The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner

Rep. D.L. Chris Christensen, Chairman

Oil Fund Disbursement Board

February 2, 2010

The Honorable Susan W. Almy, Chairman
House Ways and Means Committee
Room 202
Legislative Office Building
Concord, New Hampshire 03301

SUBJECT: HB 1291-FN, Relative to the Fuel Oil Importation Fee

Dear Chairman Almy:

Thank you for the opportunity to testify in support of House Bill 1291-FN. This bill would make permanent the additional $0.0025 per gallon fuel oil import fee approved by the Legislature for FY 2010 (Laws of 2009, Chapter 231, HB 296-FN-A), which provides supplemental income for the Fuel Oil Discharge Cleanup Fund (FODCF) established as a dedicated environmental cleanup fund under RSA 146-E in 1993. In a December 2009 FODCF Performance Audit Report, the Legislative Budget Assistant (LBA) concluded that the fund is effective and functioning as intended. However, the LBA also concluded that insufficient FODCF income has caused delays in environmental cleanup and has restricted funding for low income homeowners to repair or replace substandard fuel oil storage tanks, which prevents releases and avoids more costly cleanup. From FY 2000 through FY 2009, the FODCF import fee was $0.01 per gallon. Making the FY 2010 additional fee permanent, i.e., establishing the import fee at $0.0125 per gallon, could generate an estimated $683,000 in supplemental income each year. 100% of this supplemental income would be passed-through to eligible parties, to help achieve the expected level of FODCF services.

RSA 146-E provides authorization and funding for important and very successful programs administered by the Oil Fund Disbursement Board (Board) for the statewide cleanup of fuel oil contamination and prevention of fuel oil releases, to the direct benefit of New Hampshire citizens. Such contamination is a significant risk to public health and the environment. Insurance is not available for most cleanup costs. In fact, homeowner policies often specifically exclude such coverage. Owners of fuel oil storage facilities, including individuals, businesses, state agencies, local governments and most notably single-family homeowners, have depended on the FODCF since 1993 to fund cleanup work. Low income homeowners have depended on the FODCF since 1999 to fund replacement of substandard heating oil storage tanks to prevent releases.

Because annual income at the $0.01 per gallon import fee has remained level in recent years, the fuel oil release prevention program (known as "SAFETANK") is not in full operation, and FODCF income is currently directed primarily toward contamination cleanup. Increased income in FY 2010 due to the additional $.0025 per gallon fuel oil import fee, and a transfer of $400,000 from the Oil Pollution Control Fund included under HB 296-FN-A, has allowed processing of many cleanup payments held over from FY 2009. However, the fund balance has not stabilized enough such that SAFETANK operations may be increased.

The FODCF fiscal situation is shown in the table below.

Fiscal Year	Income	Expenses	Annual Income vs. Expense (Deficit) Surplus	Balance
2006	$3,081,973	$3,377,335	($295,362)	$661,812
2007	$3,171,445	$2,970,517	$200,928	$862,740
2008	$2,867,751	$2,789,479	$78,272	$941,012
2009	$2,743,665	$3,301,932	($558,267)	$382,745
2010 (1)	$1,910,237(2)	$1,814,448	$95,789	$478,534

(1) As of January 31, 2010.
(2) Income includes a $400,000 transfer from the OPCF approved under HB 296-FN-A in 2009.

When fully active, demand for SAFETANK funding is $500,000 per year, demand for cleanup funding is $2,500,000 per year, and administrative costs are budgeted at approximately $400,000 for FY 2010, for a total of $3,400,000 for the FODCF programs. If fuel oil imports remain at FY 2008 - 2009 levels, a $0.0125 per gallon import fee would generate annual income of approximately $3,420,000. Further, in consideration of the LBA audit findings, the Board also supports amending HB 1291-FN to increase the existing $100 cleanup cost "deductible" (established in 1997) to $500 for all FODCF recipients, except those qualifying for the SAFETANK program. This would yield approximately $56,800 in annual cleanup cost savings that can be re-directed to the SAFETANK program, to fund up to 38 tank replacements. A proposed amendment is attached, and if approved, HB 1291-FN would have to be reconciled with HB 1292. HB 1292 also repeals and reenacts RSA 146-E: 6, I with the same language as the attached amendment, however the deductible is still at $100.

Making the FY 2010 fuel oil import fee increase permanent may result in a nominal consumer cost increase of $2.50 per 1,000 gallons of fuel oil purchased. We believe increasing the deductible from $100 to $500 is reasonable considering cleanup funding recipients receive an average of $17,300 in FODCF coverage. These small cost increases provide needed FODCF resources for maintaining and restoring environmental quality and protecting public health for all citizens/consumers throughout New Hampshire.

Thank you for your careful consideration of this important bill. If you have questions, please contact Michael Wimsatt, Director of the Waste Management Division at (603) 271-2905 Michael.Wimsatt@des.nh.gov, or Timothy R. Denison at (603) 271-2570 Timothy.Denison@des.nh.gov. Detailed FODCF program operating reports are available.

Sincerely,

Rep. D.L. Chris Christensen, Chairman
Oil Fund Disbursement Board

Thomas S. Burack, Commissioner
Department of Environmental Services

Attachment
cc: Members of the Ways and Means Committee
Rep. Leigh Webb
Sen. Bette Lasky
Oil Fund Disbursement Board