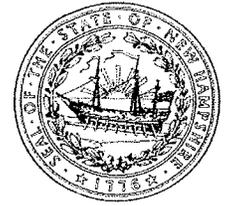




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

Rep. Leigh A. Webb, Chairman

Oil Fund Disbursement Board

April 30, 2013

The Honorable Bob Odell, Chairman
Senate Ways and Means Committee
Room 103
State House
Concord, New Hampshire 03301

SUBJECT: HB 185-FN, Relative to the Fuel Oil Discharge Cleanup Fund

Dear Chairman Odell:

Thank you for the opportunity to testify supporting House Bill 185-FN. The bill would restore a 0.25¢ (\$0.0025) per gallon adjustment to a fuel oil importation fee that provides income for the Fuel Oil Discharge Cleanup Fund, a discharge prevention and contamination cleanup program established by the Legislature in 1993, under RSA 146-E. The program is administered by the Oil Fund Disbursement Board (Board) with assistance from the Department of Environmental Services (DES), and offers significant public health and environmental protection benefits to New Hampshire. The fiscal situation for this Fund is critical, and the ability to do cleanup work that is vital to the environmental and economic health of our state is at risk. Both the Board (which is made up of members of the General Court, industry representatives, and public members) and DES strongly support this bill, and we urge your careful consideration. There was also strong support voiced for the bill from business and industry groups during House testimony, and no opposition.

The cleanup component of this program primarily benefits homeowners; and local governments, counties, schools, churches, and businesses also rely on the program to pay fuel oil contamination cleanup costs not covered by insurance. Low-income qualified homeowners rely on the prevention component of the program ("SAFETANK") to replace deteriorated fuel oil storage tanks before a discharge occurs, thus avoiding much more costly cleanups (e.g., \$1,500 invested in prevention can save \$17,500 in average cleanup cost). The FY 2013 program budget is \$2,936,476, of which \$2,500,000 is for pass-through to program recipients for cost reimbursement. The balance is for DES costs to manage cleanup projects, inspect storage tanks for discharge prevention, process recipient reimbursement payments, and general administration. Because of declining revenue and uncertainty about the future importation fee level, it was necessary to reduce the proposed FY 2014 - FY 2015 budget for prevention and cleanup from \$2,500,000 to \$1,550,000 per year. This significant reduction will result in the need to put cleanup projects on hold where work is not completed; delay new cleanup project starts; suspend the SAFETANK program; and possibly to put off even urgent work. Those impacts would be lessened if the 0.25¢ import fee adjustment is restored.

By way of background, the importation fee was 1.0¢ per gallon from FY 2000 to FY 2009. Based on Board recommendations, the Legislature increased the fee to 1.25¢ for FY 2010, maintained it through FY 2012, but did not make the increase permanent. In 2012, HB 1489-FN, which sought to continue the fee at 1.25¢ per gallon, was not enacted and the fee

reverted to 1.0¢. For your reference, an oil cleanup fund summary and Fund income/expense history are attached.

The Board and DES are concerned that there may be a general lack of understanding of the urgency of the fiscal situation and thus the importance of this bill. It appears that the \$1,130,000 balance in the fund at the close of FY 2012 has lead some to believe that the fund is fully viable and meeting the intended need. The end of fiscal year balance was a function of several factors, including the higher import fee period of FY 2010 - FY 2012; projects that were still on hold from 2009 when the balance was low (prior to the higher fee period); and two years when the number of releases was lower than average. In FY 2013, the beginning balance allowed us to re-activate some of the projects put on hold in 2009, and to modestly increase SAFETANK prevention spending. Nonetheless, FY 2013 spending to this point has been primarily non-discretionary, with 85 new release cleanup projects since July 1st, and more likely to be discovered before the close of the fiscal year. Required spending, the decrease in revenues due to the import fee change to 1.0¢ per gallon, and the overall decline in fuel oil imports have drawn the balance down to \$233,114 (as of March 31st.).

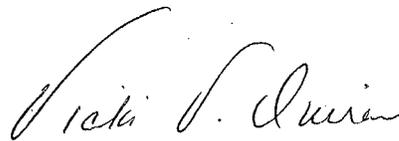
We must emphasize that the fiscal situation for the Fund is dire. Please find attached a summary of the projected fiscal situation for the Fund through the end of this fiscal year. This analysis shows a negative balance by June 30. Thus we have suspended most work at existing sites and limited SAFETANK approvals to critical need only, in favor of having some funds available for urgent work through the summer months. Failure to pass HB 185-FN would have significant repercussions in the near future, including a dampening effect on economic recovery relative to the residential and commercial real estate markets, and serious financial impacts on individuals, municipalities, and businesses that suffer the unfortunate consequences of a fuel oil spill.

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.

Sincerely,



Rep. Leigh A. Webb, Chairman
Oil Fund Disbursement Board



Thomas S. Burack, Commissioner
Department of Environmental Services

Attachments

cc: Members of the Ways and Means Committee
Rep. Robert Haefner
Oil Fund Disbursement Board

N.H. Oil Cleanup Fund Categories, Statutes, And Products

Oil Fund Disbursement Board Funds				DES Fund
Excess Insurance Funds For Storage Tank Owner Cost Reimbursement			Site Owner Cost Reimbursement & State Costs	State Costs Only
RSA 146-D 1988 "ODD Fund"	RSA 146-E 1993 "FOD Fund"	RSA 146-F 1995 "MOD Fund"	RSA 146-G 2001 "GREE Fund"	RSA 146-A 1971 "OPC Fund"
Motor Fuel (Gasoline & Diesel) Cleanups	Heating Oil Cleanups & Storage Tank Upgrades	Motor (Lube) Oil Cleanups	MtBE Cleanups	Inland & Coastal Oil Spill Cleanups, Preparedness

RSA 146-E - FUEL OIL DISCHARGE CLEANUP FUND

CUMULATIVE INCOME AND EXPENSES BY FISCAL YEAR (FY 2013 A/O MARCH 31ST)

FISCAL YEAR	BEGINNING BALANCE	INCOME (1)			EXPENSES						ENDING BALANCE
		IMPORT FEES	INTEREST	TOTAL INCOME	LOANS & TRANSFERS (2)	PROGRAM (3)	REIMBURSEMENTS			TOTAL EXPENSES	
							ON-PREMISE	AST	SAFETANK		
1994	\$ -	\$ 660,371	\$ 7,629	\$ 668,000	\$ -	\$ 7,733	\$ 100,460	\$ 17,844		\$ 126,037	\$ 541,963
1995	\$ 541,963	\$ 692,803	\$ 28,617	\$ 721,421	\$ -	\$ 86,056	\$ 719,140	\$ 34,379		\$ 839,574	\$ 423,809
1996	\$ 423,809	\$ 665,141	\$ 9,360	\$ 674,502	\$ -	\$ 68,858	\$ 921,528	\$ 16,293		\$ 1,006,679	\$ 91,632
1997	\$ 91,632	\$ 840,646	\$ 6,502	\$ 847,148	\$ -	\$ 69,677	\$ 528,280	\$ 19,259		\$ 617,216	\$ 321,564
1998	\$ 321,564	\$ 2,704,409	\$ 30,547	\$ 2,734,955	\$ 885,219	\$ 85,727	\$ 1,680,803	\$ 107,431		\$ 2,759,180	\$ 297,340
1999	\$ 297,340	\$ 1,728,841	\$ 11,066	\$ 1,739,907	\$ 114,781	\$ 86,536	\$ 1,298,342	\$ 296,810		\$ 1,796,469	\$ 240,777
2000	\$ 240,777	\$ 4,058,586	\$ 54,809	\$ 4,113,394	\$ 1,000,000	\$ 109,306	\$ 1,845,208	\$ 125,105	\$ 1,669	\$ 3,081,288	\$ 1,272,884
2001	\$ 1,272,884	\$ 3,761,918	\$ 68,134	\$ 3,830,052	\$ -	\$ 91,889	\$ 2,243,573	\$ 157,392	\$ 48,479	\$ 2,541,332	\$ 2,561,604
2002	\$ 2,561,604	\$ 2,930,223	\$ 50,919	\$ 2,981,142	\$ -	\$ 85,740	\$ 2,353,177	\$ 17,927	\$ 246,111	\$ 2,702,956	\$ 2,839,790
2003	\$ 2,839,790	\$ 3,649,499	\$ 29,956	\$ 3,679,455	\$ -	\$ 111,872	\$ 2,639,332	\$ 332,796	\$ 199,681	\$ 3,283,681	\$ 3,235,565
2004	\$ 3,235,565	\$ 816,131	\$ 17,943	\$ 834,074	\$ 200,000	\$ 225,225	\$ 2,356,466	\$ 243,391	\$ 366,545	\$ 3,391,627	\$ 678,012
2005	\$ 678,012	\$ 3,542,383	\$ 13,420	\$ 3,555,803	\$ -	\$ 308,692	\$ 2,251,566	\$ 437,953	\$ 278,430	\$ 3,276,641	\$ 957,173
2006	\$ 957,173	\$ 3,078,712	\$ 3,261	\$ 3,081,973	\$ -	\$ 261,755	\$ 2,452,001	\$ 166,475	\$ 497,104	\$ 3,377,335	\$ 661,811
2007	\$ 661,811	\$ 3,150,397	\$ 21,048	\$ 3,171,445	\$ -	\$ 243,127	\$ 2,147,130	\$ 171,019	\$ 409,241	\$ 2,970,517	\$ 862,739
2008	\$ 862,739	\$ 2,836,878	\$ 30,873	\$ 2,867,751	\$ -	\$ 389,572	\$ 1,997,702	\$ 272,134	\$ 130,071	\$ 2,789,479	\$ 941,011
2009	\$ 941,011	\$ 2,791,818	\$ 1,561	\$ 2,793,379	\$ -	\$ 452,900	\$ 2,697,562	\$ 55,578	\$ 145,606	\$ 3,351,646	\$ 382,745
2010	\$ 382,745	\$ 3,198,254	\$ -	\$ 3,198,254	\$ -	\$ 451,388	\$ 2,204,165	\$ 65,668	\$ 195,198	\$ 2,916,419	\$ 664,579
2011	\$ 664,579	\$ 3,041,052	\$ 1,803	\$ 3,042,855	\$ -	\$ 546,955	\$ 1,387,506	\$ 66,516	\$ 145,366	\$ 2,146,343	\$ 1,561,091
2012	\$ 1,561,091	\$ 2,265,536	\$ 2,857	\$ 2,268,393	\$ -	\$ 388,308	\$ 1,976,477	\$ 36,797	\$ 297,893	\$ 2,699,476	\$ 1,130,008
2013	\$ 1,130,008	\$ 1,466,374	\$ -	\$ 1,466,374	\$ -	\$ 251,827	\$ 1,837,007	\$ 46,949	\$ 227,485	\$ 2,363,268	\$ 233,114

Totals: \$ - \$ 47,879,972 \$ 390,304 \$ 48,270,277 \$ 2,200,000 \$ 4,323,143 \$ 35,637,422 \$ 2,687,716 \$ 3,188,879 \$ 48,037,162 \$ 233,114

(1) FY 1998 and 2000 income includes \$1,000,000 loans from the Oil Pollution Control Fund (OPC). FY 2010 includes \$400,000 transfer from OPC.

(2) Repayment of \$1,000,000 OPC loans, and transfer to highway fund in FY 2004.

(3) Program management and administrative costs including; NHDES, Department of Safety, Department of Justice & Department of Information Technology.

Fuel Oil Discharge Cleanup Fund - FY 2013 Fiscal Situation

As of March 31, 2013

FY 2013 beginning balance.	\$ 1,130,008
Import fee revenue.	\$ 1,466,374
Remaining revenue. Estimated at 80% of revenues for Apr. - June of FY 2012.	<u>\$ 157,896</u>
Total Revenue:	\$ 2,754,278
Cleanup cost reimbursement claims & SAFETANK assistance.	\$ 2,111,441
Cleanup reimbursement claims in-house.	\$ 309,749
Remaining cleanup reimbursement claims. Estimated at FY 2013 monthly approval average X 1 months. Assumes claims approved in June are paid in July.	\$ 191,035
Program management & admin. costs.	\$ 251,827
Estimated remaining program management & admin. costs.	<u>\$ 90,000</u>
Total Expenses:	\$ 2,954,052
Balance:	<u>\$ (199,774)</u>