



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

**Kevin A. Sheppard, P.E., Vice Chairman**

*Oil Fund Disbursement Board*

January 22, 2013

The Honorable Shannon Chandley, Chair  
House Resources, Recreation and Development Committee  
Room 305  
Legislative Office Building  
Concord, New Hampshire 03301

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

Dear Chairman Chandley:

Thank you for the opportunity to testify supporting House Bill 185-FN. If enacted into law, 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 (FODCF), 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. An oil cleanup fund summary and FODCF income/expense history are attached.

The cleanup component of the program primarily benefits homeowners, but 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 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.

From FY 2000 to FY 2009, the importation fee was 1.0¢ per gallon. Based on Board recommendations, the Legislature increased the fee to 1.25¢ for FY 2010, and also commissioned a Legislative Budget Assistant (LBA) performance audit. The December 2009 LBA report concluded that the program is effective and functioning as intended, but income was not sufficient (as the Board had represented). In 2010, the Legislature passed an extension of the 0.25¢ adjustment through June 30, 2012, and required a Board report regarding LBA recommendations. The report was provided to the Ways and Means Committee in November 2011, and included data which demonstrated that the fiscal situation had not improved, thus reaffirming the LBA conclusion regarding insufficient income. 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¢.

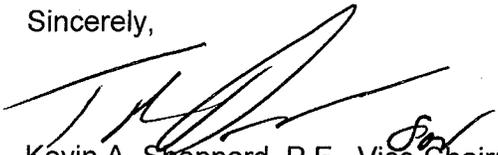
FY 2013 revenues through December 31st are down 36% when compared to FY 2012. The un-obligated fund balance is only \$250,000, which leaves the Fund unprepared for

emergencies or contingencies. Fuel oil imports are flat or declining while demand for cleanup and tank replacement funding continues to generally exceed income. Restoring the importation fee to 1.25¢ per gallon, as it was for FY 2010 - FY 2012, would lessen the need for prioritization of cleanup work, which in-turn would avoid more costly contamination cleanups that may result from delaying work. (Delaying cleanup significantly increases the risk of contamination spreading to adjacent properties and/or groundwater, and increases total cleanup costs.) Further, availability of more income for completing tank replacements would avoid cleanup costs entirely. Should funding demand lessen in the future, there is a \$2.5 million dollar fund balance ceiling and importation fee collection would be suspended until the balance is spent down to a \$1.5 million dollar floor.

Finally, it is important to note that declining fuel oil imports due to changing weather patterns, pricing, and conversion to alternate fuels do not produce an equivalent decline in tank discharge risk. Tank owners purchasing less fuel oil are still storing oil in on-premise tanks, some of which are sub-standard; and owners may be less attentive to those tanks. To address these sub-standard tanks, we focus outreach efforts on tank owner education, and allocate as much funding as is available for low-income homeowner tank replacements. At this time, we believe restoring the 0.25¢ fee adjustment is justifiable and will have minimal or no impact on an individual purchaser of fuel oil given retail price fluctuation. Assuming that the entire importation fee is passed-through to purchasers, comprehensive discharge prevention and contamination cleanup coverage currently costs \$10.00 for the average homeowner purchasing 1,000 gallons of fuel annually. Under the provisions of this bill, that annual cost would increase by only \$2.50 to \$12.50. We did not receive any purchaser complaints concerning the fee for FY 2010 - FY 2012, and can cite numerous incidents of program benefits provided. Therefore, we support HB 185-FN, which restores the fee to 1.25¢, providing needed program income and very high public health and environmental protection value at very low individual cost.

Thank you for your careful consideration of this important bill. If you have questions, please contact Michael Wimsatt, P.G., Director of the Waste Management Division at (603) 271-2905 [Michael.Wimsatt@des.nh.gov](mailto:Michael.Wimsatt@des.nh.gov), or Timothy R. Denison at (603) 271-2570 [Timothy.Denison@des.nh.gov](mailto:Timothy.Denison@des.nh.gov).

Sincerely,



Kevin A. Sheppard, P.E., Vice Chairman  
Oil Fund Disbursement Board



Thomas S. Burack, Commissioner  
Department of Environmental Services

Attachments

cc: Members of the Ways and Means Committee  
Rep. Leigh Webb  
Rep. Robert Haefner  
Sen. Bob Odell  
Sen. Lou D'Allesandro  
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

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	\$ 622,611	\$ -	\$ 622,611	\$ -	\$ 167,672	\$ 892,699	\$ 39,997	\$ 200,565		\$ 1,300,933	\$ 451,687

Totals: \$ - \$ 47,036,209 \$ 390,304 \$ 47,426,514 \$ 2,200,000 \$ 4,238,988 \$ 34,693,114 \$ 2,680,765 \$ 3,161,959 \$ 46,974,827 \$ 451,687

- (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.

HB 185-FN – AS INTRODUCED

2013 SESSION

13-0389  
08/05

HOUSE BILL        ***185-FN***

AN ACT            relative to the fuel oil discharge cleanup fund.

SPONSORS:        Rep. L. Webb, Merr 3; Rep. Haefner, Hills 37; Sen. D'Allesandro, Dist 20;  
Sen. Odell, Dist 8

COMMITTEE:      Resources, Recreation and Development

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ANALYSIS

This bill increases the fuel oil discharge cleanup fund fee.

This bill is a request of the oil fund disbursement board.

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Explanation:      Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to the fuel oil discharge cleanup fund.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1       1 Fuel Oil Discharge Cleanup Fund; Fee. Amend RSA 146-E:3, II to read as follows:
- 2           II. A fee of [~~\$-.01~~] ***\$0.0125*** per gallon of fuel oil shall be assessed at the time of importation
- 3 into this state.
- 4       2 Effective Date. This act shall take effect July 1, 2013.

LBAO  
13-0389  
01/04/13

**HB 185-FN - FISCAL NOTE**

AN ACT relative to the fuel oil discharge cleanup fund.

**FISCAL IMPACT:**

The Department of Environmental Services states this bill, **as introduced**, will increase state restricted revenue and expenditures by \$453,107 in FY 2014 and each year thereafter, and may increase county and local revenue and expenditures by an indeterminable amount in FY 2014 and each year thereafter.

**METHODOLOGY:**

The Department of Environmental Services states this bill increases the fuel oil importation fee by \$0.0025, from \$0.01 to \$0.0125. Revenue from the fee is deposited into the Fuel Oil Discharge Cleanup (FOD) Fund, a state dedicated fund for fuel oil contamination prevention and cleanup. The Department states 181,242,880 gallons of fuel were imported in FY 2012, and it expects this amount to remain constant in future years. The Department estimates the increase in the fuel oil importation fee will increase revenue to the FOD fund by \$453,107 (181,242,880 gallons \* .0025) in FY 2014 and each year thereafter. Since FOD fund revenue is passed along to parties eligible for cleanup assistance, the additional revenue will result in expenditures of \$453,107 for contamination cleanup projects. Additionally, the Department states to the extent county and local governments are reimbursed for fuel oil cleanup costs, they may have increased revenue of an indeterminable amount. If licensed fuel oil distributors pass the fuel oil importation fee on to its customers, state, county and local governments may have an indeterminable increase in expenditures. The exact fiscal impact cannot be determined at this time.