reporting process mentioned, or given weight as more important than the “compliant” condition of individual records.

And the second stated intent is to make the “enforcement of same uniform upon the member jurisdictions and licensees”. This ballot mandates this requirement on every jurisdiction. It takes away a jurisdiction's individual right to exercise common sense, to recognize technology that has risen above this tired old process, to understand a licensee's operations and confirm the accuracy of their distance reporting process. I suspect this ballot, in partnership with Ballot #5, will be used to hammer any jurisdiction that does not wish to give up their individual decision making process to follow the extreme expectations of a minority of members who want you to do it their way.

### **IOWA**

Oppose

Iowa does not support this ballot. We feel this ballot probably goes too far in requiring mileage support documentation. By changing ‘should’ to ‘shall’ and then also taking out the “may be waived” for routes traveled, two substantial changes are being made. These changes, in concert, could put unrealistic requirements on some carriers and open jurisdictions to non-compliance findings during compliance reviews.

### **KANSAS**

Support

### **MAINE**

Support

### **MANITOBA**

Support

Our IFTA auditors support this ballot.

### **MARYLAND**

Undecided

### **MASSACHUSETTS**

Undecided

## **MICHIGAN**

Support

This proposal would impose recordkeeping requirements on licensees, but does not require changes in audit practices. When encountering non-compliant records, auditors would continue to have the discretion to exercise professional judgment in determining the adequacy of distance records.

## **MINNESOTA**

Oppose

The ballot intent states "It is also intended to establish the difference between compliant records and non-compliant records by the licensee. Minnesota is not finding either of these terms addressed in the proposed ballot language. The failure to address leaves the language to interpretation therefore negating uniformity and consistency.

Conducting audits requires flexibility to ensure that the carrier, as well as the Member Jurisdictions, are treated fairly and impartially and that each Jurisdiction's auditor has the independence, awareness, and ability to make a reasonable attempt to determine the accuracy of the miles reported, using whatever information is provided by the carrier, knowing that special circumstances can and do arise.

The agreement and audit manual currently has auditing mandates in place such as:

- 1) Prior experience with the licensee or licensees with similar operations, industry averages, records received from other sources, etc (A500).
- 2) Basic procedures to follow while doing a thorough and in-depth analysis of the carrier's internal controls and accounting system, and requirements to report findings and information to the carrier and affected Member Jurisdictions (A600).
- 3) Follow-up procedures to ensure compliance (A700).

These items exist in the Audit Manual and are periodically Peer Reviewed to ensure that all Jurisdictions understand and have established audit compliant programs.

Minnesota does not feel it is prudent and practical to insist that carrier's records include routes of travel and beginning and ending odometer readings without allowing Jurisdictions the flexibility of waiving said requirements. This mandate will remove the flexibility that is necessary in our audit programs to function, develop and evolve with this industry. Jurisdictions may have to pass statutes to use this option, which may or may not be possible in the current political climate.

Since carriers are unable to comply with the recordkeeping requirements, is it time that we revisit the requirements so that taxpayers are able to comply with mandated requirements. Why should we set up taxpayers for failure and huge assessments?

## **MISSISSIPPI**

Undecided

## **MISSOURI**

Undecided

## **MONTANA**

Oppose

Montana would agree to take that language out under P540 but feels that it should be left in under P640. Because of new technology Montana feels it should have the flexibility to waive routes of travel and odometer readings.

### **NEBRASKA**

Oppose

Nebraska agrees that the waiver of both odometer readings and routes of travel, allowed currently in IFTA is unwise. However, we do not support this ballot as written. We would support a ballot that would allow the waiver of either the route of travel OR odometer reading, but not both, similar to the IRP language.

### **NEVADA**

Support

Nevada supports passage of this ballot. The only way to determine true total distance for a trip is with a beginning and ending meter reading. The true tax generated in any jurisdiction can only be determined if the true distance and true route are known. A uniform audit approach for all licensees, compliant and non-compliant, along with standardized requirements, would provide equal treatment of all carriers and a more reliable audit program.

### **NEW BRUNSWICK**

Support

New Brunswick supports this ballot as it is in line with our current practices.

### **NEW HAMPSHIRE**

Undecided

### **NEW JERSEY**

Oppose

### **NORTH DAKOTA**

Support

ND's audit staff supports this ballot.

### **NOVA SCOTIA**

Support

We could support this ballot as long as the "waiver for routes of travel" is left in.

### **OHIO**

Oppose

Ohio believes that jurisdictions should maintain the right to waive these requirements. The IRP allows jurisdictions to waive one or the other but not both. This ballot would not allow for the wavier of either. Ohio may reconsider its position if via points are considered in lieu of routes of travel. While we realize that via points are not always sufficient to reconstruct the movement of the vehicles, many times they are just as effective as routes of travel and should be considered.

### **OKLAHOMA**

Oppose

It is clear there is a need for consistent treatment between the jurisdictions when conducting audits of licensee's with less than perfect records. But this is not the answer. It is too restrictive. This ballot takes away substantially all of a jurisdiction's discretion in such cases.

Oklahoma could support revised language that would allow waivers to be granted for odometer readings OR routes of travel, BUT not both. That seems to be a more reasoned approach.

#### **ONTARIO**

Support

Ontario would support the proposed ballot.

#### **OREGON**

Oppose

Oregon doesn't waive any recordkeeping requirements. If we can do a credible audit with the information provided, even if some elements are missing, we do the audit. We do not consider that to be a waiver of the requirements.

For any state that might currently opt to waive a requirement, this proposal would require any evidentiary submission to include both the routes of travel and beginning and ending odometer readings for the movement. Under this proposal, a licensee's base state could not, as now, waive either requirement.

#### **PENNSYLVANIA**

Oppose

We believe Indiana's comments nailed it.

#### **PRINCE EDWARD ISLAND**

Oppose

Prince Edward Island agrees with the points raised by Nebraska.

#### **QUEBEC**

Undecided

We share the same concerns as British Columbia.

#### **RHODE ISLAND**

Support

#### **SASKATCHEWAN**

Undecided

SK supports the removal of the waivers for record keeping requirements, but believes that the base jurisdiction must have some discretion to use good judgment in individual situations. If a certain recordkeeping element is missing in an audit, the auditor should be required to explain how this deficiency did not affect the accuracy of the consumption reports. Replacing the "should" (line 14 of the proposal) with "shall" seems to remove jurisdictional discretion.

Record keeping waivers have long been a source of confusion. Who can give them? In what format? For what reasons?

#### **TAX TRAX SERVICES LLC**

From: John Jabas

It appears that the IFTA audit committee has lost sight of how these ballot changes to the APM will impact the industry (IFTA & IRP). If the industry and jurisdictions have followed the current guidelines without ballot #6 for 20 plus years I cannot believe this will provide any benefit to the industry except to alienate both parties.

The IFTA & IRP plans need to realize that the plan sections dealing with on-board recording devices and/or GPS tracking need revisions to provide new industry reporting standards (maybe or maybe not).

The on-board recording devices and GPS technology have surpassed the current IFTA/IRP plan guidelines.

The Nebraska joint audit proves that GPS works! The results of GPS and/or automated system mileage/fuel reporting are successfully being audited today!

### **TENNESSEE**

Oppose

Tennessee would not support this ballot as written since there could be some confusion with sections P540.200 and P640.100.

### **VERMONT**

Support

### **VIRGINIA**

Oppose

Virginia feels it is unnecessary to take this flexibility away from the base jurisdiction, particularly in light of how quickly technology is advancing as applies to record keeping and distance reporting systems for the transportation industry. Additionally, as modified it would appear that sections P540.200 and P640.100 would be in conflict. P540.200 would require routes of travel whereas P640.100 would allow latitude/longitude positions in lieu of routes of travel.

### **WEST VIRGINIA**

Support

### **WISCONSIN**

Undecided

This ballot is supported by audit staff. As with ballot 5, we would consider supporting a modified version of this ballot.

**FTPBP #6-2009**  
**Second Comment Period Ending October 23, 2009**

**SUMMARY**

**Comments: 36**

**Support: 12**

**Oppose: 21**

**Undecided: 3**

**ALABAMA**

Undecided

The replacement of "should" with "shall" is a concern. Although this is the same language that is contained in section 401 of the IRP audit procedures manual, this language has created an issue. Based on this language, jurisdictions may unfairly assess the carrier a penalty and/or deny credit if the carrier's distance records do not contain **all** of the required data elements listed in P540.200, even though the carrier's distance records may be acceptable for determining the distance operated. It is suggested that the permissive term "should" be retained and add language that would require the carrier to "maintain necessary records in order to substantiate the accuracy of vehicle movement and the information reported on the tax return."

**ALBERTA**

Support

**ARIZONA**

Oppose

**ATA**

Oppose

ATA strongly opposes FTPBP 6-2009. We recognize as valid the concern of some IFTA auditors that some motor carriers may not be keeping records adequate for an auditor to assess their fuel tax liabilities, and that some IFTA jurisdictions may not be enforcing current IFTA record-keeping requirements stringently enough to address this problem. But the adoption of language such as that proposed by this ballot is no help at all. Other comments to the ballot appear to recognize this as well. In summary, the problems we see include:

- the ballot's elimination of the flexibility and discretion that both IFTA administrators and IFTA auditors need to do their jobs properly;
- the inherent problems with odometer readings, since these devices are not required on all trucks and not all trucks have them, and since odometers are, for reasons of liability, purposely manufactured so as to be inaccurate;
- the failure of the proposed language to define the term "trip" which is not defined elsewhere in the Agreement;
- the obscurity of the phrase "perpetual life to date reading of the trip";
- the potential contradiction in the language proposed for P540.200 on what data must or should be kept and produced for audit; and

- the potential for some jurisdictions, especially in times like these, to employ prescriptive language such as that suggested by this ballot to treat audited licensees unfairly.

We do not assert that problems with IFTA record keeping do not exist; this ballot, however, will not remedy them, and will lead to new and potentially more serious problems for both jurisdictions and the industry.

### **BRITISH COLUMBIA**

Undecided

BC is concerned that the ballot and proposed change removes all audit discretion. The proposed change would revise "should" to "shall" and would apply to all information listed in P540.200 including the items listed from P540.200.025 to P540.200.050 (eg Vehicle Fleet Number or Unit Number). The auditor may be required to find a licensee's records as lacking when sufficient information is available to substantiate the tax return. In addition, the language structure of the proposed change is poor as it states "shall" but then allows for waiver of some items. Perhaps the section could be redrafted to better clarify what is a "shall" and what is a "should" and which items can be waived.

### **CALIFORNIA**

Oppose

California IFTA staff does not support this ballot.

### **CONNECTICUT**

Support

We support this ballot. The revisions made subsequent to the First Comment Period would make the IFTA uniform with the current language in the IRP. This is an important concept since so many jurisdictions conduct both audits at the same time. Certain data elements (meter readings, routes of travel) are critical to the process of verifying distance accruals both as a total and by jurisdiction. The correct data capture of total distance is essential to the verification of the fleet MPG/KPL. This ballot accomplishes the goal of uniformity with IRP, requires that member jurisdictions enforce the data capture of certain elements related to distance, allows for enhanced technologies (ECM's, etc.), and retains the ability of base jurisdictions to exercise sound judgment in the auditing of their IFTA licensees.

### **GEORGIA**

Oppose

### **IDAHO**

Support

Idaho supports this ballot for two reasons. First, the record keeping requirements in this ballot mirror Idaho fuels tax law. So it would be a benefit to Idaho's licensees to have the IFTA governing documents and the Idaho code say the same thing. Second, Idaho is one of the many jurisdictions that conduct joint IRP / IFTA audits. Maintaining uniformity between IRP & IFTA in the record keeping requirements for "routes of travel" and "beginning/ending odometer readings or life to date readings" for a trip, is necessary to minimize the negative impact upon the interstate carriers based in Idaho.

### **ILLINOIS**

Oppose

In the absence of any modification to this ballot and based on the concerns of numerous Jurisdictions, we must continue to oppose this ballot. Included in the commentary is the following sentence: Therefore,

auditors are in essence granting "waivers" during a Best Information Available (BIA) audit. The absence of a waiver does not constitute the granting of a waiver. Do all vehicles have odometer or hubodometers? If not, how can we mandate such as in "shall include". Discretion and auditor judgment should not be limited in this fashion. By using "shall" this is one more area for a nonsubstitutive, noncompliance finding. What's next, limiting the discretion for enforcement officers?

## **INDIANA**

Oppose

### **Industry Advisory Committee**

Oppose

Strongly oppose this Ballot. This ballot is poorly written, contradictory, and does not bring any improvement to the Plan. The History/Digest mentions "written" waivers, although there is no requirement for it in the Plan, and draws a conclusion that is unsubstantiated. The stated intent is "making the recordkeeping requirements uniform with the IRP Audit Procedures Manual." Nowhere in this ballot is IRP mentioned, not in the Overview, and not in the Digest. When you read this ballot, and get to the Intent, you end up asking "So, ...why?" And there is no answer in this document. There really should be some attempt at making the connection, but since this was not the intent of the original Ballot #6, it is understandable that it would be forgotten now. But this draft is badly written.

The second stated Intent is "to establish the difference between compliant records and non-compliant records..." It does not. There is no mention of the word compliant anywhere in the proposed ballot language, and since compliant is not defined, there is no "difference" to be established. And in attempting it, this ballot denies accuracy as the final objective.

The actual ballot changes are contradictory. It says "Supporting information shall include:" right after it says you can waive one or the other. You really should not waive an item and require it in the same sentence.

A "trip" is not defined for this purpose. Is it a day? Is it the time between loading and the first delivery? The last delivery? How about from domicile to return to domicile? Or is it whatever the auditor says it is? You can certainly see the potential for abuse, and not just from an auditor. What are you going to do if one jurisdiction's definition of a trip varies from yours? Will this allow a jurisdiction to challenge the audit findings, or just those where a credit is owed? You should be concerned that this proposed language would allow a jurisdiction to refuse an audit finding because the requirements for every single trip (their definition, and not necessarily yours) is not met, even though the records are accurate.

The flexibility was written into the Plan because they recognized the need to allow for the varieties of the industry. Technology has made it even more necessary. Certainly if you have audited for IFTA you can think of any number of situations where you absolutely knew what the mileage totals were, even though you did not have odometer readings and/or routes of travel for every single trip (whatever that is). There are any numbers of scenarios where cumulative reporting is perfectly accurate. A truck that does local deliveries for a week, and has an odometer reading at the beginning of the week, and one at the end of the week, can show exactly how many miles they traveled. GPS can accomplish the same thing, and still run afoul of this proposed ballot.

A couple of jurisdictions have indicated that this ballot reflects what they already do. **That is the point.** You now have the flexibility, the freedom to exercise your jurisdictions' audit process. This ballot, as confusing, contradictory and incomplete as it is, adds nothing to the Plan. The auditor who is examining the records and supporting documents is in the best position to determine the accuracy of the IFTA report. It is what they do, what they are supposed to do, and they need the flexibility to use common sense incorporating all parts of the supporting documentation. Why would you want to take that away from them?



**KANSAS**

Support

**MANITOBA**

Support

**MARYLAND**

Oppose

Maryland aligns with the MN and UT commentary in opposing this ballot.

**MINNESOTA**

Oppose

Minnesota is concerned that the proposed ballot change removes audit discretion. Minnesota does not feel it is prudent and practical to insist that carrier's records include routes of travel and beginning and ending odometer readings without allowing Jurisdictions the flexibility of waiving said requirements. This mandate will remove the flexibility that is necessary in our audit programs to function, develop and evolve with this industry. The ballot intent states "It is also intended to establish the difference between compliant records and non-compliant records by the licensee. Minnesota is not finding either of these terms addressed in the proposed ballot language. The failure to address leaves the language to interpretation therefore negating uniformity and consistency. Conducting audits requires flexibility to ensure that the carrier as well as the Member Jurisdictions are treated fairly and impartially; and that each Jurisdiction's auditor has the independence, awareness, and ability to make a reasonable attempt to determine the accuracy of the miles reported, using whatever information is provided by the carrier, knowing that special circumstances can and do arise.

**MISSISSIPPI**

Undecided

**MONTANA**

Oppose

Montana opposes this ballot. Montana feels that we should have the flexibility to waive routes of travel and odometer readings. Because of upcoming new technology odometer readings could be more accurate.

**NEBRASKA**

Support

Although this ballot does not address new technologies, in today's world, odometers are still the most accurate method for determining distance traveled. If odometer readings are provided either by the trip, by the week, or by the month, and you have beginning and ending destinations, one can figure total distance, jurisdictional distance and a MPG with a high level of accuracy and confidence. We need some simple standard that will bring uniformity and consistency among auditors. Until GPS is on all trucks and is perfected, all we really have is the most accurate alternative, which is the odometer.

**NEVADA**

Support

Nevada supports passage of this ballot. The only way to determine true total distance for a trip is with a beginning and ending meter reading. The true tax generated in any jurisdiction can only be determined if the true distance and true routes are known. A uniform audit approach for all licensees, compliant and

non-compliant, along with standardized requirements, would provide equal treatment of all carriers and a more reliable audit program.

**NEW BRUNSWICK**

Support

New Brunswick supports this ballot as it is in line with our current practices.

**NEW HAMPSHIRE**

Oppose

**NEW JERSEY**

Oppose

New Jersey opposes and is most aligned with Oregon's views. It restricts the auditor in the use of BAI.

**NORTH DAKOTA**

Oppose

North Dakota is concerned that this ballot will not allow auditors enough flexibility. Not convinced that this ballot keeps up with available distance reporting technologies.

**NOVA SCOTIA**

Support

**OHIO**

Support

**ONTARIO**

Oppose

Ontario does not support the proposed ballot.

**OREGON**

Oppose

Do not support. While it does make IFTA recordkeeping language consistent with IRP, I have reservations about how a Program Compliance Review will interpret this in instances where we have conducted a Best Information Available audit.

**PENNSYLVANIA**

Oppose

**PRINCE EDWARD ISLAND**

Oppose

**QUEBEC**

Oppose

The language structure of the proposed change is not clear. In addition this ballot limits the role & flexibility of the auditors.

(The intent of this ballot is to establish the difference between compliant records and non-compliant records by the licensee). I am not sure with the language proposed in this ballot and conducting a Best Information Available audit it will be easy to take that decision. There is a contradiction in this ballot.

**TEXAS**  
Support

**UTAH**  
Oppose

Utah will need to hear more discussion on this ballot. How will this affect the decision making of our auditors?

Section P540.200 says the base jurisdiction may waive .015 or .020 but not both, then says the supporting documentation "shall" include and then lists .005, .010, .015, and .020. This seems a contradiction, if you may waive one or the other, how can all four pieces of information be a "shall". Either you have to have all four (shall) or you can waive one of them (should). Shall also disallows an auditor the option to allow the carrier to provide other documents to support data provided.

**VIRGINIA**  
Oppose

**WASHINGTON**  
Oppose

**WEST VIRGINIA**  
Support