



International Fuel Tax Association, Inc.  
P. O. Box 7147  
Mesa, AZ 85216-7147  
[www.iftach.org](http://www.iftach.org)

January 6, 2025

Sent via e-mail: Bucari, Louis <Louis.Bucari@ct.gov>

Louis P. Bucari  
Erica C. McKenzie  
Department of Revenue Services  
Hartford, Connecticut 06103

Dear Mr. Bucari:

The IFTA, Inc. Board of Trustees (Board) is in receipt of your letter dated December 20, 2024, which included a number of questions concerning the scheduled Appeals Hearing on February 3<sup>rd</sup>, 2025.

The following represents the Board's responses to your specific questions.

#### **Format of Hearing**

With respect to the question asking about the specific format of the Appeals Hearing, as indicated in prior correspondence, the Appeals Hearing will be conducted on February 3, 2025, in Palm Springs, CA. The Board will allow each respondent jurisdiction up to one hour to provide any additional testimony or other evidentiary information they wish to present to supplement their written appeal which the Board has already reviewed. The exact order of appearance by respondent jurisdictions has not been determined yet but you will be notified by email, prior to the scheduled hearing, of the approximate time your jurisdiction is scheduled to appear. You may use your allotted time to provide any additional information you deem appropriate for the Board to consider before they make their determination, and you may, during this time, ask the Board questions. The Board may in turn also have questions for you. The Dispute Resolution Committee (DRC) Chair will be attending virtually. This Appeals Hearing is not intended to allow for direct examination of the DRC Chair since any questions of the DRC Chair could have been addressed at the DRC Hearing. Because the DRC Chair will be responding on behalf of the entire committee, we respectfully ask that if you have any questions for the DRC Chair, that you please submit those questions to the Board by sending your written questions directly to the IFTA, Inc. Executive Director at least two weeks prior to the scheduled Appeals Hearing. This will allow the DRC Chair time to address the questions with the entire committee before the hearing. The Board will ask the DRC Chair to respond to those questions in writing and the response will be provided to the Board and the inquiring jurisdiction at least three days prior to the hearing. If based on the DRC responses, your jurisdiction has any follow-up questions of the

DRC Chair, you may use some of your one hour allocated time to ask the Board to address those follow-up questions with the DRC Chair after your presentation. The Board has planned an additional half-hour of time after each jurisdiction's presentation to allow the Board to ask questions to the DRC Chair if they deem necessary.

In general, it is worth noting that this Appeals Hearing is not designed to be a formal court proceeding nor is the entire DRC process designed to simulate a formal court proceeding. The Intermodal Surface Transportation Efficiency Act mandated that all of the 48 Contiguous United States be in compliance with the International Fuel Tax Agreement by 1996. The governing documents which represent the International Fuel Tax Agreement include the Articles of Agreement, the Procedural Manual, the Audit Manual, and the Bylaws of the Association. Section R1510 of the Articles of Agreement outlines the conditions for Membership and R1555 outlines the procedures related to compliance matters including the stipulation that disputes may be resolved in accordance with the Dispute Resolution Process. Both the Agreement and Dispute Resolution Process were voted on and approved by Membership and each Member agrees to abide by the procedures contained within the Agreement. Because this is not designed to be a formal court proceeding, the Board has greater flexibility with respect to how the Appeals Hearing is conducted and it does not necessarily follow a prescribed formal set of rules with respect to submission of evidence and other typical formal court procedures. In accordance with Section V of the Dispute Resolution Process, the Board has complete authority to affirm, reverse, remand, or modify the DRC's decision. The Board was not part of the original DRC decision and did not have any authority to intervene in the original DRC decision until an appeal was filed.

The Board has received and reviewed your written appeal including the arguments you presented on why the Board should accept a request to appeal the DRC's decision. Based on that written appeal and the alleged circumstances, the Board determined they have the authority to hear an appeal. The purpose of the Appeals Hearing will be to allow respondent jurisdictions to further supplement their arguments contained in the written appeal for consideration before the Board makes their determination.

- 1) With respect to your specific question on whether the Board intends this to be a more formal hearing or simple oral arguments, as stated above, the DRC Process is not intended to mirror a formal court proceeding. During your allotted one-hour time, you may provide oral testimony, present evidence, and/or present witnesses as you deem appropriate to supplement the information you already provided the Board in your written appeal.
- 2) Yes, the Board has reviewed all the evidence and other information provided during the DRC Hearing. It is therefore not necessary for your commissioner to present the same information you have previously provided unless you deem it necessary to further the arguments outlined in your written appeal. How your jurisdiction uses the one-hour time to supplement information previously provided will be entirely up to you.

- 3) Your third bullet item references questions that would be more associated with a formal court of law hearing. As stated above, the Appeals Hearing is not intended to be a formal court hearing. The only scheduling decision is the order of appearance by the respondent jurisdictions and that has not been determined yet, but you will be notified prior to the Appeals Hearing of the order and approximate time that your jurisdiction will appear before the Board. This Appeals Hearing is intended to be informal and an opportunity to supplement your written appeal. The Board will not be represented by anyone as they are not representing either the DRC or the Respondent Jurisdiction. As Board President I will lead the proceedings and the entire Board will be present. The Board was not a party to or had any influence or authority over the DRC's decision. The Board has previously reviewed your written appeal and found justification for hearing an appeal to determine whether the DRC's imposed sanctions were appropriate.
- 4) Each respondent jurisdiction will be allowed up to one hour to present any information, witnesses, or other evidentiary information they deem appropriate to supplement the information already provided in their written appeal. The Board may allow for some additional time at their discretion. Following the one-hour presentation by the respondent jurisdiction, the Board has allocated an additional half hour to ask questions of the DRC Chair and to ask further questions of the respondent jurisdiction if needed. The Board intends to have the Commissioner provide any information they wish to present to supplement their written appeal during this allocated one-hour time.

### **Record Preservation**

The Appeals Hearing will be summarized through formal Minutes which will be prepared soon after the Appeals Hearing concludes. These Minutes will be shared with all respondent jurisdiction representatives and posted to our website. In addition, an attempt will be made to record the entire Appeals Hearing through Microsoft Teams (Teams) which will be used during the Hearing for the hybrid format. While we will attempt to record the entire hearing through Teams, we cannot guarantee that the recording will work correctly or that it can be uploaded and shared afterward. If a respondent jurisdiction wishes to hire their own stenographer, they may do so at their expense.

- 1) The Commissioner may supply their own court reporter and/or may also initiate their own recording.
- 2) As previously mentioned, the Commissioner and any other representatives they wish to participate may either appear in person in Palm Springs, CA or they may appear virtually through Teams. If the respondent jurisdiction wishes to appear virtually, a link will be provided prior to the scheduled Appeals Hearing. The Commissioner and representatives may provide testimony, present evidence, and/or provide oral arguments virtually through Teams or in-person. However, if your jurisdiction plans on attending entirely virtually through Teams, we ask that you please provide any documents or other written evidence which you wish the Board to consider before they make their determination, directly to the IFTA, Inc. Executive Director, Mr. Carmen Martorana, at least two weeks before the scheduled Hearing.

- 3) As mentioned above, if the Commissioner and their representatives plan on attending virtually, Teams will be used, and you can display evidence, Power Point presentations, provide oral arguments, and interact with the Board, during the Appeals Hearing through Teams. If the Commissioner plans on attending in-person, there will be a projector and screen available to present any other evidence or other type of presentation you would like the Board to consider. Keep in mind that it is expected you will provide this information within the one-hour allocated time.
- 4) The Board fully intends to provide its determination in writing within the 60-day period outlined in Section V of the Dispute Resolution Process. In the event the sanctions imposed by the DRC are affirmed or modified and the Jurisdiction indicated they are still not in agreement and they intend to seek judicial relief outside of the Agreement, the Board would then seek legal counsel as to the constitutionality of a jurisdiction in non-compliance seeking judicial relief outside of the Agreement and whether or not any sanctions must be stayed until a judicial proceeding determines whether it has jurisdiction to hear arguments related to the Agreement.

#### **Standard of Review/Burden of Proof**

As mentioned under Format of Hearing above, the Appeals Hearing is not designed to be a formal court hearing. As such, there are no specific rules regarding the standard of review.

The Board will hear and review any information that a respondent jurisdiction wishes to submit at the Appeals Hearing. However, it should be noted that the Findings of Fact created by the Program Compliance Review Committee with respect to whether your jurisdiction was found in non-compliance of completing the minimum required number of audits has been stipulated in the finding of facts and your jurisdiction did not object to or refute those findings. Therefore, the issue of whether your jurisdiction was non-compliant with the minimum audit requirement issue is not something the Board needs to address nor is the Board willing to re-address with new facts. In accordance with Section V of the Dispute Resolution Process, the purpose of this Appeals Hearing is to focus on the sanctions imposed by the DRC and whether the DRC made a procedural error, and/or whether the DRC abused its discretion in deciding the issue or taking action, and/or whether the DRC made a significant error in interpretation of the Agreement.

There will not be a prehearing mediation conference. If you have any additional questions or concerns about the Appeals Hearing format, please contact the IFTA, Inc. Executive Director directly.

I hope this addresses all your questions and concerns. Please let Mr. Martorana know whether you and your representatives intend to appear in-person or virtually.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rodney R. Richard', written in a cursive style.

Rodney Richard (AR), President  
IFTA, Inc. Board of Trustees