

**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

**PERFORMANCE AUDIT REPORT
DECEMBER 2009**

To The Fiscal Committee Of The General Court:

We conducted an audit of the New Hampshire Fuel Oil Discharge Cleanup Fund (FOD Fund), administered by the Oil Fund Disbursement Board (Board) and the New Hampshire Department of Environmental Services (NHDES), to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee, in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The purpose of the audit was to determine whether the FOD Fund and related NHDES programs were administered effectively and efficiently. The audit period includes State fiscal years 2008 and 2009.

This report is the result of our evaluation of the information noted above and is intended solely for the information of the Board, the NHDES, and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

December 2009

Office Of Legislative Budget Assistant

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**STATE OF NEW HAMPSHIRE
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ABBREVIATIONS

Board	Oil Fund Disbursement Board
Bureau	Oil Remediation And Compliance Bureau
DoIT	Department Of Information Technology
DOJ	Department Of Justice
DOS	Department Of Safety, Road Tolls Bureau
FOD Fund	Fuel Oil Discharge Cleanup Fund
GREE Fund	Gasoline Remediation And Elimination Of Ethers Fund
IT	Information Technology
LPAOC	Legislative Performance Audit And Oversight Committee
MOD Fund	Motor Oil Discharge Cleanup Fund
NHDES	New Hampshire Department Of Environmental Services

NTE	Not-To-Exceed
ODD Fund	Oil Discharge And Disposal Cleanup Fund
OPC	Oil Pollution Control Fund
OPUF	On-Premise-Use Facility
RSA	Revised Statutes Annotated
SFY	State Fiscal Year
UST Fund	Underground Storage Tank Fund

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**STATE OF NEW HAMPSHIRE
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SUMMARY

Purpose And Scope Of Audit

This audit was performed at the direction of the Fiscal Committee of the General Court consistent with the recommendation of the joint Legislative Performance Audit and Oversight Committee (LPAOC). It was conducted in accordance with generally accepted government auditing standards applicable to performance audits. The purpose was to assess the efficiency and effectiveness of the administration of the Fuel Oil Discharge Cleanup Fund (FOD Fund) and related New Hampshire Department of Environmental Services (NHDES) programs. The audit period is State fiscal years (SFY) 2008 and 2009.

Chapter 231, Laws of 2009 (House Bill 296) requires a performance audit of the oil funds administered by the Oil Fund Disbursement Board (Board), and the NHDES programs related to cleanup of petroleum contamination. In April 2009, the LPAOC approved an audit scope focusing on Board activities and NHDES programs supporting the FOD Fund as the process followed for FOD Fund activities is representative of the process followed for the other three funds administered by the Board.

Background

Chapter 271, Laws of 1988 created the Board to: establish financial responsibility for cleaning up fuel oil discharge and disposal; create a fund to reimburse costs of cleanup and disposal; protect groundwater; and reimburse for third-party damages. The Board is administratively attached to the NHDES and consists of 12 members serving three-year terms. The Board is responsible for overseeing the FOD Fund, the Oil Discharge and Disposal Cleanup Fund, the Motor Oil Discharge Cleanup Fund, and the Gasoline Remediation and Elimination of Ethers Fund by adopting rules for processing applications, verifying claims, and determining reimbursable costs; developing eligibility criteria; waiving penalties and requirements; and presiding over appeals.

Chapter 337:1, Laws of 1993 (codified in RSA 146-E) established the FOD Fund. According to RSA 146-E:6, the FOD Fund shall be used as excess insurance to reimburse costs incurred for preventing and cleaning up fuel oil discharge in State water and soil, and for paying third-party damages. Fuel oil is generally defined as petroleum products used for heating purposes. The FOD Fund also provides Safetank grants to facility owners showing financial need to improve, replace, abandon, or remove sub-standard fuel oil storage systems.

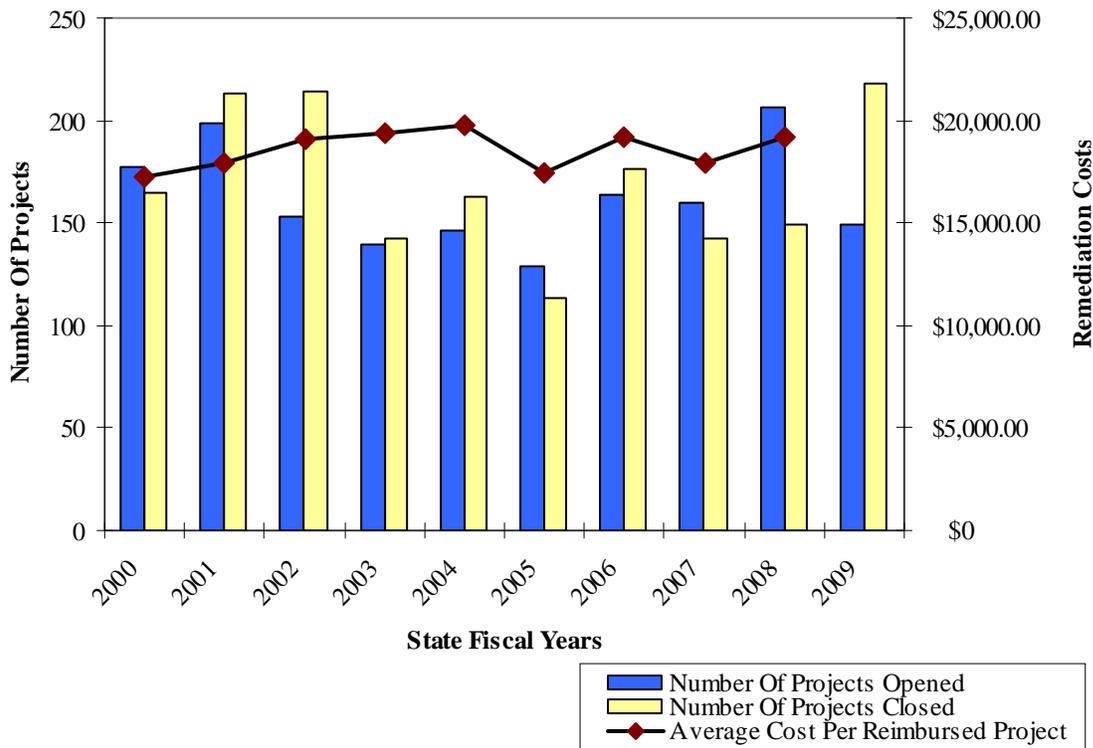
During the audit period, the Department of Safety, Road Tolls Bureau collected a \$.01 per-gallon fee on fuel oil imported into the State and deposited revenue into the FOD Fund. FOD Fund revenues have been declining since SFY 2005, while expenditures have remained relatively flat from 2000 to 2009. During SFY 2008, the FOD Fund received \$3 million in revenue and expended \$2.8 million on an average of 173 open projects. During SFY 2009, the FOD Fund received \$2.7 million in revenue and expended \$3.3 million on an average of 220 open projects. The NHDES reported program management and administrative costs of approximately \$390,000

during SFY 2008 and \$453,000 during SFY 2009. At the end of SFYs 2008 and 2009, the available balance of the FOD Fund was approximately \$991,000 and \$383,000, respectively.

On average, 70 percent of on-premise-use facility (OPUF) clean up projects were closed within two years of spill discovery. Figure 1 shows the number of projects opened and closed in each fiscal year, regardless of FOD Fund eligibility status. The line shows the average remediation cost of FOD Fund eligible OPUF projects attributable to the fiscal year they were opened. Average reimbursements for OPUF projects opened from SFYs 2000 through 2008 ranged from a low of \$17,200 to a high of \$19,700. The average cost for 35 FOD Fund eligible OPUF projects opened and receiving reimbursement in SFY 2009 was \$12,700.

Figure 1

Number Of OPUF Projects Opened,¹ Closed,² And Average Remediation Costs; SFYs 2000-2009



Notes:

¹ Projects opened include all projects, regardless of Fund eligibility status.

² Projects closed in each fiscal year may have been opened in prior fiscal years.

Source: LBA analysis of NHDES data.

The NHDES Oil Remediation and Compliance Bureau (Bureau) provides program support to the Board by overseeing, directing, and managing cleanup efforts for all four funds. Personnel from five sections within the Bureau perform activities related to the reimbursement program. The Bureau uses the Site Remediation Database to track project activity, monitor contractor progress, generate notices of reimbursement, and run reports. The digital library is linked to the database and allows Bureau personnel to view scanned project-related documents.

Results In Brief

We found the FOD Fund is effective and functioning as intended for emergency and high priority spills including sites posing immediate danger to public health or water supplies. The Bureau responds timely to fuel oil spills, with Bureau personnel usually arriving at the spill site within 24 hours of spill discovery. However, insufficient funding has caused the Bureau to delay remediation of lower priority projects and has limited the Bureau's prevention efforts. Consumers we surveyed generally reported satisfaction with the Bureau's services and timeliness of response. Contractors we surveyed were also generally satisfied with the Bureau's work scope and budget review and approval process, although half expressed dissatisfaction with the timeliness of reimbursement. However, the Bureau processes reimbursement requests on average within 100 days of receipt, 50 days earlier than required by Board Administrative Rules.

To ensure efficient operations, some Board and Bureau processes for the FOD Fund should be improved. Our audit presents 16 observations and recommendations to assist the Board, the Bureau, and the Legislature in ensuring FOD Fund resources are managed efficiently, and maximize the ability to address fuel oil spills and prevent fuel oil discharges. One observation may require legislative action.

We found a lack of quality control over work scopes, documents defining the nature and extent of remediation work to be performed, has resulted in the lack of readily available project documentation and some inaccurate work scopes. We found weaknesses in the Bureau's documentation of some project costs have reduced its ability to adequately track a project's total budget. Additionally, Board administrative rules do not require contractors submit documentation of actual time worked. Weaknesses in the Bureau's methods for allocating program management and administrative costs, tracking outstanding FOD Fund liabilities, and ensuring revenues collected are recorded accurately, have reduced the Bureau's ability to accurately estimate needed resources, including whether anticipated revenues are adequate for FOD Fund activities. We also found the FOD Fund is used to pay property restoration costs associated with cleanup which may not be authorized by statute, and to pay contractors to file documents electronically.

We found the Bureau may not be in compliance with certain statutes, administrative rules, and policies and has not conducted a risk assessment on its internal database. We found some insurance determination documentation was absent from the digital library or received insufficient follow-up, and Board document retention rules conflict with Bureau policies. We also found the Bureau has not followed up to ensure fuel oil tanks comply with regulations prior to approving reimbursement and does not adhere to Board administrative rules for establishing corrective action performance standards in work scope approval notices. Finally, we found New

Summary

Hampshire has a low deductible before eligibility for reimbursement compared to other Northeastern and Mid-Atlantic states operating similar programs.

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RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action Required	Recommendation	Agency Response
1	23	No	Establish a formal review process for projects totaling over \$25,000 and ensure proper documentation. Review adequacy of the threshold triggering review. Train all Bureau personnel on work scope review policy.	Concur
2	26	No	Ensure all approved budgeted costs are tracked and costs not included in approved work scopes receive management review prior to payment. Develop a method to electronically track approved budgets and alert Bureau management if approved reimbursements exceed total approved budgets.	Concur In Part
3	28	No	Amend administrative rules to require contractors to include timesheet summaries when submitting requests for reimbursement. Incorporate timesheet information into the reimbursement review process and train personnel.	Concur
4	30	Yes	Periodically review the deductible for on-premise-use facilities and recommend revisions to the Legislature.	Concur
5	31	No	Seek guidance from the Department of Justice (DOJ) to determine whether restoration costs are reimbursable under the FOD Fund. If so, clarify the allowable costs in administrative rule.	Concur
6	33	No	Review whether contractors should receive payment for submitting reports electronically.	Concur
7	34	No	Conduct analysis of actual personnel time to ensure each fund pays costs equal to project activity. Ensure percentages are applied accurately.	Concur
8	36	No	Track outstanding liabilities. Establish time limits for submitting reimbursement requests.	Concur In Part

Observation Number	Page	Legislative Action Required	Recommendation	Agency Response
9	37	No	Reconcile gallonage reports to ensure deposits by the Department of Safety are made accurately.	Concur In Part
10	41	No	Work with the DOJ and Insurance Department to determine insurance coverage requirements.	Concur
11	43	No	Consult the DOJ to determine when tanks must be in compliance relative to reimbursement.	Concur
12	44	No	Seek DOJ opinion to clarify timeframe for tank compliance and make revisions to statute or administrative rule if needed.	Concur
13	45	No	Clarify intent of performance standards and amend administrative rules to reflect requirements.	Concur
14	46	No	Review document retention policies to ensure they do not conflict with the Waste Management Division policy. Train Bureau staff regarding retention policies. Establish formal quality control process to ensure retention policies are followed.	Concur
15	49	No	Create formal policies and procedures to ensure all project-related documents are included in the digital library and ensure all personnel receive appropriate training.	Concur In Part
16	51	No	Perform formal risk assessment of Site Remediation Database.	Concur

**STATE OF NEW HAMPSHIRE
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OVERVIEW

Chapter 231, Laws of 2009 (House Bill 296) requires a performance audit of the oil funds administered by the Oil Fund Disbursement Board (Board), and the New Hampshire Department of Environmental Services (NHDES) programs related to cleanup of petroleum contamination. In March 2009, the joint Legislative Performance Audit and Oversight Committee (LPAOC) directed the Office of Legislative Budget Assistant to conduct pre-scoping work on the Fuel Oil Discharge Cleanup Fund (FOD Fund). At its April 2009 meeting, the LPAOC approved an audit scope, focusing on Board activities and NHDES programs supporting the FOD Fund because the procedures followed for FOD Fund activities are representative of the process followed for the three other funds administered by the Board. In May 2009, the Fiscal Committee adopted a recommendation by the LPAOC for a performance audit of the FOD Fund and we held an entrance conference with the NHDES.

SCOPE, OBJECTIVES, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Scope And Objectives

This performance audit focused on the FOD Fund and associated Board and NHDES programs and activities. The audit period included State fiscal years (SFY) 2008 and 2009. We did not audit the Oil Discharge and Disposal Cleanup Fund (ODD Fund), the Motor Oil Discharge Cleanup Fund (MOD Fund), or the Gasoline Remediation and Elimination of Ethers Fund (GREE Fund).

This audit was designed to answer the following question: **Were the Fuel Oil Discharge Cleanup Fund and related NHDES programs administered effectively and efficiently?** To address this question, our efforts focused on determining:

- whether the Board and the NHDES delivered the services required by law;
- NHDES processes for conducting and monitoring site assessment and remediation;
- timeliness of site assessment, site remediation, and reimbursement from the FOD Fund; and
- administrative costs associated with the FOD Fund in comparison to other funds.

Methodology

In conducting our audit work, we employed the following methods to address our audit objectives:

- To determine whether the Board and the NHDES were delivering the services required by law, to identify control activities implemented over program operations, and to determine whether program implementation was in accordance with State laws and regulations, we reviewed State laws, administrative rules, and Board and NHDES policies, procedures, and internal processes. We documented the process for conducting site assessment, remediation, and requesting reimbursement from the FOD Fund; and reviewed Board meeting minutes and attended Board meetings.
- Interviewed Board members, NHDES personnel and external stakeholders to understand program operations and controls.
- Reviewed similar programs and surveyed ten Northeastern and Mid-Atlantic states to establish comparative information for program activities (see Appendix D: State Oil Discharge Cleanup Programs Survey).
- Analyzed fund revenues, expenditures, and Oil Remediation and Compliance Bureau (Bureau) program management and administrative costs, including employee timesheets, to determine whether costs were appropriately allocated.
- Surveyed all 147 homeowners experiencing a fuel oil discharge during SFYs 2008 and 2009, whose cases were closed by the end of SFY 2009, to obtain their opinion on FOD Fund program activities, timeliness, satisfaction with contractor and NHDES services, and NHDES oversight of the cleanup and remediation process (see Appendix E: Fuel Oil Discharge Cleanup Fund Homeowner Survey).
- Surveyed 15 contractors receiving the largest reimbursements and performing the greatest number of projects during SFY 2009 to obtain their opinion of NHDES oversight activities, timeliness of the work scope and reimbursement review process, and satisfaction with NHDES oversight compared to other states in which they perform remediation services (see Appendix C: Site Remediation Contractors Survey).
- Reviewed controls over the Site Remediation Database and information technology system.
- Reviewed a statistical sample of 136 of 265 FOD Fund eligible projects experiencing a fuel oil discharge during SFYs 2008 and 2009 to determine NHDES compliance with policies, procedures, laws, regulations, and internal processes; controls over FOD Fund expenditures; and NHDES oversight activities. We chose our sample randomly to ensure the cases would be representative of the entire population.

BACKGROUND

Oil Fund Disbursement Board

Chapter 271, Laws of 1988 (codified in RSA 146-D) created the Board to: establish financial responsibility for cleaning up oil discharge and disposal; create a fund to address costs incurred by owners of underground storage facilities and bulk storage facilities for oil discharge cleanup and disposal; protect groundwater; and reimburse third parties for damages caused by fuel oil discharge. The Board is administratively attached to the NHDES and consists of 12 members serving three-year terms including: the Commissioners of the Departments of Environmental Services and Safety or their designees, three members from the petroleum industry, two public members, one fuel oil dealer (appointed by the Governor and Council), two Senators appointed by the Senate President, and two Representatives appointed by the House Speaker. The Board is responsible for overseeing the FOD Fund, the ODD Fund, the MOD Fund, and the GREE Fund by adopting rules for processing applications, verifying claims, and determining reimbursable costs; developing eligibility criteria; waiving penalties and requirements; and presiding over appeals.

Fuel Oil Discharge Cleanup Fund

Chapter 337:1, Laws of 1993 (codified in RSA 146-E) established the FOD Fund to reimburse costs incurred for preventing and cleaning up fuel oil discharge in State water and soil, and to pay third-party damages. The FOD Fund operates as excess insurance and reimburses applicants (e.g. contractors and homeowners) for cleanup and remediation costs after other insurance policy limits and the State deductible have been reached.

The Department of Safety, Road Toll Bureau (DOS), collects a \$.01 per-gallon fee on fuel oil imported into the State and deposits revenues into the FOD Fund. These revenues, along with the FOD Fund expenditures, are presented in Table 1 for SFYs 2008 and 2009. Approximately 86 percent of FOD Fund expenditures went directly to pay for remediation and prevention work (i.e., non-NHDES costs) during this time period. At the end of SFYs 2008 and 2009, the available balance of the FOD Fund was \$990,724 and \$382,743, respectively.

Table 1

FOD Fund Revenues, Expenditures, And Open Projects; SFYs 2008-2009

SFY 2008			SFY 2009		
Revenues	Expenditures	Open Projects ¹	Revenues	Expenditures	Open Projects ¹
\$ 3,010,564	\$ 2,789,474	173	\$ 2,701,616	\$ 3,309,597	220

Note: ¹ Open projects are the monthly average for the fiscal year.

Source: LBA analysis of unaudited Bureau and New Hampshire Integrated Financial System data.

RSA 146-E:6 and Administrative Rule Odb 405.01 allow FOD Fund reimbursement for cleanup costs incurred, less a \$100 deductible, to on-premise-use facilities (OPUF) experiencing a first-time discharge, if the facility owner brings the system into compliance with the requirements established in RSA 146-E:4 (i.e. compliance with National Fire Protection Association standard 31, local codes and ordinances, and equipped with a vent alarm). Owners will be eligible for reimbursement for subsequent discharges if the tank remains in compliance.

The FOD Fund does not reimburse for expenses incurred to achieve tank compliance; however, OPUF owners showing financial need may apply to the FOD Fund's Safetank program for a grant to improve, replace, abandon, or remove a sub-standard system. Due to funding constraints beginning in SFY 2007, the Bureau limited funds under the Safetank program to only emergency replacement. In SFY 2008, the Safetank program helped 61 homeowners to upgrade or replace their systems for a total cost of \$85,900, and helped 102 homeowners in SFY 2009 for a total cost of \$130,800.

On average, 70 percent of OPUF clean up projects were closed within two years of spill discovery. Average reimbursements for OPUF projects opened from SFYs 2000 through 2008 have remained relatively stable. From SFYs 2000 to 2009, fuel oil discharges occurred most frequently per capita in Carroll, Coos, and Cheshire Counties. Carroll County had the greatest number of discharges at approximately 23 cases for every 10,000 people, compared to a statewide average of 11 cases for every 10,000 people. The majority of consumers we surveyed reported their fuel oil spills were caused by snow or ice falling on their outdoor fuel tank (36 percent) or their system had a rusty tank or supply line (31 percent).

Bulk storage facilities holding fuel oil for distribution or facilities not regulated under RSA 146-C with a storage capacity of less than or equal to 1.1 million gallons, are eligible for FOD Fund reimbursement if the facility is registered with the NHDES no later than 60 days after construction is complete. Bulk storage facilities must also obtain a permit and underground facilities must meet additional requirements. According to RSAs 146-E:6, I and 146-D:6, II, bulk storage facility owners are liable for initial clean-up costs from \$5,000 to \$30,000, based on the number of facilities owned. During SFYs 2008 and 2009, two bulk storage facilities experienced a fuel oil spill; however, neither has submitted requests for reimbursement.

Also, owners of eligible facilities or land may apply for reimbursement of court-ordered damages to third parties for bodily injury or property damage, and for the costs of on-site and off-site clean up of fuel oil discharges not to exceed \$500,000 from the FOD Fund. Facility owners responsible for the discharge must defend against the claim to receive FOD Fund reimbursement for third-party damages not payable under other insurance; however, the FOD Fund will not reimburse for legal fees and costs. The FOD Fund did not receive any claims for third-party damages during either SFY 2008 or 2009.

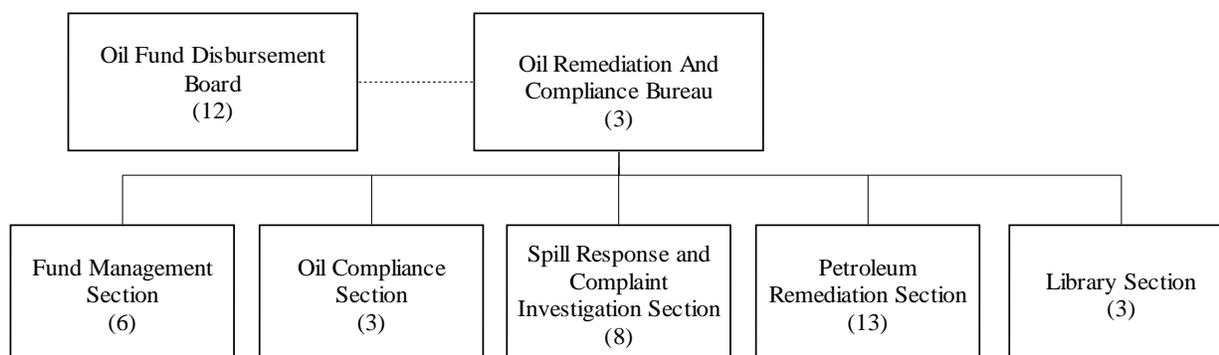
Oil Remediation And Compliance Bureau

The NHDES Oil Remediation and Compliance Bureau (Bureau) provides program support to the Board by overseeing, directing, and managing cleanup efforts for all four funds overseen by the Board. Personnel from five sections within the Bureau perform activities related to the

reimbursement program: Fund Management, Oil Compliance, Spill Response and Complaint Investigation, Petroleum Remediation, and Library. Figure 2 shows the organization of personnel spending a portion of their time performing duties related to the FOD Fund.

Figure 2

**Board And Bureau Organization Administering The FOD Fund
As Of August 2009**



Note: Numbers in parentheses represent the number of personnel spending a portion of their time working on FOD Fund projects. Personnel also perform activities pertaining to other hazardous waste cleanup.

Source: LBA analysis of NHDES information.

Six personnel from the Fund Management Section spend a portion of their time on activities related to the FOD Fund. The Fund Management Section is responsible for determining financial responsibility, FOD Fund eligibility, and insurance liability; and approving FOD Fund reimbursement. Three personnel in the Oil Compliance Section spend a portion of their time administering the Safetank program and assessing OPUF compliance prior to FOD Fund disbursement. The Spill Response and Complaint Investigation Section has eight personnel responding to petroleum discharge. Section personnel investigate and coordinate initial cleanup with the homeowner, local emergency responders (i.e., fire department personnel), and the contractor. These Section personnel also approve project work scopes and budgets and may also manage the entire remediation process for short-term or uncomplicated efforts.

If Bureau management determines remediation will be long-term or other complicating remediation factors exist, the project will transition to the Petroleum Remediation Section. The Section has 13 personnel responsible for overseeing long-term remediation efforts, reviewing and approving long-term remediation work scopes and budgets, and processing reimbursement claims, including for projects started by Spill Response Personnel. The Library Section consists of three personnel responsible for scanning paper documents related to closed projects and some paper documents for active projects. Library personnel are also responsible for loading documents, which have been forwarded electronically by contractors, into the digital library. Scanned documents are made available in the digital library for Bureau use and on the NHDES OneStop data retrieval website for public use.

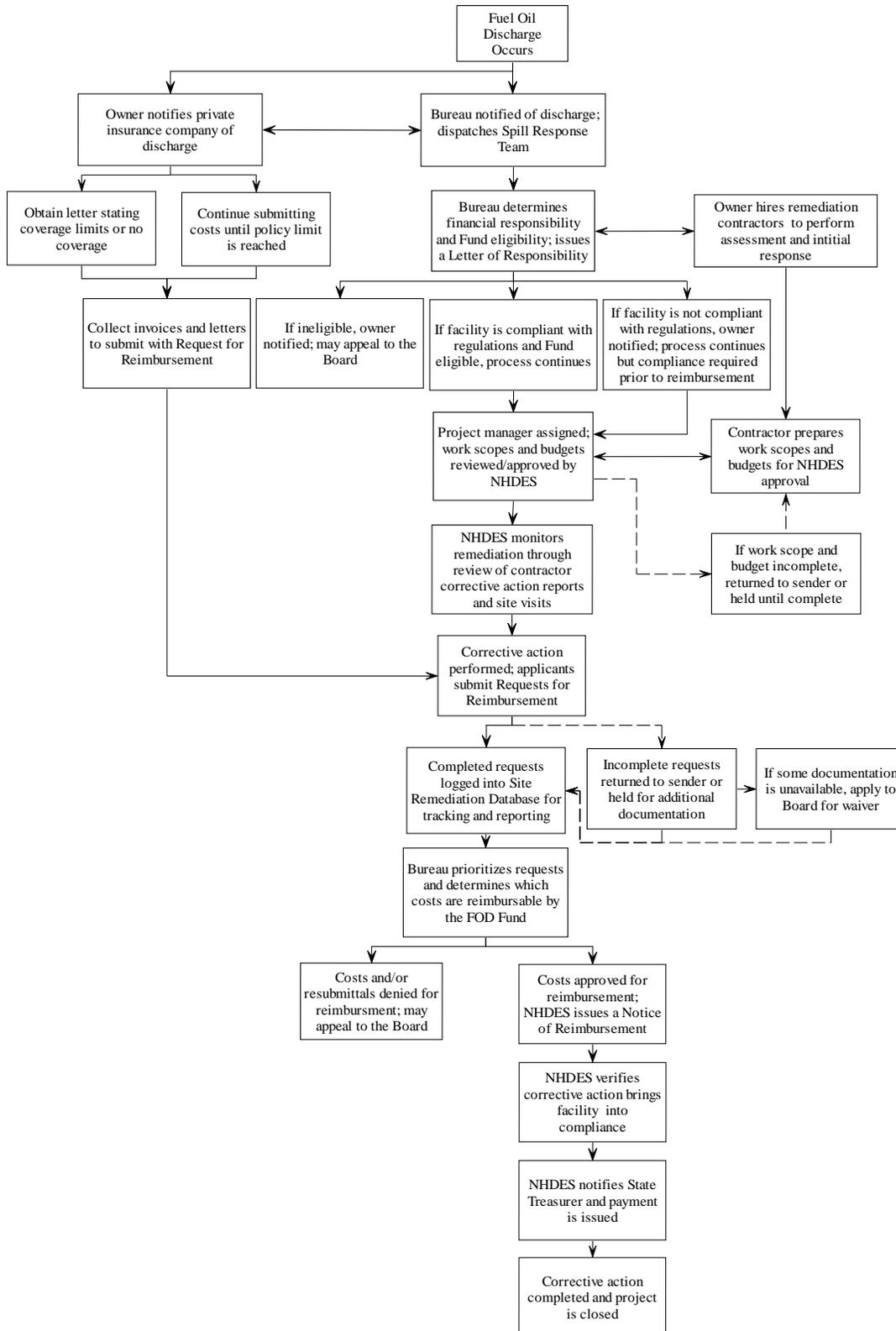
Figure 3 shows the process for fuel oil discharge assessment, remediation, and requesting reimbursement from the FOD Fund. When a discharge occurs, Bureau Spill Response personnel coordinate emergency cleanup efforts to limit contamination to water and soil. While the Bureau may perform some emergency cleanup work, personnel do not perform site assessment and remediation, nor do they generally contract with the remediation contractor to perform remediation. The Bureau requires the facility owner conduct an investigation of the cause and extent of contamination and coordinate remediation, which can be performed by the owner or a remediation contractor. The owner must notify their private insurer to determine coverage limitations and inform the Fund Management Section, which determines the party financially responsible for the discharge and FOD Fund eligibility status. If the facility is not in compliance with State, local, and industry requirements, the owner is required to bring the facility into compliance prior to release of FOD funds. Facility owners may choose to pay the contractor out of pocket and submit bills for reimbursement or the contractor may submit incurred costs to the Bureau for reimbursement.

For long-term or complicated remediation projects, the Bureau assigns a project manager within the Petroleum Remediation Section to review the contractor's findings, assess proposed remediation techniques, approve the proposed work scope and budget, monitor remediation progress and compliance with the approved work scope and budget, and determine the reimbursement amount. With the exception of emergency response services, Administrative Rule Odb 407.01 requires approval of the work scope and budget, including any modifications, prior to beginning corrective action. The Petroleum Fund Program *Guidance Manual* outlines maximum reimbursement rates allowable for each remediation task, and project managers are responsible for ensuring budgets conform to the established rates. As each remediation task is completed, the facility owner or remediation contractor may submit invoices to the project manager for reimbursement. Upon receipt of a complete reimbursement request, the Petroleum Remediation Section determines whether specific project costs were approved and conform to established rates and then authorizes payment. The NHDES must issue a notice of reimbursement to the applicant within 30 days of making its payment determination.

The Bureau uses the Site Remediation Database to track project activity, monitor contractor progress, generate notices of reimbursement, and run reports. Personnel scan hardcopy documents, upload documents submitted electronically by contractors, and view scanned documents in the digital library, which is linked to the database. Personnel from the Department of Information Technology (DoIT) maintain the database and digital library. The DoIT and Bureau are working on implementing an electronic reimbursement submittal system in which contractors would be able to submit reimbursement requests and supporting documents electronically, allowing the data to be entered directly into the database.

Figure 3

Fuel Oil Discharge Assessment, Remediation, And Reimbursement Process



Source: LBA analysis of FOD Fund procedures.

Other Board-Administered Funds

Along with the FOD Fund, the Bureau manages three other funds for the Board: the ODD Fund, the MOD Fund, and the GREE Fund. The three other funds are used to clean up gasoline, diesel, and motor oil, as well as mitigating the effects of gasoline ethers, respectively. Table 2 presents the revenues, expenditures, and average number of open projects for these funds during SFYs 2008-2009.

Table 2

**Revenues, Expenditures, And Open Projects
For Other Board Administered Funds;
SFYs 2008-2009**

Fund	SFY 2008			SFY 2009		
	Revenues	Expenditures	Open Projects ¹	Revenues	Expenditures	Open Projects ¹
ODD	\$11,589,379	\$13,227,490	737	\$11,408,026	\$12,195,501	719
MOD	\$249,279	\$202,152	11	\$254,877	\$151,414	12
GREE	\$1,861,794	\$1,334,434	77	\$1,752,149	\$1,422,024	87

Note: ¹ Open projects are a monthly average for the fiscal year.

Source: LBA analysis of unaudited Bureau and New Hampshire Integrated Financial System data.

Oil Discharge And Disposal Cleanup Fund (ODD Fund)

Chapter 271:1, Laws of 1988 (codified in RSA 146-D) established the ODD Fund as excess insurance to reimburse underground storage and bulk facility owners' costs incurred in cleaning up and disposing of gasoline and diesel discharge in the groundwater, surface water, and soil of the State; and in paying third-party damages. The ODD Fund is funded through a \$0.015 per-gallon fee on diesel and \$0.0125 per-gallon fee on gasoline imported into the State and is collected by the DOS. If the ODD Fund's balance exceeds \$10 million, RSA 146-D:3, II requires fee collection be discontinued until the balance falls below \$5 million. If no legislative action is taken, the ODD Fund will be repealed on July 1, 2015. Any money remaining in the ODD Fund after July 1, 2015 will be transferred to the Oil Pollution Control Fund. At the end of SFYs 2008 and 2009, the available balance in the ODD Fund was \$1.7 million and \$949,000, respectively.

Owners of underground storage facilities must be registered with the NHDES, comply with regulations, and maintain current inventory records to be eligible for reimbursement from the ODD Fund. Bulk storage facilities must also register with the NHDES and be in compliance with federal and State regulations to receive reimbursement from the ODD Fund. Owners are liable for a deductible ranging from \$5,000 to \$30,000 based on the number of facilities owned.

Motor Oil Discharge Cleanup Fund (MOD Fund)

Chapter 282:1, Laws of 1995 (codified in RSA 146-F) established the MOD Fund as excess insurance to reimburse costs incurred in the cleanup of motor oil and used motor oil discharges in the State's water and soil, and in paying third-party damages. Motor oil is defined as reclaimable lubricating oil classified for use in internal combustion engines, transmissions, and gear boxes or differentials in certain vehicles and power equipment. The MOD Fund is funded through a fee of \$0.04 on every gallon of motor oil imported into the State, which is collected by the DOS. If the MOD Fund's balance exceeds \$1 million, the fee collection shall be discontinued until the balance falls below \$600,000. If no legislative action is taken, the MOD Fund will be repealed on July 1, 2010. Any money remaining in the MOD Fund after July 1, 2010 will be transferred to the Oil Pollution Control Fund. At the end of SFYs 2008 and 2009, the available balance in the MOD Fund was \$284,000 and \$387,000, respectively.

The MOD Fund is available to owners of motor oil storage facilities who are in compliance with federal, State, and local requirements. Owners of motor oil storage facilities are liable to the MOD Fund for a deductible ranging from \$5,000 to \$30,000 based on the number of facilities owned.

Gasoline Remediation And Elimination Of Ethers Fund (GREE Fund)

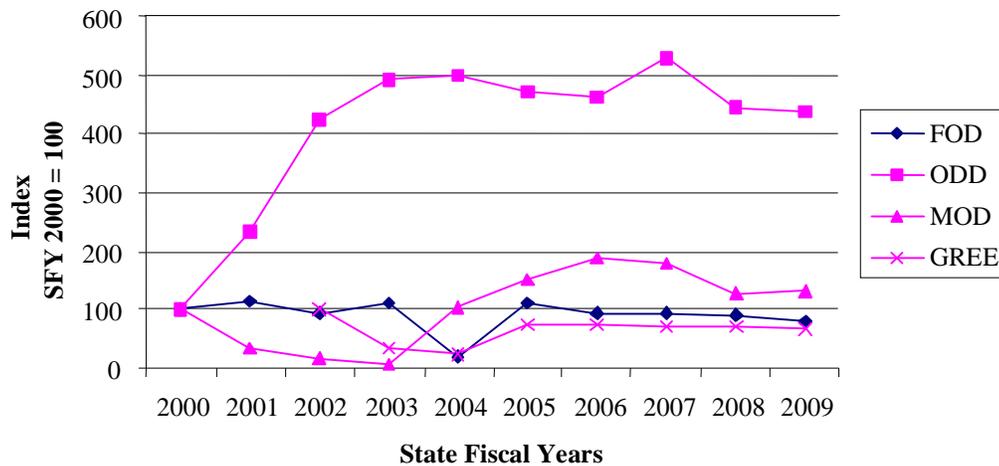
Chapter 293:10, Laws of 2001 (codified in RSA 146-G) established the GREE Fund as a non-lapsing revolving fund to mitigate the adverse affects of gasoline ether discharges. Ethers are organic compounds added to gasoline to promote more efficient combustion and help reduce air emissions by increasing the oxygen content of the gasoline. The GREE Fund also provides funds for research programs for developing and improving gasoline ether discharge prevention and cleanup measures. The State must recover the costs spent on cleanup and remediation of gasoline ethers. The GREE Fund is funded through a \$0.10 per-gallon fee on gasoline ether and a \$0.0025 per-gallon fee on gasoline imported into the State. If the GREE Fund balance exceeds \$2.5 million, RSA 146-G:4 requires the import fee to be deposited into the ODD Fund until the GREE Fund balance falls below \$1 million. If no legislative action is taken, the GREE Fund will be repealed on July 1, 2015. Any money remaining in the GREE Fund after July 1, 2015 will be transferred to the Oil Pollution Control Fund. At the end of SFYs 2008 and 2009, the available balance in the GREE Fund was \$311,000 and \$1.0 million, respectively.

FOD, ODD, MOD, And GREE Fund Revenues And Expenditures

Revenues for each fund vary depending upon import levels of the related petroleum type: fuel oil for the FOD Fund, motor oil for MOD Fund, gasoline for the ODD Fund, and gasoline ether and gasoline for the GREE Fund (see Figure 4). Revenues in Figure 4 are represented by an index, where SFY 2000 is equal to 100, to show the trend in revenues relative to SFY 2000 receipts. FOD Fund revenues remained relatively steady from SFYs 2000 through 2003 before dropping in SFY 2004. In SFY 2005, revenues increased to just over the SFY 2000 level, but dipped below the SFY 2000 level in SFY 2006 and continued to decline through SFY 2009. By contrast, MOD Fund revenues have been declining since SFY 2006, while SFY 2009 revenues remained above the SFY 2000 revenue level.

Figure 4

Indexed FOD, ODD, MOD, And GREE Fund Revenues; SFYs 2000-2009



Source: LBA analysis of unaudited FOD, ODD, MOD, and GREE Fund financial information from the New Hampshire Integrated Financial System.

From SFYs 2000 through 2003, FOD Fund revenues were greater than fund expenditures, resulting in an ending balance of over \$3.2 million at the end of SFY 2003. RSA 146-E:3, III requires the assessment of import fees be discontinued when the FOD Fund's balance is over \$2.5 million and only reestablished when the balance is less than \$1.5 million. In SFY 2004 the FOD Fund reached its statutory limit and import fee assessment was discontinued. Collected revenues in that year were approximately \$650,000. Expenditures in SFY 2004 were just under \$3.2 million, leaving an available balance of \$677,145 at the end of SFY 2004. FOD Fund revenues have been declining since SFY 2005. Revenues for all funds generally declined from SFYs 2007 to 2009 (see Appendix B).

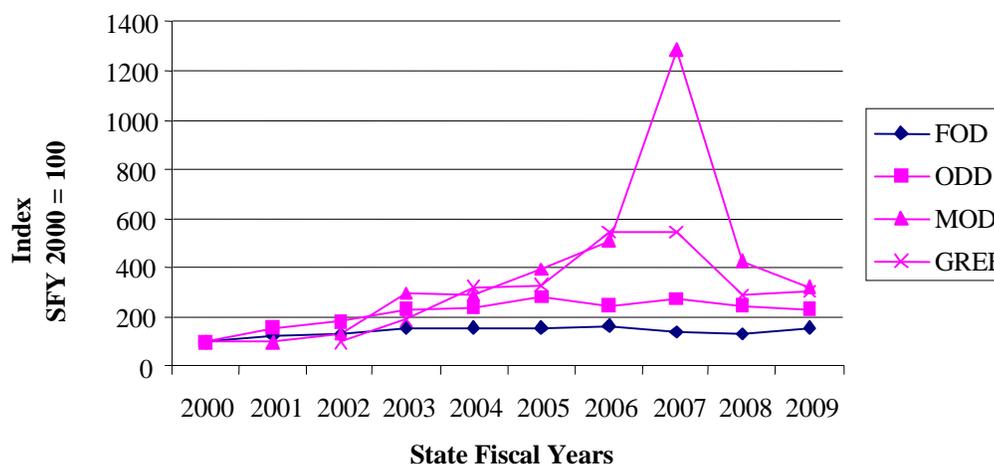
While FOD Fund revenues have generally declined since SFY 2005, expenditures over the same time have remained relatively flat, dipping slightly in SFYs 2007 and 2008 (see Figure 5). Expenditures in Figure 5 are represented by an index, where SFY 2000 is equal to 100, to show the trend in expenditures relative to SFY 2000 expenses. Both MOD and GREE Fund expenditures rose from SFYs 2000 through 2007 before declining in SFY 2008. Of the four funds, only FOD Fund expenditures have not doubled over the past ten fiscal years (see Appendix B).

Fund expenditures consist of reimbursements to eligible parties, typically remediation contractors and internal NHDES program management and administrative costs. GREE Fund expenditures also include contracts for providing potable drinking water, installing and operating drinking water treatment systems, and performing contamination source investigations. Prior to SFY 2008, each fund paid administrative and reimbursement costs out of its own account. Beginning in SFY 2008, program management and administrative costs for all four funds were combined into a single account and expenditures were allocated to each fund. Program

management and administrative costs include personnel time and benefits, information technology costs, rent, equipment, travel, postage, and contracts for program services, such as auditors hired to audit remediation contractors.

Figure 5

Indexed FOD, ODD, MOD, And GREE Fund Expenditures; SFYs 2000-2009



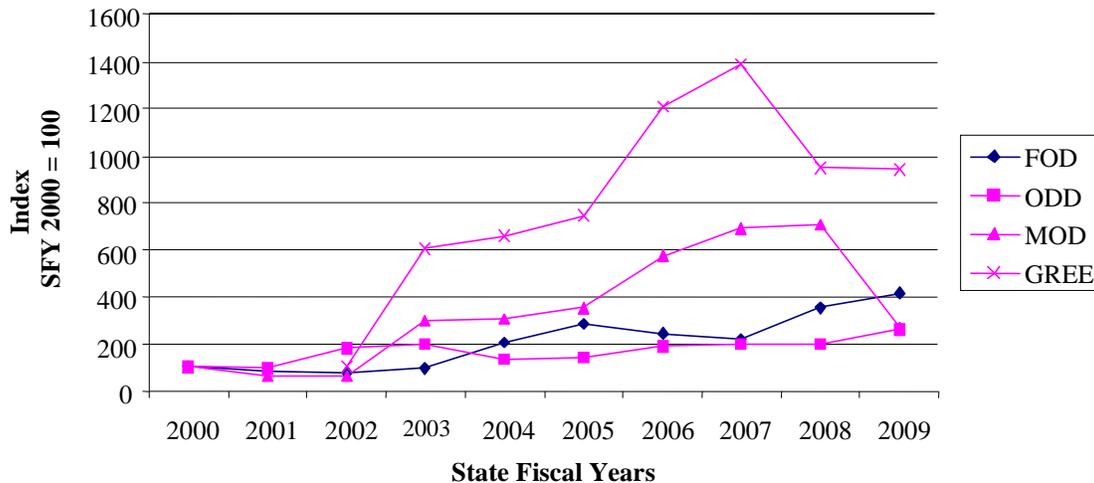
Source: LBA analysis of unaudited FOD, ODD, MOD, and GREE Fund financial information from the New Hampshire Integrated Financial System.

Figure 6 shows program management and administrative costs as a percentage of total expenditures for each fund. These costs are the payments made to the NHDES for personnel, current expenses, and other costs related to managing the funds. Program management and administrative costs for the FOD Fund increased 16 percent from approximately \$390,000 in SFY 2008 to \$453,000 in SFY 2009 (see Appendix B). According to our analysis of NHDES employee timesheets, Bureau personnel spent approximately 13 percent more time on FOD Fund activities in SFY 2009 than in SFY 2008. Program management and administrative costs as a percentage of total expenditures for the FOD Fund were stable at approximately 14 percent for both years.

As revenues and expenditures in the MOD and GREE funds are generally lower than the FOD and ODD funds, program management and administrative costs for these funds tend to be a larger percentage of total expenditures. In SFY 2008, MOD and GREE program management and administrative costs were 70 percent and 36 percent of their total expenditures, respectively; while in SFY 2009 MOD and GREE program management and administrative costs were 35 percent and 34 percent respectively (Figure 6). Program management and administrative costs as a percent of total expenditures increased for the ODD Fund from 9 percent in SFY 2008 to 12 percent in SFY 2009.

Figure 6

Program Management And Administrative Costs As A Percentage Of Total FOD, ODD, MOD, And GREE Fund Expenditures; SFYs 2000-2009



Source: LBA analysis of unaudited FOD, ODD, MOD, and GREE Fund financial information from the New Hampshire Integrated Financial System.

Significant Achievements

Performance auditing by its nature is a critical process, designed to identify weaknesses in past and existing practices and procedures. Noteworthy achievements provided by management related to the scope of the audit are included here to provide balance to the report. Significant achievements are considered practices, programs, or procedures evidence indicates are performing above and beyond normal expectations.

Best Management Practices For Installing And Upgrading On-Premise-Use Heating Oil Tanks

The Safetank program provides funds for low-income homeowners to upgrade or replace at-risk tanks and piping systems which are likely at risk of leaking and cost more to clean up. In September 2008, the NHDES established its *Best Management Practices For The Installation And Upgrading Of On-Premise-Use Heating Oil Tanks*. These practices include tank fabrication standards and installation requirements; recommendations for properly locating and installing indoor and outdoor fuel oil tanks; and standards and recommendations for piping, gauges, and alarms. These best management practices help prevent weather-related damages to exterior tanks, reducing future cleanup funding demand, and educate homeowners to be more aware of proper fuel oil storage. The public becomes aware of the best management practices through the NHDES website and press releases. Contractors also become aware of the best management practices through the NHDES website and industry affiliations.

Digital Library, On-Line Database, And Geographic Information Systems (GIS)

The digital initiative has improved project management and increased public access to records. In the past, it was necessary to schedule a paper file review for property transfers and environmental investigations. During the reviews, files would become disorganized and the potential for misfiling or loss of information was always present. This labor-intensive activity has been replaced with an online review of records and has saved Bureau staff, contractors, and the public time and resources. Benefits of digital records in the digital library include:

- Improved public access to information, as multiple public users can access records on the Department's OneStop website simultaneously.
- Improved coordination and accessibility for NHDES personnel working in the Bureau's various programs, as records pertaining to one program are available to personnel who may be working on the same site under another program.
- Enhanced file integrity when files are reviewed by the public. In the past, paper files were frequently pulled apart to be photocopied, presenting opportunity for misplaced pages or for the public to alter the file contents. The electronic files allow the public to only print copies they need without altering the project file.

The digital library is connected to the online database that tracks actions associated with a regulated activity. The database allows the public access to project status and other information through the NHDES' OneStop website, reducing phone calls to Bureau staff. Real estate agents, environmental lawyers, municipal officials, and environmental consultants use the online database to determine the status of a site.

The geographic information system-based electronic monitoring database provides environmental investigation tools which cannot be replicated by a paper file system. For example, if there is an offsite source of contamination, the system uses a map-based approach to find potential sources of the contamination. The system is also available to the public via the OneStop website.

The digital library, online database, and electronic monitoring database now include records from the Hazardous Waste Remediation Bureau, Aboveground Storage Tank Program, Underground Storage Tank Program, Underground Injections Control Program, and the Groundwater Release Detection Program.

North Country Initiative

The NHDES started the North Country initiative to improve services to owners of petroleum-contaminated sites located in Coos County and parts of Carroll County and Grafton County by conducting regulatory activities out of the NHDES field office in Gorham. This initiative ensures NHDES personnel will be located within reasonable travel distance to any petroleum-contaminated site in the State. Closer proximity of NHDES personnel to contaminated sites provides a better opportunity for expedited cleanup and helps move the site more effectively towards site closure, eliminating barriers to site redevelopment or real estate transfer.

Prior to the establishment of the North Country office, initial response and remediation staff from the Concord office traveled to all parts of the State, increasing response time, or the Bureau relied on local fire departments to conduct on-scene coordination. With a full-time spill response staff in the North Country, the Bureau Spill Response personnel can be on site more quickly to provide guidance to the property owner on responsibility for cleaning up contamination (hiring a cleanup contractor), meet with the property owner's cleanup contractor to discuss necessary emergency services (immediate action to mitigate a health hazard), discuss the scope of work for initial response action (early action to contain the spill and reduce the spread of the contamination), and, if necessary, call a State contractor to perform the work if the responsible party is unable or unwilling to conduct cleanup.

The Bureau found site cleanup was sometimes delayed when working with the local fire departments because of the fire departments' limited experience and authority for petroleum spills. Having Bureau personnel on-site the same day a spill occurs ensures necessary emergency services are deployed as soon as practicable and ensures cleanup contractors and the State personnel agree on the initial response work scope, eliminating back-and-forth communication before commencing cleanup work.

Logic Model

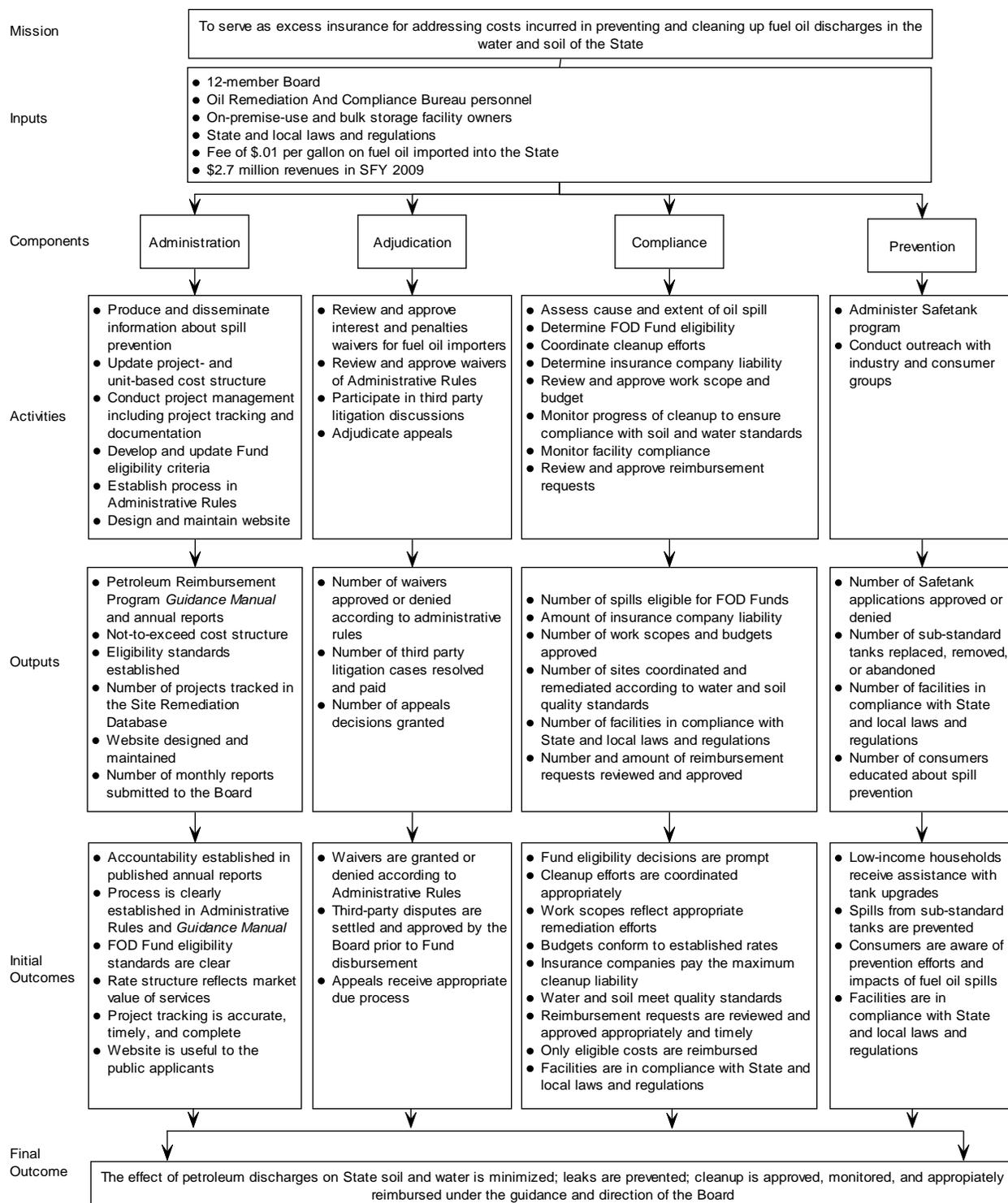
The logic model in Figure 7 presents how FOD Fund objectives are intended to connect significant program goals and their activities with outputs and outcomes.

Logic models are presented as flow charts describing programs in a way that facilitates understanding of the intended causal relationships between activities, outputs, and outcomes. The flow chart illustrates how a program intends to solve identified problems. Individual program activities, outputs, and outcomes are arranged in rows. Relationships between the various activities, outputs, and outcomes are arranged vertically on the page according to the sequential flow of program logic. The arrows linking the program elements signify the intended flow of the program.

The starting point for the logic model is established in RSA 146-E, including reimbursement of costs incurred for prevention and cleanup of fuel oil discharges in State water and soil, and for paying third-party damages. Activities describe what the Fund does to produce outputs. Outcomes are what the FOD Fund hopes to change via its activities. Therefore, FOD Fund outcomes, or the intended impact of its activities, should be linked to the mission.

Figure 7

LBA Logic Model Of FOD Fund Activities



Source: LBA analysis of FOD Fund statutes and Bureau policies and procedures.

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**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

MONETARY CONTROLS

The purpose of the Fuel Oil Discharge Cleanup Fund (FOD Fund) is to provide excess insurance to reimburse costs associated with preventing and cleaning up contamination resulting from fuel oil spills. During the audit period, the FOD Fund was funded by a \$0.01 per-gallon fee on all fuel oil imported into the State, generating revenues of \$5.7 million during State fiscal years (SFY) 2008 and 2009. For the FOD Fund to maximize its capacity to address fuel oil spills, the Oil Fund Disbursement Board (Board) and Oil Remediation and Compliance Bureau (Bureau) must manage resources efficiently, including ensuring controls are in place and functioning effectively. We found the Bureau does not have a formal quality control process over its work scope approval process, nor does the Department ensure revenues are reconciled timely. Additionally, we found the FOD Fund is used to pay property restoration expenses which may not be authorized by statute or Board administrative rules, and to pay contractors to file documents electronically.

We found Board administrative rules do not require contractors submit documentation of time worked, and some costs are not tracked as part of the project's total budget. Additionally, we found weaknesses in the Bureau's method for allocating program management and administrative costs to each of the four funds administered by the Board and in how the Bureau tracks outstanding FOD Fund liabilities. These weaknesses have reduced the Bureau's ability to accurately estimate needed resources, including whether anticipated revenues will be adequate for FOD Fund activities.

Finally, we found New Hampshire has a low deductible compared to Northeastern and Mid-Atlantic states operating similar programs. To help offset expenditures, the Board should review deductibles for on-premise-use facilities (OPUF), especially for commercial businesses applying to the FOD Fund for assistance.

Observation No. 1

Work Scope Review Process Needs Improvement

The Bureau approved work scopes with calculation errors, rates exceeding those established by the not-to-exceed (NTE) rate structure published in the Petroleum Reimbursement Fund Program *Guidance Manual*, and work scopes totaling above \$25,000 without a second signature as required by the office's informal policy. Additionally, some work scopes were approved through telephone or email correspondence and not noted in the Site Remediation Database as a work scope approval.

According to Administrative Rule Odb 407.01(a), (c), and (d), the owner or remediation contractor must complete and submit a work scope and budget for approval prior to the start of site remediation, with the exception of emergency actions. The Bureau employee assigned to the project reviews and approves the work scope, including a review of the technical components of the overall action plan, as well as a comparison between the rates proposed by the contractor and

the NTE rates published in the *Guidance Manual*. The approved rates on the work scope should not exceed rates established in the *Guidance Manual*.

Our file review contained a sample of 136 projects experiencing a fuel oil spill in SFYs 2008 and 2009; however, 30 projects did not have at least one work scope or change order in the digital library. We found calculation errors in 28 of 104 approved work scopes (27 percent) which had not been identified or corrected by Bureau personnel prior to approving the work scope. In 22 projects, the Bureau approved a total of \$24,767 less than the actual costs of the individual components; while in six projects, the Bureau approved \$6,030 more than the actual costs of the individual components, resulting in an average calculation error of \$1,100 per project.

In addition to approving work scope and change order forms, Bureau personnel also approve work through correspondence by authorizing contractors to use a standard work scope for a task. Examples of standard work scopes include environmental monitoring or groundwater quality analysis. According to Bureau management, no separate approval is required for these work scopes and project managers do not create a separate entry or electronic document in the database to denote these approvals. The Bureau indicated 27 of the 136 projects we reviewed included instances where a standard work scope was used. Without documentation of approval, the Bureau cannot adequately track projected costs.

Most projects contain at least five rates for different tasks and there may be over 100 individual task rates in a single project. We found 53 of 104 work scopes (51 percent) were approved with at least one rate greater than the NTE rate. In these 53 work scopes, we found 131 individual instances where approved rates were greater than the NTE rates, an average of two rate errors per work scope. In total, 31 of 104 total approved budgets (30 percent) exceeded the NTE budgets by an average of four percent. In total, the Bureau approved \$14,446 in excess of the published NTE rates, or an average of \$273 per project. When a contractor submits a request for reimbursement, the Bureau reviewer compares the request to the approved work scope. This comparison could result in erroneous and potentially excessive payments, reducing available FOD Funds.

To control costs, Bureau management issued a directive via email requiring individual work scopes totaling over \$25,000 receive a second review and approval; however, the policy does not consider instances where subsequent change orders bring the total project costs over this threshold. According to the Bureau Administrator, the second review should be evidenced by a second signature on the work scope; however, there is no policy requiring a second review if change orders bring the total project costs over the threshold. During interviews, seven Bureau personnel referred to this directive, which is not included in the *Guidance Manual*, but their interpretations varied. For example, one manager reported there is no method ensuring a second review occurs. One project manager reported requesting approval for initial work scopes over \$25,000, as well as any change orders which push a project total over \$25,000. Finally, one project manager reported the policy is informal, but does not believe there is a written policy mandating a second approval.

In our file review, we found six projects with individual work scopes totaling over \$25,000, only two of which (33 percent) had the required second signature. In addition, we found 16 additional

projects where work scopes and subsequent change orders brought the project total over \$25,000. None of these projects had a second signature on the work scope or change orders. Eighty-two of the 104 projects (79 percent) we sampled had work scopes totaling under the \$25,000 threshold and did not require a second review.

Deficiencies in the work scope approval process, including lack of detailed reviews of rates and calculations, lack of a second review for the majority of FOD Fund projects, as well as lack of assurance the policy requiring a second signature is adhered to, contribute to undetected errors in approved work scope rates and budgets.

Recommendations:

We recommend the Bureau strengthen controls over the work scope approval process by:

- **establishing a process to review a sample of work scopes totaling under \$25,000 for calculation errors and ensure the rates conform with those in the *Guidance Manual* prior to approval,**
- **requiring mandatory second review for projects where subsequent change orders bring the project total over the established \$25,000 threshold,**
- **ensuring the second review is adequately documented, and**
- **training all Bureau personnel on the work scope review policy.**

We also recommend the Bureau review the threshold triggering a second review since the majority of FOD Fund projects do not require a second review.

Auditee Response:

*We concur that the work scope review process needs improvement and agree with specific LBA recommendations below. However, it should be noted that the work scope unit rate/calculation errors noted by the LBA have not resulted in overpayments to contractors. This is because work scope errors are usually corrected by the contractor before payment is requested, and Bureau reimbursement request review procedures include verification of unit rates, task costs and total costs. Standard work scopes and budgets are those that may be used at any project location under similar circumstances, and have been pre-determined through a detailed review of the resources and costs involved. Thus, it is not necessary to review that same information again for each project, and doing so would needlessly delay cleanup and increase project costs. The standard, pre-approved work scopes are defined in the *Guidance Manual* and their applicability and use is fully understood by participating contractors.*

Regarding LBA recommendations:

- ***Establishing a process to review a sample of work scopes totaling under \$25,000 for calculation errors and ensure the rates conform with those in the *Guidance Manual* prior to approval. If Bureau work scope templates are used properly by contractors, then submittals are mathematically correct. We plan to modify our templates and instructions to ensure the correct version of the form(s) is used, rates are correct, and total work scope approvals are better tracked. Currently, Bureau***

management periodically reviews cleanup project activity, work scopes, and payments for FOD Fund projects. We will formalize this as a bimonthly review for at least one project for each contractor and document the findings.

- ***Requiring mandatory second review for projects where subsequent change orders bring the project total over the established \$25,000 threshold. Ensuring the second review is adequately documented. Review the threshold triggering a second review since the majority of projects are below \$25,000. Training all Bureau personnel on work scope review policy.*** *The second review of work scopes above \$25,000 was instituted along with other measures in an attempt to reduce FOD Fund demand to a level consistent with available income. The work scopes in question and the \$25,000 threshold, relate to work conducted shortly after fuel oil discharges, i.e. “initial response action,” to stabilize the situation and address immediate environmental and human health risks. In practical application, second review of work scopes has done little to reduce FOD Fund demand, when compared to our action to reduce initial response actions and (indefinitely) defer all other work after initial response action. The problem with reducing and deferring work is that it potentially increases total costs to complete cleanup at some point in the future. Thus, the more important issue is lack of sufficient income to meet the statutory purpose of the FOD Fund. However, we will examine the value of lowering the second review threshold. We will reinforce with project managers and contractors that second reviews are needed for projects over \$25,000, with appropriate sign-offs and database entries. We will consider requiring that Bureau management be notified of \$25,000 projects via email from the contractor submitting the work scope, or otherwise tracking such projects independently.*

Observation No. 2

Ensure All Budgeted Costs Are Tracked In The Project Files

The Bureau lacks a process to ensure all approved costs are tracked in the project files prior to reimbursement. Our file review sample of 136 sites experiencing a fuel oil spill in SFYs 2008 and 2009, found 97 sites reached the reimbursement stage at the time of our review. From these 97 projects, we found:

- The Bureau identified at least 27 projects (28 percent) which used “standard work scopes” instead of a formal work scope authorization. The Bureau considers letters or e-mails to the homeowner or contractor instructing them to perform a specific task such as groundwater analysis or monitoring a “standard work scope.” These documents are not noted as work scope approvals in the Bureau database or digital library, nor are their associated costs tracked as part of the project’s total budget. We found the total reimbursed through standard work scopes for these 27 projects was \$221,400.
- The Bureau identified at least seven projects in which costs for soil disposal and back fill were omitted from the approved work scope; however, these costs were reimbursed when the contractor submitted the reimbursement request. Most costs

identified as having been omitted from the approved work scope were for reasonable soil disposal and backfill associated with soil excavation work and allowable mark-ups for subcontractor work. We did not find evidence these costs were reviewed and approved by Bureau management prior to reimbursement. The amount paid for costs not included in the approved work scope was \$14,400.

- The Bureau identified one project for which Bureau personnel provided a “verbal” approval for additional work for a total cost of \$2,400.

While we do not question the appropriateness of the reimbursements for the 35 projects identified above, the practice of reimbursing for projects with inadequate documentation makes the Bureau vulnerable to fraud, errors, and abuse. Some, but not all, personnel in the Petroleum Remediation and Fund Management Sections review reimbursement requests. Our interviews with five personnel who review reimbursement requests indicated they refer to the work scope or change order when processing a reimbursement request. Authorizing work through letters to homeowners, e-mail, or verbal approval; or reimbursing for costs not included in the approved work scope does not allow the Bureau to accurately document or track a project’s total approved budget and may result in reimbursement for costs not properly authorized.

The Bureau’s database lacks the ability to compare approved budgeted totals to total reimbursement requests. Although project managers include the total budget at the bottom of each approved work scope and carry the total forward to subsequent change orders, the total is only reliable if all documents constituting budgetary totals are tracked. Additionally, if the reviewer is not personally familiar with a project, it increases the chances of oversights or false assumptions due to missing budgetary information. In one instance during our file review, we found a project’s activity indicated a work scope replaced a previously approved work scope, but both were reimbursed.

The Bureau is implementing an on-line system allowing certain contractors to submit reimbursement requests electronically. According to the Fund Administrator, the system will rely on contractors to only request for amounts in their approved budget, eliminating the need for a project manager to review the reimbursement request. Without controls in place to track total approved budgets, ensure reimbursements do not exceed the approved budget, or a formal quality control system to ensure contractors are only submitting approved costs, the Bureau could potentially allow reimbursements to exceed the approved budget.

Recommendations:

We recommend the Bureau:

- **develop a process to ensure all approved budgetary documents and costs are noted in the project files;**
- **develop and implement a method to electronically track total approved budgets, compare them to total amounts requested, and alert project managers or Bureau management if reimbursements exceed the total approved budget; and**

- **ensure costs not included in the approved work scope receive management review prior to payment.**

Auditee Response:

We concur in part. Work scopes and budgets are an estimate of the level-of-effort needed to complete cleanup, and are used to ensure that the responsible party and contractors are proceeding in an appropriate manner. The cleanup process and work scope approvals are subject to change as work progresses. The total of approved costs needed to perform cleanup may require adjustments with Change Orders, including after substantial completion of a project. As noted for Observation No. 1, standard work scopes and budgets may be used at any project location under similar circumstances, and have been previously established by the Bureau through a detailed review of the resources and costs involved. They were developed to expedite cleanup and decrease overall project costs by reducing the number of submittals requiring review. Consistent with the LBA recommendation, we (1) have implemented new procedures to scan or upload all reimbursement-related documents to the digital library, (2) will be tracking site-specific work scope approvals to ensure all documents are included in the digital library, and (3) will evaluate whether standard work scope approvals should be tracked separately from the correspondence authorizing their use.

We will consult with DoIT on the feasibility and cost of modifications to Bureau databases that would electronically track approved budget data for automated comparison to reimbursement requests. This would include an examination of whether such a system would yield fraud and abuse risk reduction benefits commensurate with development, implementation and long term operating and maintenance costs. Further decisions on implementation of an automated budget and reimbursement comparison system will await development of the necessary additional information as well as consultation with and authorization from the Board.

Certain items identified by the LBA, such as soil disposal and backfill, may be omitted from work scope approvals because the quantities are determined as cleanup work progresses. Exact contaminated soil and backfill estimates can require costly pre-assessments, which are generally not warranted for the typical small homeowner cleanup projects supported by the FOD Fund. Reimbursement for actual soil disposal and backfill quantities is subject to unit rates established by the Board and published in the Guidance Manual, as are the rates for allowable markup. Based on our program experience, management review of such costs prior to payment could delay payment processing, when there is no demonstrable risk of fraud or abuse.

Observation No. 3

Require Contractors Submit Timesheet Summaries

Board administrative rules do not require contractors to submit timesheet information documenting hours worked to support their reimbursement requests. However, Odb 404.02 requires an owner submit payroll records if the owner performs the corrective action. When submitting a reimbursement request, contractors provide invoices for supplies or sub-contractor work; however, the contractor does not submit timesheet information for its employees working on the project. During our file review of a sample of 136 projects experiencing a fuel oil spill in

SFY 2008 and 2009, we reviewed 21 projects looking for documentation supporting reimbursements. Of approximately \$900,500 reimbursed, we found 20 percent of eligible costs were sub-contractor costs which were supported by invoices, while 80 percent of eligible costs were a result of contractors' work not requiring documentary support.

The Bureau approves work scopes based on NTE rates published in its *Guidance Manual*. Bureau personnel reported the reimbursement request cannot exceed the approved budget and will deny expenses if they have not been approved or exceed the approved budget. However, one project manager reported contractors sometimes overestimate resources or time needed to perform the work in order to avoid submitting a change order later in the process. With no timesheets supporting contractor time on the reimbursement requests, Bureau personnel cannot verify whether the amount of time billed in the request is the number of hours actually worked by the contractor. This control weakness could present opportunities for contractors to bill for hours not worked, as they have received prior approval for those expenses.

Bureau management stated there is no requirement for backup documentation, including timesheets from vendors, as they rely instead on periodic outside audits to verify contractors' time. While the Governor and Council authorized the Bureau to contract for new audits during SFYs 2009–2012, the last audit of contracted firms occurred in 1999. The Bureau is implementing an electronic system allowing certain contractors to electronically submit reimbursement requests. Bureau management stated the system could allow contractors to attach timesheets to the reimbursement request. However, Bureau management also stated the system will eliminate the need for a project manager to review the reimbursement request. This feature would appear to weaken the control which attaching timesheets could provide.

Recommendations:

We recommend the Board amend its rules to require contractors submit timesheet summaries to demonstrate actual hours worked. We also recommend the Bureau incorporate a review of timesheet information into the reimbursement review process, including when the electronic system is implemented, and train all personnel on the procedure.

Auditee Response:

We concur, and will recommend that the Board amend its rules to require timesheet summaries be included with contractor invoices, and that contractors maintain timesheet records in accordance with standard accounting practices. We believe periodic reviews of selected projects, contractors, invoices and timesheet information for statistical validation provides sufficient controls to ensure contractors are properly accounting for time and billing appropriately for that time.

Observation No. 4

Review On-Premise-Use Facility Deductibles

RSA 146-E:6, I requires OPUF owners to be liable to the FOD Fund for the initial \$100 of cleanup costs at each facility owned. The \$100 deductible for the FOD Fund covers residential and non-residential properties storing fuel oil for use on the premises and has not changed since July 1997. Non-residential recipients include, but are not limited to, commercial businesses, not-for-profits, nonprofits, and government entities. Between SFYs 2008 and 2009, 296 residential and 55 non-residential OPUFs experienced a fuel oil spill. During the audit period, the FOD Fund paid \$367,770 for cleanup and remediation of 20 non-residential projects which had reached the reimbursement phase. The FOD Fund received a total of \$2,000 in deductibles from these 20 non-residential OPUF spills. During SFYs 2008 and 2009, the FOD Fund also paid an additional \$1.1 million for non-residential OPUFs experiencing spills prior to 2008.

We surveyed ten Northeastern and Mid-Atlantic states to identify how other states administer similar programs. Four states responded as having similar programs to New Hampshire. Delaware, Pennsylvania, and Maine cover non-residential as well as residential projects, but Maryland does not cover non-residential projects. Delaware does not have a deductible but has an income limit using U.S. Environmental Protection Agency computer models to determine the property owner's ability to pay. Like New Hampshire, the states of Maine, Maryland, and Pennsylvania do not have income limits for applicants but have deductibles. Maryland requires a \$500 deductible, Pennsylvania requires a \$1,000 deductible, and Maine has a per-incident deductible based on the volume stored ranging from \$500 to \$2,500. In addition to the per-incident deductible, Maine also has conditional deductibles, which are based on compliance; for example, it charges \$150 for failure to meet National Fire Protection Association code and \$500 for failure to report a spill. New Hampshire has the lowest deductible of the states surveyed with similar programs, has no stipulations for income limits, and has no conditional deductibles based on compliance status.

With the exception of Delaware, which has an income limit for fund eligibility, New Hampshire's \$100 deductible is relatively low compared to the three states with required deductibles. All applicants to the FOD Fund, regardless of residential or non-residential status, income, or compliance status, pay the same \$100 deductible. Board members and Bureau personnel emphasize prevention is critical to keeping program costs low. Consumers may be more proactive in preventive maintenance if the deductible was higher or had additional charges based on compliance status.

Recommendations:

We recommend the Board review the deductible periodically to ensure it is current with associated cleanup and remediation costs and make recommendations to the Legislature to update the deductible.

The Legislature may wish to consider reviewing and revising the deductible schedule for OPUFs.

Auditee Response:

We concur, and note the Board has reviewed the \$100 OPUF deductible in the past, and concluded the benefits of increasing deductibles were offset by the increased administrative and legal burden of collection. The Bureau and the Department of Justice had so much difficulty collecting the \$100 deductible that the collection burden was shifted to contractors. Further, at some amount greater than \$100 the deductible could become a significant economic burden for some site owners. However, we agree OPUF deductibles should be reviewed periodically and at the present time in consideration of proposed FOD Fund import fee legislation.

Observation No. 5

Obtain Clarification For Restoration Expenses

The Bureau reimbursed contractors from the FOD Fund for costs not specifically authorized in its administrative rules or enabling statute. Restoration work is only addressed in the *Guidance Manual*. In our file review of 136 projects, we found 43 projects included costs for restorative expenses including loam, re-seeding, and project-based site restoration costs, totaling \$59,179, which accounted for 3 percent of the approximately \$1.8 million paid during the audit period for the 136 projects.

RSA 146-E:3, I establishes the FOD Fund, administered by the Board, to reimburse the cost of prevention and cleanup of fuel oil discharges in the State's waters and soils and to pay third party claims. With the exception of emergency services, Board Administrative Rule Odb 407.01 requires a facility owner or applicant seeking reimbursement from the FOD Fund submit and obtain approval for a work scope and budget prior to performing corrective action. Env-Or 606.10 requires a remedial action plan include recommended action to remove or treat the source of contamination; contain the contamination source to limit its impact to groundwater, surface water, or soil; protect human health from exposure through indoor air and direct exposure pathways; contain contaminated groundwater; restore groundwater quality to meet New Hampshire Department of Environmental Service (NHDES) groundwater quality criteria; and restore soil to meet NHDES soil remediation criteria.

Neither Board nor NHDES administrative rules pertaining to fuel oil discharge cleanup address reimbursement for property restoration. However, the *Guidance Manual* allows reimbursement for costs associated with property damage restoration. According to the *Guidance Manual*, the FOD Fund will reimburse for the cost of property damage restoration resulting from performance of corrective action, but will not reimburse for the cost of property damage restoration costs resulting directly from the spill or otherwise not related to performing corrective action. Corrective action related to hazardous vapors might require the removal and proper disposal of *all* oil-saturated materials including structural features. The *Guidance Manual* allows for reimbursement of the costs associated with the repair of structural features *if removed or damaged for vapor control or other corrective action* (emphasis added).

The Board has implemented two cost categories for site restoration for OPUF spills, but does not clearly define their uses. Both allow "one day of backfilling the excavation and restoring the

work areas to the original condition including labor, equipment, supplies, materials and [personal protective equipment].” Under the FOD Fund, “original condition” is the only guidance limiting restoration costs. Other states provide specific guidance regarding the reimbursement of site restoration costs, including criteria and dollar limits. The Oil Control Program in Maryland will reimburse the applicant for costs related to odor abatement activities to return the dwelling to a habitable condition, while the Pennsylvania Storage Tank Cleanup Program will reimburse the applicant for costs related to “restoring disturbed or contaminated areas by backfilling, grading and re-vegetating.” Under the New Jersey’s Petroleum Underground Storage Tank Remediation, Upgrade and Closure Fund (UST Fund), site restoration costs are limited to damage caused by the remediation of the leaking underground storage tank. Eligible costs for certain site restoration categories, including landscaping, hardscaping, deck costs, and pool costs, are capped at \$5,000 each. The UST Fund retains the right to cap other categories of restoration costs not directly related to the structural integrity of the home in question. In addition, for eligible restoration costs, the UST Fund will only reimburse for replacement of what existed prior to the remediation.

There are two potential problems regarding restoration reimbursements. First, there is no clear authorization for the FOD Fund to pay these costs. Second, if restoration costs are allowable, there is little guidance on what the FOD Fund will reimburse. Without specific authority allowing defined restoration costs, the FOD Fund approves potentially unauthorized reimbursements.

Recommendations:

We recommend the Bureau seek guidance from the Department of Justice regarding whether restoration costs should be reimbursable under the FOD Fund. If the current statute or future changes allow the Bureau to reimburse for restoration costs, the Bureau should clarify allowable site restoration costs in administrative rule.

Auditee Response:

We concur that the Department of Justice should provide an opinion on whether property restoration is one of many reasonable, appropriate and necessary activities performed to complete fuel oil discharge cleanup under authority of RSA 146-E, and is within the meaning of “corrective action” under Board rule Odb 402.01(h). Reimbursement for property restoration directly associated with cleanup has been included with FOD Fund coverage provided to eligible parties since program inception in 1993, and is not a separate activity that reduces resources available for cleanup. Excluding restoration costs from reimbursement eligibility would not be in the best interest of public safety and water protection. Contaminated soil excavations could be left open and unsafe fuel oil vapor levels in occupied buildings not abated, due to the site owner’s inability to afford backfilling and structural repair costs. Further, responsible excavation and construction practices must include proper backfilling, pavement repair, and/or re-vegetation. Otherwise, adverse environmental impacts will occur including storm water runoff that violates New Hampshire water protection statutes.

We note that the purpose of the FOD Fund stated in RSA 146-E: 1 is: “The general court finds that discharges of fuel oil represent a potential serious health and safety problem to the citizens

of New Hampshire and a threat to the quality of the ground waters and surface waters of the state [and] the cost of cleanup of fuel oil discharges is a significant economic burden for which economic assistance is otherwise not available.” Excluding or limiting reimbursement for property restoration necessitated by fuel oil discharge cleanup would be contrary to that purpose.

Observation No. 6

Review Use Of Electronic Transmittal Fees

The Bureau reimburses contractors electronically transmitting corrective action reports, ranging from \$125 to \$400 for each report, in addition to paying for the report itself. Eligible reports include:

- | | | | |
|----------------------------------|--------|----------------------------------|--------|
| • Initial Response Action | \$125 | • Groundwater Management | \$ 250 |
| • Free Product Recovery | \$ 250 | • Site Closure | \$ 125 |
| • Point-Of-Entry Site Evaluation | \$ 250 | • Groundwater Quality Assessment | \$ 325 |
| • Site Characterization | \$ 325 | • Structural Engineering | \$ 400 |
| • Site Investigation | \$ 400 | | |

Contractors are reimbursed for corrective action reports ranging from a maximum of \$600 for a standard initial response action report to \$13,000 for a level II site investigation. Our file review sample of 136 projects experiencing a fuel oil spill in State fiscal years 2008 and 2009, found contractors for 41 of the 97 projects (42 percent) having reached the reimbursement phase were reimbursed for electronically transmitting at least one corrective action report, totaling over \$10,200. Thirteen projects received reimbursement for two or more electronic submissions, with one project receiving over \$1,000 for submitting four reports electronically. We found an additional seven projects (seven percent) reimbursed for electronic submissions; however we were unable to quantify the amount reimbursed because the fee was incorporated into the fee for the initial response action report.

According to Bureau personnel, the fee is intended to cover the contractor’s cost and serve as an incentive for contractors to submit their reports electronically, facilitating easier loading into the Bureau’s digital library and the NHDES OneStop website. To submit reports electronically, contractors must be able to sign reports with a digital signature and possess software to convert the reports from hard copies to electronic files.

The Bureau is responsible for using resources prudently and electronic transmission of documents is now common practice with current technology. The Bureau reported to the Board the FOD Fund had reimbursement requests totaling over \$1 million which it could not pay at the end of SFY 2009.

Recommendations:

We recommend the Bureau review the reasonableness of paying contractors for electronically submitting corrective action reports and consider amending its administrative rules to require contractors to submit documents electronically.

Auditee Response:

We concur that electronic transmittal has rapidly become common industry practice and disallowing separate electronic transmittal fees may be warranted. However, an offsetting increase in total reporting costs would be necessary to avoid underpayment to service providers. For example, the LBA cited a Level II Site Investigation, which has a current Project-Based Cost allowance of \$13,000 for professional services including reporting, plus an additional \$400 for electronic transmittal of the report. However, these funding levels are outdated, as are all of the Board Project-Based Costs, and have not been adjusted due to FOD Fund and Oil Discharge and Disposal Cleanup Fund (RSA 146-D) revenue shortfalls.

In 2009 dollars, the calculated market value of a Level II Site Investigation, including electronic transmittal of the report, is \$15,480. Historically, the allowable professional service costs for the FOD Fund and other reimbursement funds administered by the Board have lagged market rates. In recent years, we have been unable to make any reasonable cost adjustments resulting in an artificially low allowable cost structure and further widening the gap with the market. This gap already penalizes professional cleanup service providers, and is directly due to undercapitalization of the FOD Fund and ODD Fund. The Board has delayed updating the allowable Project-Based Costs in the Guidance Manual, pending the outcome of FOD Fund and ODD Fund fee increase legislation.

We will evaluate whether amending rules to require that contractors submit documents electronically is necessary. We have found that contractors voluntarily participate in the Bureau electronic document transmittal process, because it is advantageous for them to do so. We are concerned that requiring contractors to submit documents electronically would not be consistent with the intent of RSA 294-E, the Uniform Electronic Transactions Act. This statute provides for a cooperative approach between the State and parties submitting documents electronically, and does not compel electronic submittal. Further, FOD Fund reimbursement requests submitted by homeowners are typically in paper form and must be scanned by the Bureau upon receipt. Accordingly, moving forward, most documents will be electronically submitted voluntarily and all others will be scanned by the Bureau, thus achieving the goal of having all documents available electronically without requiring their submittal through a change in the rules.

Observation No. 7

Reassess Fund Cost Allocation For Program Management And Administrative Costs

Administrative cost allocations between the FOD Fund, Oil Discharge and Disposal Cleanup Fund (ODD Fund), Motor Oil Discharge Cleanup Fund, and Gasoline Remediation and Elimination of Ethers Fund do not consistently reflect each fund's use of resources. According to

one Bureau Supervisor, the Bureau strives to accurately allocate costs based on estimates of use, but accuracy could be improved.

Reimbursements to the NHDES and contractors for site remediation make up the bulk of fund expenditures. Each fund also pays program management and administrative costs for NHDES personnel time and benefits, information technology costs, building rent, equipment, travel and vehicle costs, telephone, photocopiers, postage, and contracts for program services, such as new software for the Department of Safety's Road Toll revenue system. Prior to the audit period, each fund paid administrative and reimbursement costs within its own account in the State budget. However, under this system the NHDES was often required to move money between the four funds for shared administrative expenses. To simplify the accounting process, in SFY 2008 program management and administrative costs for all four funds were grouped into a single account in the State budget, and expenditures were allocated to each fund. In SFY 2009, the Bureau allocated \$2.4 million in program management and administrative costs to the cleanup funds in this commingled account, including \$452,900 from the FOD Fund, 14 percent of total FOD Fund expenditures for SFY 2009.

NHDES personnel record hours worked in their timesheets by fund and project type; however, annual, bonus, compensatory, sick, holiday, and other standard personnel time is still recorded under the fund where the employee's position was located prior to SFY 2008. For example, if a position was previously accounted for in the FOD Fund, all leave or other non-specific time for the position would be charged to the FOD Fund, regardless of the number of hours worked on any other fund in the fiscal year. This methodology ensures each fund continues to contribute to the Bureau's overall administrative functions despite normal fluctuations in project workload over time. However, without recurring analysis of project-related personnel time, the Bureau cannot be sure one fund's project activity has not trended upward or downward over time, resulting in the fund overpaying or underpaying program management and administrative costs.

Reportedly, costs for Department of Information Technology services, current expenses, and vehicles are allocated to each fund based on estimates of use. However, a Bureau Supervisor reported he reviews the revenues in the funds to help determine cost allocation percentages, particularly noting the relatively healthy ODD Fund balance. In SFY 2009, the ODD Fund paid the entire Bureau share of \$220,340 for the new Road Toll software and \$2,824 for medical monitoring (required for employees exposed to waste). Costs for the Department of Justice, NHDES administrative services, indirect costs, and additional fringe benefits are also allocated based on the size of the fund; under the assumption larger funds use a greater portion of the services. Therefore, additional fringe benefits (cost-of-living increases to retirees) are not allocated based on personnel time worked on each fund, but are based on which funds receive larger revenues.

Finally, according to a Bureau Supervisor, cost allocation percentages are periodically reviewed and adjusted as necessary, including an adjustment for program management and administrative costs in SFY 2009. However, according to a NHDES fund accountant the updated percentages were not applied; the SFY 2009 costs were allocated based on SFY 2008 percentages.

Recommendations:

We recommend the Bureau conduct recurring analysis of project-related personnel time to ensure project activity remains steady over time and each fund pays administrative costs commensurate with project activity. In addition, Bureau management should ensure updated allocation percentages are correctly applied each fiscal year.

Auditee Response:

We concur. Bureau fund management personnel will work with the NHDES Accounting Unit to conduct recurring analysis of the basis for administrative cost allocation percentages for each reimbursement fund, in consideration of project-related personnel time and other operating expenses, and will make appropriate adjustments.

Observation No. 8

Establish Time Limits For Fund Liabilities

The Bureau does not track FOD Fund liabilities to either the Oil Pollution Control Fund or site remediation contractors. Currently, costs incurred by the NHDES and contractors for emergency cleanup of fuel oil spills are paid from the Oil Pollution Control Fund, which is then reimbursed by the FOD Fund. As there is no time limit establishing when the Oil Pollution Control Fund will be reimbursed, all cost recovery is done when the site is closed, which may occur years after the emergency cleanup. However, due to the diminishing availability of FOD funds, Bureau managers have not sought to repay Oil Pollution Control Fund expenditures from the FOD Fund since SFY 2008. The NHDES is reportedly working on an accounts receivable program for the Oil Pollution Control Fund to bill each of the funds administered by the Oil Fund Disbursement Board quarterly, rather than waiting until site closure, but the program is currently on hold.

In addition to reimbursing the Oil Pollution Control Fund for emergency actions, the Bureau reimburses contractors for all other fuel oil cleanup and remediation work from the FOD Fund. There is no time limit stipulating when an applicant may request FOD Fund reimbursement for remediation costs, and a Bureau Supervisor reported being unable to provide us with the outstanding liability to contractors for approved work scopes and change orders. We identified 36 out of the 877 projects closed since SFY 2000 (four percent) in which the last reimbursement request was made one year or more after the project was completed and closed by the Bureau. Total eligible costs for these 36 reimbursement requests were over \$102,700.

For an entity to control its operations, it must have reliable and timely information relating to internal and external events. However, the Bureau has no system to calculate up-to-date amounts owed for emergency cleanup or approved remediation work. A Bureau Supervisor reported the FOD Fund's outstanding liability to the Oil Pollution Control Fund could be calculated only with assistance from the DoIT.

In addition to internal communications, management should ensure there are adequate means of communicating with the Legislature as this may have a significant impact on the program

achieving its goals. Bureau management should be able to estimate the FOD Fund's outstanding liability to the Oil Pollution Control Fund and to contractors to accurately request Fund appropriations. Moreover, managers should keep track of outstanding FOD Fund liabilities in order to adequately report discrepancies between revenues and demands on the Fund.

Recommendations:

We recommend the Bureau develop a system to track outstanding FOD Fund liabilities to both the Oil Pollution Control Fund and contractors. The Bureau should continue developing an accounts receivable program for the Oil Pollution Control Fund to provide accurate and timely reimbursement requests to the other Bureau administered funds. In addition, the Bureau should work with the Board to establish rules limiting the time period applicants may submit reimbursement requests from the time project work is completed. A waiver process may allow later requests if applicants present reasonable circumstances.

Auditee Response:

We concur in part. Whether cleanup is initially funded by the Oil Pollution Control (OPC) Fund for later recovery from the FOD Fund, or cleanup is funded by the FOD Fund from the start, the total costs to complete cleanup are the same. Thus, the number of FOD Fund-eligible projects, the rate at which those projects occur, and average cleanup costs per project can be used to predict overall funding demand. NHDES has used this method to estimate revenue needs when providing testimony before the Legislature. However, we agree that more specific reporting capability to quantify liabilities by category could be of value. These categories could include: OPC Fund costs, approved work scopes, reimbursements awaiting approval, and estimates of future costs to complete cleanup. As noted by LBA, we are working with DoIT on an improved OPC Fund receivables system and we will look into other liabilities reporting options. However, the database application development costs to produce the desired reports could be significant.

We will request that the Department of Justice determine if the Board has statutory authority to adopt rules establishing time limits for applicants to submit reimbursement requests after work is completed. If there is authority, we will work with the Board to determine if such rules are needed, and whether they could reduce FOD Fund liabilities. It should be noted that current and past reimbursements to contractors as applicants have principally been delayed due to lack of funds for reimbursement, which is outside of the contractor's control. To avoid payment delays, under appropriate circumstances we are advising contractors not to perform work and we are deferring some projects.

Observation No. 9

Reconcile Gallonage Reports

The NHDES does not review revenues collected and posted on its behalf by the Department of Safety, Road Tolls Bureau (DOS) to ensure they are accurate. Our financial audit report of the NHDES for SFY ended June 30, 2004 noted although the DOS forwards supporting documents to NHDES accounting employees, no one at the NHDES performs a regular review to ensure

revenue deposited is accurate. Although the NHDES concurred at the time, we found DOS reports are still not reconciled to revenues.

During the audit period, RSA 146-E:3 assessed a \$0.01 fee on each gallon of fuel oil imported into New Hampshire, while RSA 146-D:3, III and RSA 260:38 assign the responsibility of collection to the DOS. The DOS also deposits the revenue into NHDES accounts. According to RSA 146-E:3, III, when the balance in the FOD Fund is greater than \$2.5 million, fee assessment must be discontinued and resumed only when the balance is less than \$1.5 million. In SFY 2009, the DOS collected and deposited approximately \$16 million to the NHDES' accounts, \$2.7 million of which was deposited into the FOD Fund.

According to NHDES accounting personnel, the NHDES receives a report from the DOS approximately five times per year showing the amount of fuel oil imported (i.e., gallonage reports) to compare against cash receipts. However, personnel stated not every report is reconciled to cash receipts because the associated risk is small. Instead, personnel check the reports for "reasonableness." NHDES accounting personnel stated the Fund Administrator would be aware of unusual changes to revenues; however, the Fund Administrator does not receive a copy of the gallonage report. The NHDES has not received a gallonage report from the DOS since October 2008. According to NHDES accounting and DOS Road Tolls personnel, the gallonage reports are difficult and time consuming to produce. However, NHDES personnel believe new software being installed for the road tolls system will be able to produce the reports automatically.

The Government Accountability Office's internal control standards state control activities, such as reconciliation, help to ensure all transactions are completely and accurately recorded. By not reviewing and reconciling gallonage reports timely, the NHDES risks receiving an incorrect amount of revenue and could miscalculate when it reaches the statutory threshold for discontinuing and resuming revenue collection.

Recommendation:

We recommend the NHDES work with the DOS to obtain gallonage reports more frequently. We also recommend the NHDES perform reconciliation of the gallonage reports to cash receipts to ensure FOD Fund revenues collected and deposited by the DOS are accurate.

Auditee Response:

We concur in part. Reconciliation of cash receipts is done on a monthly basis. Income is reconciled by comparing revenue in the NHDES Oracle system to the State accounting system. Board account transactions are entered into Oracle based on deposit documentation received from the Department of Safety (DOS). Any variances are investigated and resolved.

The NHDES has received gallonage reports from the DOS since SFY 1991. There was a break in reporting from SFY 1993 until SFY 1996 and then reporting started again in SFY 1996 through SFY 2001. Reporting was again stopped at the request of the Board. Reports were reviewed by the Board as well as program and accounting staff as to revenue reasonability.

Since there had been no deviations noted, and the DOS has audit procedures in place for the review of revenue calculations that were deemed sufficient, the detailed gallonage reports were not deemed necessary. Also, since NHDES business office staff reconciled revenue received on a monthly basis as part of our primary reconciliation procedures, review of the gallonage reports is deemed to be a secondary check and is done on a less frequent basis.

Based on a 2004 LBA audit report, the NHDES began requesting gallonage reports again. Most recently, we have received and reviewed gallonage reports in January and February 2006, March and April 2007, and March, July, August, September and October 2008. Initial reviews and calculations show calculated revenue to correctly match revenues received from the DOS deposits. Due to the antiquated nature of the DOS Road Toll system, it is a time consuming process to produce gallonage reports on a more frequent basis. We continue to review revenue amounts received, calculate gallons received based on the fee due to the appropriate fund, and draw conclusions of reasonableness based on information received. The new DOS Road Toll and environmental fee collection system may improve the quality and frequency of reports.

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**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

REGULATORY COMPLIANCE

Compliance with statutes, rules, policies, and procedures is essential for a program to function properly and ensure it accomplishes its intended purpose. We found the Oil Remediation and Compliance Bureau (Bureau) is not in compliance with some regulations intended to ensure the Fuel Oil Discharge Cleanup Fund (FOD Fund) functions efficiently and effectively. Some reimbursements were made without adequate insurance determination despite statutory requirements for the FOD Fund to only provide excess insurance. We found the Bureau approved reimbursement for projects with tanks in “temporary” compliance status without following up to ensure they were fully compliant, as required by statute. Finally, we found the Bureau does not comply with Oil Fund Disbursement Board (Board) administrative rules requiring it to establish performance standards for corrective action in work scope and approval notices.

For controls to function properly, policies, regulations, and statutes must not conflict. We found the Board’s administrative rule regarding the date fuel oil tanks must be in compliance to receive FOD Fund reimbursement may conflict with the statutory date requiring vent alarm installation. Also, the Board’s record retention rules conflict with the Waste Management Division’s retention policy and do not adequately ensure a complete record exists for all projects.

Observation No. 10

Insurance Coverage Determination Process Needs Improvement

The Bureau reimbursed fuel oil cleanup costs without obtaining proper insurance coverage determination from the facility owner’s insurance carrier. In addition, the Bureau accepted the insurance carriers’ coverage determinations which did not meet requirements established by the Department of Justice (DOJ), nor did the Bureau require homeowners follow up with insurance carriers when coverage determination was incomplete.

RSA 146-E:6, III established the FOD Fund as excess insurance. According to Administrative Rule Odb 405.03(b), the facility owner must provide written proof of insurance coverage prior to, or when, submitting an initial reimbursement request. A facility owner without insurance may submit a notarized letter stating when there is no private insurance. A DOJ letter to insurance companies, dated April 2001, requires coverage determination letters address all contamination issues including soil, groundwater, surface water, and third-party property at the time the loss is reported. In addition, the DOJ letter and the *work scope authorization form* advise applicants the Board presumes the homeowner’s insurance policy covers the cost of groundwater and surface water contamination investigation and remediation, unless the insurer certifies in writing coverage does not exist for these media. Bureau personnel stated the Bureau and DOJ are re-issuing the letter to insurance companies. The Petroleum Funds Subsection Supervisor is responsible for ensuring required insurance documentation is present prior to issuing reimbursements. Although the Subsection Supervisor has received no formal training regarding insurance verification, the Fund Supervisor, the DOJ, and insurance agents reportedly consult on statutes, rules, and policy statements.

In our file review sample of 136 out of 265 projects experiencing a fuel oil spill in State fiscal years (SFYs) 2008 and 2009, we determined 94 should have included a coverage determination letter or a notarized letter verifying no insurance at the time of our review. Two of the 94 projects (2 percent) were reimbursed for cleanup costs without evidence of insurance coverage determination in Bureau files. The total amount reimbursed for projects without insurance coverage determination or notarized letter was \$15,384.

We found 97 coverage determination letters in the project files; 63 (65 percent) were not in compliance with the DOJ guidance. Soil contamination was not addressed in 11 letters (17 percent), groundwater contamination was not addressed in 52 letters (83 percent), and third-party property was not addressed in 57 letters (91 percent).

We also identified ten of 97 projects (10 percent) where the NHDES did not follow up with the owner or the insurance company to clarify insurance coverage prior to reimbursement. Reasons for follow-up include:

- The need for additional clarification for groundwater impact coverage with nine insurers:
 - In one case, the insurance policy specifically provided coverage for groundwater impact; however, the NHDES did not attempt to recover funds from the insurer.
 - In eight cases, the insurers did not provide coverage determination for groundwater impact and requested the policyholders contact them for determinations if groundwater impact is discovered. According to the groundwater quality assessment reports for these eight cases, groundwater samples contained volatile organic compound or polycyclic aromatic hydrocarbon levels exceeding ambient water quality standards established in Env-Or 603.01. Despite the presumption the homeowner's policy covers groundwater impact unless the insurer certifies in writing otherwise, the Bureau did not withhold reimbursement or require homeowners to verify coverage with their insurers.
- In one case, the insurance company letter on file did not make any determination on coverage for soil or groundwater. The letter stated the insurer had not received a claim or suit by the NHDES against the policyholder; therefore, the insurer had no duty to defend or indemnify the policyholder.

Bureau management reported it should do a better job following up on coverage determinations. Currently, the Bureau does not follow up to determine if insurers are adequately representing their complete liability. In some instances, Bureau management reported the FOD Fund continued to pay costs associated with groundwater contamination and had not followed up with insurance companies to recover funds. Section supervisors, the Subsection Supervisor, project managers, initial response staff, and contractors independently discuss coverage with insurance companies and interpret insurance coverage determination letters. Although the Subsection Supervisor reviews insurance coverage determination letters prior to the initial reimbursement claim, there is no one person responsible for following up on coverage and amounts paid. Both lack of formal training and the number of Bureau staff involved in the process, complicate verification efforts and do not ensure continuous review of coverage from the beginning to the end of each project.

Recommendation:

We recommend the Bureau consult with the DOJ and the New Hampshire Insurance Department to determine requirements regarding insurance coverage.

Auditee Response:

We concur. Board rules require that parties seeking coverage from the FOD Fund provide a letter indicating private insurance coverage was denied and, by policy, parties without property insurance sign a notarized statement that they do not have insurance. The Bureau does not process reimbursement requests without the required insurance documentation or a waiver granted by the Board. Therefore, although insurance documentation for 2 projects could not be located for verification by the LBA, we are confident that reimbursement was not incorrectly authorized for those projects. As noted previously, the Bureau is now scanning all reimbursement documents so insurance information will be readily available in the future.

The purpose of the April 2001 Department of Justice (DOJ) guidance letter to insurance companies is to encourage them to provide complete insurance coverage determinations at the outset of a fuel oil spill in the interest of expediting cleanup, with State water resource protection being of primary concern. All FOD Fund projects are properly managed under current Board rules and policy regarding the interaction of the fund and private insurance, but we recognize this is a complex issue and it is appropriate to examine the current management approach. As the LBA recommends, we will consult with the Board, DOJ and the Insurance Department regarding the FOD Fund and private insurance coverage. We will examine the current Bureau process including: responsibility for reviewing insurance documentation and follow-up, adequacy of documentation provided by FOD Fund claimants to ensure that the fund only provides excess coverage, FOD Fund coverage for groundwater impacts and contamination, and training for Bureau personnel.

Observation No. 11

Ensure Tanks Are Compliant With Requirements Prior To Reimbursement

RSA 146-E:6, V and Administrative Rule Odb 405.01 (b) and (d) require fuel oil storage tanks be in compliance with State law, national industry standards, and local codes to receive reimbursement from the FOD Fund for corrective action costs. However, the Bureau reimbursed for some tanks only in temporary compliance without following up to ensure the tanks are fully compliant.

From our review sample of 136 projects, we found 13 homeowners with tanks in “temporary” compliance status received reimbursement from the FOD Fund during the audit period. Homeowners with “temporary” tank compliance status were reimbursed \$290,000 for corrective action costs. Bureau management acknowledged they should do a better job following up on temporarily compliant systems to ensure there is a permanent system in place and they do not release again in the future. Management stated this task is on the Bureau’s “to-do” list.

Recommendation:

We recommend the Bureau consult with the DOJ to determine the timeframe for when tank systems must be in compliance relative to reimbursements.

Auditee Response:

We concur. Temporary compliance status applies to a system used to provide fuel oil for an interim period until a permanent tank system is installed. After cleanup is complete the permanent tank system must be installed correctly or coverage will not be available for a future fuel oil discharge. We will consult with the Department of Justice (DOJ) as to whether this approach is consistent with RSA 146-E, Board rules, and in consideration of the DOJ opinion that will be requested regarding Observation No. 12. We agree that follow-up compliance checks are needed for permanent tank system installations after cleanup is completed. The Bureau will assign personnel to complete this special project.

Observation No. 12

Review On-Premise-Use Facility Tank Compliance Requirements

Board administrative rules may conflict with statute on the effective date an OPUF fuel tank must be equipped with a vent alarm. RSAs 146-E:6, V and 146-E:4, II prohibit reimbursement for corrective action for OPUFs unless the facility is equipped with a vent alarm by July 1, 1995. However, Administrative Rule Odb 405.01 allows reimbursement for corrective action and third-party damages if statutory requirements are met by July 1, 2010. In May 2009, the Board voted to extend the compliance deadline in its administrative rule to July 1, 2014.

According to the Board and Bureau personnel, there are concerns some remediation may not occur, impacting the environment, if homeowners cannot afford to perform cleanup on their own and do not have insurance coverage or access to FOD Funds to defray costs. The administrative rule extension will allow time for the Bureau to educate homeowners about the regulations.

Recommendation:

We recommend the Bureau seek the opinion of the DOJ to clarify the requirements for OPUF tank alarms in statute and administrative rule and make revisions as needed. The Board and the Bureau should seek to revise RSAs 146-E:6, V and 146-E:4, II if they consider the statutory time limits unenforceable.

Auditee Response:

We concur that the Department of Justice (DOJ) should provide an opinion regarding requirements for OPUF vent alarms. We note that RSA 146-E was enacted in 1993, and the NHDES worked closely with industry, the DOJ, the Board, and the Legislature on its development and approval. Over the years since 1993, the DOJ has provided legal counsel to the Board as administrative rules were developed, amended, and as the FOD Fund program

operated. No conflicts between RSA 146-E and the rules were identified by the DOJ during that time. The Board has applied RSA 146-E: 4, II such that after July 1, 1995 facility owners are not eligible until a vent alarm is installed. This applicability is in consideration of RSA 146-E: 6, V which states: "Facilities which have not met the requirements of RSA 146-E: 4 and RSA 146-E: 5 shall not be eligible for reimbursement until compliance with such sections has been achieved." Under Board rules, cleanup funding is available for an initial fuel oil discharge once compliance with vent alarm and all other requirements is achieved, consistent with RSA 146-E: 6, V. Once achieved, compliance must then be maintained. In 2005 the Board adopted new rules to require initial compliance by July 1, 2010, which is more stringent than previous rules and provides an incentive for tank owners to address deficiencies. The Board recently approved extending the deadline to July 1, 2014, and is considering options for non-compliance penalties.

Fuel oil discharges occur primarily due to poor tank structural support, age, corrosion, buried unprotected piping, and weather events affecting outside tanks. Vent alarms are a lesser concern, and are one of the standard components in new facility installations or upgrades necessary to be compliant with RSA 146-E: 4, rules, and best management practices.

Observation No. 13

Clarify Performance Standard Requirements

The Bureau does not adhere to Board administrative rules for establishing performance standards for corrective action work. Administrative Rule Odb 402.01(r) defines performance standard as the "expected level of completeness, quality, and/or reduction in measurable contamination when performing corrective action in accordance with RSA 146-G or department rules."

Both Board administrative rules and the Petroleum Reimbursement Fund Program *Guidance Manual (Guidance Manual)* discuss performance standards. The *Guidance Manual* states the NHDES will typically establish performance standards when a project's work scope is approved. According to Administrative Rule Odb 407.01(d), work scope approval notices must include the approved budget and a description of the performance standards for the work pursuant to various technical criteria. Further, Administrative Rule Odb 407.10(k) and the *Guidance Manual* state reimbursements can only be approved if the work meets the performance standards specified in the work scope notice under Odb 407.01(d). We found no indication of performance standards during our review of 136 OPUF projects. In addition, neither the standard work scope nor the standard change order forms discusses expected level of completeness, quality, or reduction in measurable contamination.

Bureau management was unclear about the intent of the administrative rules requiring performance standards. Management stated technical requirements for water and soil remediation are outlined in Administrative Rule Env-Or 603.03 and Env-Or 606.19; therefore they do not need to be reiterated in the work scope. Additionally, contractors obtain a work scope approval prior to commencing work and performance standards are met if the contractor adheres to the approved work scope and budget.

Without clear guidance regarding the need to establish performance standards, the Bureau cannot ensure corrective action work is performed to the Bureau's desired level of completeness and quality.

Recommendation:

We recommend the NHDES clarify the intent of performance standards and make changes to its process as necessary. If the NHDES determines performance standards are already codified in Env-Or 603.03 and Env-Or 606.19, it should amend Board administrative rules to reflect these requirements.

Auditee Response:

We concur with the observations. Under Board rule Odb 402.01(r), "Performance standard" means "an expected level of completeness, quality, and/or reduction in measurable contamination when performing corrective action in accordance with RSA 146-G or department rules." NHDES rule Env-Or 600 includes corrective action performance criteria applicable to FOD Fund projects, and the work scope describes how the criteria will be met. Hence, if corrective action is completed in accordance with the rules and the approved work scope, then the performance standard was met. However, we will recommend that the Board amend its rules as follows to clarify performance requirements:

*Odb 402.01(r) "Performance standard" means "~~the an~~ expected level of completeness, quality, and/or reduction in measurable contamination when performing corrective action **based on the criteria** in ~~accordance with~~ RSA 146-G or department rules."*

*Orb 402.01(c) The board shall, through the department, approve a work scope and budget upon determining the proposed work conforms with the technical criteria of Env-Ws 300, ~~Env-Wm 1403~~, **Env-Or 600**, ~~Env-Wm 1600~~, We 600, We 700 and We 800, as applicable, and the reimbursable corrective action cost criteria of this part.*

*Odb 407.01(d) The board shall, through the department, issue a work scope approval notice that includes the approved budget and a description of ~~the performance standard for~~ the work pursuant to the technical criteria of Env-Ws 300, ~~Env-Wm 1403~~, **Env-Or 600** ~~Env-Wm 1600~~, We 600, We 700 and We 800, as applicable .*

*Orb 407.10(k) No reimbursement shall be approved for any work that does not ~~the~~ meet the **corrective action** performance standard ~~specified in the work scope approval notice under Odb 407.01 (d)~~.*

Observation No. 14

Review Board Document Retention Rules

The Board's document retention policy does not coincide with the retention policy of the Waste Management Division. The result has been confusion and noncompliance with both policies. Additionally, the Bureau Site Remediation Database digital library is incomplete, indicating the Bureau is not retaining required documents in either electronic or paper form.

Board Administrative Rule Odb 104.02 requires the Board to maintain *paper* reimbursement records for 30 days after the action date when the approved amount is equal to the amount requested, and for 180 days after the action date when the requested amount exceeds the approved amount. Records of activity regarding Board procedures, reimbursement records of third-party damages, and records of Board meetings must be maintained for three years after the action or meeting date. In addition, the Board must maintain *electronic* records of activity conducted under its authority for an indefinite time period. According to Bureau management, the electronic and paper files together encompass the official project file; however, the Bureau is not required to retain paper records longer than 30 or 180 days. If hard copy files can be discarded after 30 and 180 days, the Bureau cannot ensure it maintains a complete project file. As discussed in Observation No. 15, we found documents including work scopes, change orders, and insurance coverage determination letters missing from the digital library for 39 projects, accounting for a total of 58 missing work scope and change order documents.

The Bureau operates within the Waste Management Division of the Department of Environmental Services. The Division's *Record Retention Authorization Policy* conflicts with the Board's retention policy. The Division's policy states reimbursement claim submittals must be retained for two years after the claim is processed in either electronic or paper form. In addition, reimbursement notices, including records of actual reimbursements and information needed for future liability determination, must be retained for 100 years after file closure. Since the Bureau is responsible for other waste cleanup in addition to programs administered by the Board, the conflicting retention policies may create confusion regarding which policy applies to which documents.

We found Bureau project managers do not consistently apply either policy. Of four different project managers we interviewed, one reported retaining all documents pertaining to a project until it is closed or transitioned to the Remediation Section. Another reported being unsure how long documents are kept once they have been scanned and discards paper copies when the project is closed. Another project manager discards documents in the recycling bin immediately after completing the review of the document, while a fourth reported retaining all scanned documents, mingling several projects in a single box. In addition, one manager did not recall receiving instruction regarding any retention policies; while another reported being unaware of a formal policy regarding scanning requirements, including what requires scanning, when, or by whom. According to Bureau management, each person is responsible for scanning documents into the database, and document scanning is not centralized.

Bureau management reported some documents may not be present in either paper or digital format, but if necessary, copies of the documents can be obtained from contractors because they must keep copies for seven years for tax purposes. However, relying on contractors to meet the Board's retention policies does not ensure the criteria established in the policies are met.

Original invoices submitted with reimbursement requests are not scanned into the digital library. This conflicts with the Board's retention policy, which requires the Bureau to keep electronic copies of documents supporting reimbursements. When filling out the notice of reimbursement, project managers enter the invoice amounts into fields in the database; however, the original

invoices are not scanned into the digital library, preventing independent verification of the invoice after 30 or 180 days. Bureau management reported personnel should strive to scan all documents into the digital library, including invoices.

Recommendations:

We recommend the Board review its document retention policies and attempt to align the Board and Waste Management Division retention policies to ensure both policies establish similar criteria. Once the policy has been reviewed, we recommend the Bureau train staff members regarding retention policies and requirements for both paper documents and the digital library.

We also recommend the Board establish a formal quality control process to ensure record retention policies are followed and all project-related documents are scanned and uploaded to the digital library.

Auditee Response:

We concur. However, we note that paper and electronic reimbursement records are currently being managed and retained in accordance with Board rules Odb 102. Discarding paper reimbursement records after 30 or 180 days, as applicable to the type of reimbursement, is permitted under the rules. The rules do not require that records be maintained in both paper and electronic format, nor do they require that all documents and invoices be maintained electronically. Rather, the rules require that electronic documents be maintained indefinitely once they are in that format, which is the Bureau procedure. We have implemented new procedures to scan or upload all reimbursement-related documents to the digital library, which will ensure invoices are available for review at any point in the future after reimbursement requests are processed.

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ELECTRONIC FILE AND DATABASE CONTROLS

Oil Fund Disbursement Board (Board) Administrative Rule Odb 104.02 (b) requires the Oil Remediation and Compliance Bureau (Bureau) retain electronic records for an indefinite period of time. To accomplish this, the Bureau relies on its Site Remediation Database and digital library to document fuel oil cleanup projects, track project progress, and view electronic files of project documentation. Electronic documents from the digital library are also made available to the public through the New Hampshire Department of Environmental Services (NHDES) OneStop website. The database and digital library allow improved access to the public and allow multiple users to view a record simultaneously. This ability has also improved access for Bureau personnel who may be working with the same site under a different program. The Bureau is in the process of developing a web-based process for contractors to electronically submit reimbursement requests. However, the Bureau lacks policies and procedures to ensure documents are digitized and in the digital library and has not completed a formal risk assessment to identify and analyze risks to the data and Bureau operations.

Observation No. 15

Ensure Digital Library Files Are Complete

The Bureau's Site Remediation Database digital library does not contain all documents related to a cleanup project including work scopes, change orders, documentation of insurance coverage determination, and original contractor and subcontractor invoices. However, the Bureau relies on the database and electronic documents contained in the digital library as a record of the case for each project. Administrative Rule Odb 104.02 (b) requires the Oil Fund Disbursement Board (Board) maintain electronic records of activity conducted under its authority for an indefinite time period. However, the administrative rule does not require, nor are there formal policies or procedures to ensure all records are digitized.

The Bureau has not established a formal policy identifying relevant documents to include in the digital library and has not assigned responsibility for ensuring all documents are present. Four of seven project managers we spoke with stated they scan all relevant project-related documents into the digital library, while three project managers stated they rely on personnel in the Bureau's Library Section. Library Section personnel reported it is the Library Section's responsibility to scan all documents over ten pages and ensure they are in the digital library. In a March 2009 e-mail, the Bureau Administrator required project managers to add all work scopes to the digital library and stated the Library Section will no longer scan paper copies of work scopes. However, there continues to be confusion about scanning and uploading procedures among Bureau personnel familiar with the database. Additionally, Bureau personnel are uncertain if documents placed on their desks have been scanned and uploaded into the digital library.

In addition, there is no formal quality control process to ensure all documents related to the project are included in the digital library; however, Bureau management make ad hoc corrections to the data if an error is discovered while performing other responsibilities. The Bureau established a *Digital Library Manual* as a guide for project managers regarding how to enter

data, view documents in the digital library, and run reports. Two Bureau personnel reported they have not received training on the database.

According to Administrative Rule Odb 407.01(a), (c), and (d), the owner or remediation contractor must submit a work scope and budget prior to the start of remedial action, with the exception of emergency actions. The work scope defines the remedial action plan and is used to ensure reimbursement requests are for work previously authorized by Bureau personnel. Our file review sample of 136 projects found 30 projects (22 percent) had no work scopes or change orders present in the digital library.

Additionally, our review of a subset of projects in which at least one reimbursement had been made found 11 of 100 projects (11 percent) were missing documentation of insurance coverage determination in the digital library. RSA 146-E:6, III establishes the Fuel Oil Discharge Cleanup Fund (FOD Fund) as excess insurance and Administrative Rule 405.03 (b) and the Petroleum Fund Reimbursement Program *Guidance Manual* require a letter from the owner's insurance company or a notarized letter stating the owner has no insurance coverage prior to reimbursement. Without complete documentation in the project file, the NHDES cannot ensure FOD Fund expenditures were appropriate and properly approved.

Recommendations:

We recommend the Bureau create formal policies and procedures to ensure all project-related documents are included in the digital library and ensure personnel receive appropriate training. The policy should include:

- **identifying all relevant project-related documents;**
- **assigning responsibility for ensuring the documents are included in the digital library; and**
- **a formal quality control process to ensure the library contains the final version of all documents, including corrections.**

We also recommend the Bureau create policies defining which documents should be retained in hard copy format.

Auditee Response:

We concur in part. Maintaining all documents in a digital format is a program goal, not a requirement, to manage projects more efficiently and provide better public access to records. It should be noted that the Bureau programs are unique leaders within the NHDES in moving to digital record keeping, as the majority of NHDES programs still rely on paper records. As noted, we have implemented new procedures to scan or upload all reimbursement-related documents to the digital library. However, it will take additional time before all Bureau project related records can be made available in digital format. Once in that format, it is not necessary to retain paper copies, because paper can be re-created at any time. We will evaluate whether formal policies, procedures, and training would benefit the Bureau digital library process.

Observation No. 16

Perform Formal Risk Assessment Of Site Remediation Database

There has been no formal risk assessment of the Bureau Site Remediation Database and digital library. Such an assessment would identify and analyze risks associated with electronic information and how these risks could negatively affect the Bureau's ability to achieve the FOD Fund's objectives. This analysis may include assessing significance and likelihood of occurrence, and suggest management strategies and actions that could be taken to mitigate the risks. The Bureau owns the database and therefore must make decisions on how to address identified risks. In some cases, it may be more prudent for Bureau management to acknowledge and accept certain risks to the database because the cost or effort to reduce those risks is too great. Currently, the database and digital library only serve programs within the Waste Management Division. However, the NHDES reportedly has plans to expand use of the digital library to programs across the Department, in which case mitigation efforts may need to be increased to ensure they address risks to other programs.

We identified eight information technology (IT) weaknesses which may pose a risk to the Bureau's activities and could be addressed in a formal risk assessment.

1) **The Bureau lacks formal, written database policies and procedures.**

While the Department of Information Technology (DoIT) staff have regular procedures to follow, there are no written Bureau policies for:

- database passwords, including access for new personnel or canceling passwords timely upon employee termination,
- controlling program changes to ensure IT projects are prioritized by appropriate DoIT and NHDES management,
- testing program changes,
- reviewing and approving program changes prior to implementation,
- data and application back-up procedures,
- downloading software updates, or
- sending reimbursements to accounts payable or comparing amounts requested to payments sent by NHDES accounts payable.

One Bureau supervisor reported a database manual was developed in 1997, but it is now outdated and no longer used. The Bureau's *Digital Library Manual*, created in 2007 and updated in May 2009, describes some data entry procedures but does not appear to be referenced by database users. One official was unaware the manual had been updated and one project manager did not know the manual existed. The *Digital Library Manual* does not include complete lists or definitions of entry codes, and not all new or changed procedures were included in the *Manual's* most recent version.

2) **There is no formal training for database users.**

Users generally reported the database is useful; however, one Bureau manager stated over the years the system has developed into a heavily layered and complicated structure. Other users stated the database could be more user-friendly, especially for personnel with limited familiarity with Oracle. Program personnel and management reported new employees would have to seek training on the database from other users, and existing users are not officially informed when a change has been made to the database. Although DoIT policies exist, users do not receive awareness training on computer viruses or other threats to network and database security.

3) **The database administrator is also one of the database programmers.**

Medium to large organizations typically segregate duties for database programming and database administration to avoid concentrating the ability to manipulate the database in a single individual. However, DoIT management reported while the duties of administrator and programmer would ideally be separated, it is beneficial for the NHDES to have an individual with broad knowledge of the database and multiple capabilities given the State's limited resources. If incompatible duties must be performed by the same person, organizations should consider implementing compensating controls.

4) **There is no formal error review of data entry.**

Two managers reported fixing data entry errors when working in the database; however, this is done on an ad hoc basis and is not an established quality control review, as discussed in Observation No. 15. According to four database users, some database fields and the digital library are not complete; newly created fields are not filled in promptly; information changes without notice; projects are not closed timely; and work scope approval, codes, spelling, addresses, and invoice numbers are not always correct. One user reported querying the database three ways because items are misspelled or contain typographical errors. There is, however, a review process for digital library documents prior to upload. Managers reported this is a broad review to ensure all documents are necessary and are linked to the correct site number, ID number, project level, and claim letters. Also, according to NHDES personnel, project numbers in management reports may change due to errors or because projects are not added to the database in a timely manner. These reports may be presented to the Governor and Council, the Legislature, or the US Environmental Protection Agency.

5) **The Bureau lacks database operational instructions.**

The Bureau has documentation on the recent development of the digital library; however, there is no documentation describing database architecture or instructions.

6) **There is no security review of database or network user activity.**

Although the last change made to the database is recorded, operating logs are not maintained and reviewed on an ongoing basis. Both the database and network have the ability to generate security reports, but neither are actively used or reviewed.

7) **Software security controls could be strengthened.**

Duplicate copies of personal computer software and documentation are located on-site rather than in a secure, off-site location. Although the DoIT has a program capable of

summarizing software on each personal computer terminal, there is no convenient software inventory to check the report against. According to a DoIT official, the program is only used for specific items.

8) **There is no disaster recovery plan.**

DoIT personnel have stated it may not be possible to process reimbursements if a disaster were to interfere with the Bureau's IT functions. The Memorandum Of Agreement between the NHDES and the DoIT says if a disaster is NHDES-specific, the DoIT will step in to provide certain IT functions. Also, the NHDES is currently working on a business continuity plan. However, at this time the Bureau does not have a written disaster recovery plan establishing recovery and resumption of applications, data, and IT infrastructure in the event of a disaster.

A risk assessment should include a thorough review of controls, including security features the Bureau and the DoIT have in place for the database. The DoIT application security policy requires all State IT services and systems administered by the DoIT to have an application security review. Although the database was developed prior to the creation of the DoIT, the application security policy applies to all applications developed or administered by the DoIT. The policy also states each major system enhancement must address the security needed for effective business operation of the information system. The database was enhanced when the reimbursement portion was transferred from an Access database to the Oracle database in 2004 and when the digital library portion of the database was developed. Also, the Bureau is currently working with DoIT personnel to develop an electronic reimbursement submittal process. However, no formal security review was documented for these enhancements.

Recommendations:

We recommend the Bureau and DoIT personnel work together to perform a formal risk assessment of both the Site Remediation Database and digital library, including a security review as required by DoIT policy. Based on assessments and available resources, Bureau management should prioritize the steps it will take to reduce risks.

Auditee Response:

We concur that there is room for improvement in seven of the weakness areas, and the Bureau and the DoIT will work together on the recommended risk assessment.

The DoIT group supporting the NHDES has worked collaboratively with the Bureau over a period of years on the development, maintenance and enhancement of the Site Remediation Database as well as the Digital Library. The Bureau relies heavily on these information technology tools in conducting their business, and they are routinely looking for ways to improve the efficiency of their operations. All of the information technology weaknesses identified reflect the fact that we have focused our limited staff resources on maintaining and improving the systems at the expense of documenting policies and procedures, placing a greater emphasis on IT security, and providing formal training for staff. While this focus has been necessary to meet the needs of the Bureau in a timely fashion, we recognize the risks associated with limited documentation, security, and training.

We do not agree that having the database administrator also serve as one of the database programmers is an information technology weakness in this situation worthy of any additional action. As the audit report states: "It may be more prudent for Bureau management to acknowledge and accept certain risks to the database because the cost or effort to reduce those risks is too great." We believe the benefits of this arrangement far outweigh any risks. The Oracle database administrator for the NHDES performs regular programming duties working on applications across the agency in order to maximize available staff resources and to take advantage of that person's skills and expertise. He also functions as the technical lead for the developers assigned to the NHDES. There has never been an issue or concern with "concentrating the power to manipulate the database in a single individual," and in light of this arrangement the individual makes an extra effort to carry out his duties in a transparent and visible manner.

**STATE OF NEW HAMPSHIRE
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OTHER ISSUES AND CONCERNS

In this section we present issues we consider noteworthy, but not developed into formal observations. The Oil Fund Disbursement Board (Board), the Oil Remediation and Compliance Bureau (Bureau), and the Legislature may wish to consider whether these issues and concerns deserve further study or action.

Evaluate Supervisor VII Position Responsibilities

Non-technical review and clerical data entry associated with reimbursement requests are performed by a Supervisor VII position. When contractors or homeowners submit reimbursement requests, the Petroleum Funds Subsection Supervisor VII enters into the database descriptive information about the reimbursement request including the date the request arrived, the project name and site number, and other information; ensures supporting invoices are included in the request; ensures documentation of insurance coverage is present; and assigns the request to a project manager for review. Project managers perform a detailed review, including ensuring subcontractor invoices adequately support the amount requested; ensuring work performed conforms with the approved work scope; ensuring rates charged conform with the approved work scope; and, if applicable, explaining why the contractor is receiving less than the amount requested. When project managers finish their review, the Subsection Supervisor performs a final review including looking for typographical errors; ensuring accurate explanations for why the contractor is receiving less than the amount requested; ensuring the reimbursement form is signed; and ensuring a contractor has certified the tank is in compliance before approving the request for payment. According to the Subsection Supervisor, there is a three-week backlog in entering new claims into the database.

Minimum qualifications for the Subsection Supervisor include a Master's degree in geology, environmental sciences, engineering, business, or public administration; experience in the technical aspects of field investigations and site remediation; and supervisory experience involving administration, program planning, evaluation, and management. The Subsection Supervisor reports taking part in policy-making, but estimates spending 95 percent of the time handling reimbursement requests and speaking with contractor accounting personnel regarding reimbursement requests.

We suggest the Bureau work with the Department of Administrative Services Division of Personnel to conduct a desk audit of the position to determine whether the responsibilities warrant a Supervisor VII.

Auditee Response:

The Bureau was already evaluating the role of the Supervisor VII position due to changes that will be implemented for submitting reimbursement claims through a web-based process, and personnel resources needed for cleanup project management and facility compliance activities. Therefore, we do not believe a desk audit is necessary or warranted. We will likely be seeking

approval from the Division of Personnel for a Waste Division reorganization plan to address a number of issues, including re-assignment of the Supervisor VII to the Bureau Petroleum Remediation Section, under a revised Supplemental Job Description.

Clarify The Intended Use Of The Oil Pollution Control Fund

The Bureau does not complete cleanup of fuel oil spills when it determines FOD funds are insufficient, prolonging remediation efforts and potentially raising long-term cleanup costs. Six Bureau personnel cited lack of funding as a primary factor delaying completion of remediation. Bureau managers report if the responsible party of a fuel oil spill cannot or is unwilling to manage cleanup, the Oil Pollution Control Fund (OPC) is used to pay for only emergency cleanup and is then reimbursed by the FOD Fund. The OPC Fund is not used to complete remediation; rather, once immediate threats to health or groundwater have been contained, work is discontinued until the FOD Fund has sufficient funds to complete remediation. Three Bureau personnel stated if the emergency response measures effectively remove enough oil product from the soil, the rest of the remediation can be delayed without major consequences. However, seven Bureau personnel, including the Bureau Administrator, also reported delays can adversely impact the environment, resulting in more complicated and expensive projects. One project manager used the illustration that a \$10,000 remedial dig performed immediately may be more cost-effective than years of groundwater monitoring. The Bureau estimates as of October 2009, it had to defer remediation work on an estimated 45 spill sites initiated in SFY 2008 and 2009.

According to one supervisor, the OPC Fund is not used to complete fuel oil discharge cleanup because it is intended to be a contingency fund to ensure the State is prepared for a coastal spill. Reportedly, the Fund was created in the 1970s after a coastal oil spill, expanded after Exxon-Valdez, and is currently used for coastal spill response training. However, RSA 146-A:11-a establishes the OPC Fund as a non-lapsing, revolving account, which may be used for the cost of any containment, removal, or corrective measures deemed necessary by the NHDES as a result of an actual or potential oil discharge into the State's surface water or groundwater. At the end of SFYs 2008 and 2009, the OPC Fund had an available balance of \$1.5 million and \$1.2 million, respectively.

We suggest the Bureau obtain clarification on whether it is the intent of the Legislature to reserve funds in the OPC Fund or to use available funds for current spills.

Auditee Response:

The OPC Fund has a long history serving as the principal, broad coverage dedicated fund available to the State for addressing coastal and inland oil spills. Maintaining a reserve or contingency fund balance is critical to spill readiness and associated planning. For that purpose, we note that an available balance of \$1.2 million at the end of SFY 2009 is low. A number of years ago the NHDES performed a corrective action cost analysis for a significant oil spill in Great Bay, which indicated a minimum \$2.2 million OPC Fund available reserve balance was necessary. An update of that analysis would likely result in an upward adjustment of needed reserves due to inflation alone.

The role the OPC Fund plays in bolstering the FOD Fund at various times is only possible because of its broader purpose and scope, and is a secondary role at best. In prior years, the OPC Fund has loaned funds to the FOD Fund with payback derived from FOD Fund import fee increases, so OPC Fund contingency reserves were thus restored. It was with great reluctance that the NHDES supported legislation in 2009 to transfer \$400,000 from the OPC Fund to the FOD Fund with no payback, but it was necessary because of the significant FOD Fund financial difficulties that prevented another loan scenario. We believe the intended use of the OPC Fund and FOD Fund are distinct in law, and each requires adequate revenues and reserves to meet legislative intent. Over the years, we have heard concerns expressed by the Legislature during testimony on various related bills, about the need to preserve an oil spill contingency fund due to the unique character, and economic significance, of Great Bay and environs. Nevertheless, we are agreeable to consulting with the Department of Justice on interpretation of OPC Fund use, and can also review the available legislative history.

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**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

CONCLUSION

The Fuel Oil Discharge Cleanup Fund (FOD Fund) administered by the Oil Fund Disbursement Board (Board) with program support provided by the Oil Remediation and Compliance Bureau (Bureau) is effective and functioning as intended for cleanup of emergency and high-priority fuel oil spills. However, insufficient FOD Fund revenues have caused delays in cleanup and closure of an estimated 45 projects during State fiscal years (SFY) 2008 and 2009, as well as restricting use of the Safetank program to only the highest priority cases. Additionally, there are many opportunities to refine the process for administering the FOD Fund efficiently. The lack of a formal quality review process; inconsistent application of statutes, rules, and policies; and some categories of expenses which may not be authorized by statute, may divert resources from completing much needed cleanup and prevention efforts.

The Bureau oversees the cleanup and remediation process by reviewing and approving work scopes, budgets, and reimbursement requests submitted by contractors. The Bureau is responsive to fuel oil spills, with personnel usually arriving at the spill site within 24 hours of discovery. Consumers surveyed generally reported satisfaction with services provided by the Bureau and the timeliness of the Bureau's response, with the vast majority of consumers reporting they received notification of their eligibility status within one week of notifying the Bureau. Remediation contractors we surveyed also were generally satisfied with the Bureau's work scope and budget review and approval process. Although half of the respondents expressed dissatisfaction with the timeliness of reimbursement, we found the Bureau approved payments, on average, within 100 days of receipt; 50 days earlier than Board administrative rules require. Contractors expressed similar dissatisfaction with the timeliness of reimbursement from other states in which they perform work.

Despite overall positive responses from the program's stakeholders, we found some of the Bureau's internal processes need improvement. The Bureau should tighten controls over the work scope and budget approval process. Weaknesses in the process have resulted in work scopes and budgets with calculation and rate errors and reduced the Bureau's ability to track a project's total budget costs and timely quantify incurred and potential FOD Fund liabilities. The Board should amend its administrative rules to require contractors submit documentation of actual time worked to support their reimbursement requests. The Bureau should also improve internal communication as informal policies have led to differing interpretations, resulted in incomplete and inconsistent documentation of project files, and an inconsistent application of retention policies and review requirements.

To maximize resources, the Bureau and the Board should strengthen controls over expenditures. The Bureau's policies to reimburse for some expenses may not be authorized by statute and should be reviewed, especially given the FOD Fund's diminishing resources. FOD Fund revenues have been declining since SFY 2005, while reimbursements for cleanup and remediation have remained relatively stable.

As funding became more limited in SFY 2009, the Bureau instituted a policy to delay remediating stable sites and only approved work scopes for sites classified as posing immediate danger to public health or water supplies. As a result, remediation work is not being approved for some low priority projects, which, in the long-term, may increase FOD Fund expenditures on these sites. Also, resources have been unavailable to adequately fund prevention efforts. The Safetank program currently only replaces tanks which have experienced or are in imminent danger of causing a fuel oil spill. The Board, the Bureau, and the Legislature should continually assess revenues to ensure resources are sufficient to achieve the FOD Fund's purpose and implement appropriate goals and objectives to ensure the purpose is met. The findings in this report are intended to aid in those efforts.

**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

APPENDIX A

Department Response To Audit



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 3, 2009

The Honorable Marjorie Smith, Chair
Fiscal Committee
Legislative Office Building Room 202
Concord, New Hampshire 03301

**Re: State of New Hampshire Fuel Oil Discharge Cleanup Fund
Performance Audit Report, December 2009**

Dear Chairman Smith:

Thank you for the opportunity to comment on the "Fuel Oil Discharge Cleanup Fund Performance Audit Report, December 2009" (Audit Report) written by the Legislative Budget Assistant's Audit Division (LBA-Audit Division).

First, I would like to express the Department of Environmental Services' (Department) sincere appreciation for the excellent work of the LBA-Audit Division. Department and LBA-Audit Division staff maintained a cordial and open relationship throughout this process. The LBA-Audit Division team, led by Vilay S. DiCicco, Audit Manager, is to be commended for the professionalism and thoroughness that are reflected in the quality of the Audit Report. I would also note it is important to acknowledge that the Department's Waste Management Division, Oil Remediation and Compliance Bureau (Bureau) is also staffed by dedicated professionals who perform high quality work in managing and administering the Fuel Oil Discharge Cleanup (FOD) Fund and other fund programs, on behalf of the Oil Fund Disbursement Board (Board).

The FOD Fund program has a long history of service to the citizens of New Hampshire in providing financial resources to remedy environmental impacts due to fuel oil spills, and preventing severe financial hardship for owners of fuel oil storage tanks who suffer those spills. The FOD Fund is also available for replacement of substandard fuel oil storage tank systems under the "Safetank" program, which provides funds for low-income homeowners to upgrade or replace tanks. This program has been a major part of Department efforts to reduce the incidence of fuel oil spills and thus reduce cleanup expenses.

We are pleased that the LBA-Audit Division concluded that the FOD Fund administered by the Board with program support provided by the Bureau is "*effective and functioning as intended for cleanup of emergency and high-priority fuel oil spills*". However as the Audit Report indicates, insufficient FOD Fund revenues have impeded the ability of the Board to fully implement program goals and objectives as the Legislature intended. Completion of cleanup at numerous fuel oil spill projects is being delayed, and the Safetank program is operating at a minimal level.

The LBA-Audit Division also identified a number of FOD Fund program procedure areas where improvements would be of benefit. We concur fully or in part with the recommendations

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The Honorable Marjorie K. Smith
Chair, Fiscal Committee
December 3, 2009
Page 2 of 2

in the Audit Report and look forward to communicating with the Department of Justice on issues of statutory/administrative rule interpretation, and working with the Board on implementing procedural changes as necessary to address concerns discussed in the Audit Report. We also look forward to working with the Legislature to ensure that future FOD Fund revenues are sufficient to support important and necessary fuel oil spill prevention and cleanup work.

In closing, the Department's participation in the development of the Audit Report has been a very productive exercise. The recommendations contained in the report are highly noteworthy and may yield cost savings that can be used to aid in the implementation of FOD Fund program goals and objectives. Again, we thank the LBA-Audit Division for its excellent work on the Audit Report.

Thank you again for your consideration. If you have any questions concerning our response to the Audit Report, please do not hesitate to contact me at 271-2958 or by email at Thomas.Burack@des.nh.gov.

Sincerely yours,



Thomas S. Burack
Commissioner

cc: Jeffry A. Pattison, Legislative Budget Assistant
Honorable Susan W. Almy, Chair, House Ways & Means
Honorable Martha Fuller Clark, Chair, Senate Energy, Environment & Economic Development
Honorable Lou D'Allesandro, Chair, Senate Finance
Oil Fund Disbursement Board

**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

APPENDIX B

**FOD, ODD, MOD, And GREE Fund Revenues, Expenditures, And Program Management
And Administrative Costs; SFYs 2000-2009**

The following tables show total revenues, expenditures, and program and administrative costs for the Fuel Oil Discharge Cleanup Fund (FOD), Oil Discharge and Disposal Cleanup Fund (ODD), Motor Oil Discharge Cleanup Fund (MOD), and Gasoline Remediation and Elimination of Ethers Fund (GREE) from State Fiscal Years 2000 to 2009. Administrative expenditures were calculated using personnel, current expenses and other non-reimbursement expenses for each of the funds. Total expenditures include program and administrative costs and reimbursements.

Table 3

**FOD, ODD, MOD, And GREE Fund Revenues;
SFYs 2000-2009**

SFY	FOD	ODD	MOD	GREE
2000	\$3,272,311	\$2,595,477	\$192,834	NA
2001	3,709,020	6,061,819	63,234	NA
2002	3,058,845	11,036,919	35,244	\$2,600,789
2003	3,680,325	12,788,761	11,689	890,694
2004	647,406	12,958,507	199,444	606,826
2005	3,585,657	12,260,094	293,631	1,909,881
2006	3,052,122	11,961,157	365,320	1,907,205
2007	3,078,344	13,735,743	344,843	1,840,892
2008	3,010,564	11,589,379	249,279	1,861,794
2009	\$2,701,616	\$11,408,026	\$254,877	\$1,752,149

Source: LBA analysis of SFY 2000-2009 statements of appropriation.

Table 4

**FOD, ODD, MOD, And GREE Fund Expenditures;
SFYs 2000–2009**

SFY	FOD	ODD	MOD	GREE
2000	\$2,081,288	\$5,331,408	\$47,570	NA
2001	2,541,332	8,461,567	48,307	NA
2002	2,702,956	9,442,627	65,845	\$465,750
2003	3,283,681	12,437,254	139,440	896,884
2004	3,191,628	12,620,947	138,054	1,480,197
2005	3,276,641	14,845,477	187,903	1,517,482
2006	3,377,334	13,322,942	241,660	2,536,038
2007	2,970,522	14,409,323	610,734	2,522,472
2008	2,789,475	13,227,490	202,152	1,334,434
2009	\$3,309,597	\$12,195,501	\$151,414	\$1,422,024

Source: LBA analysis of SFY 2000-2009 statements of appropriation.

Table 5

**FOD, ODD, MOD, And GREE Fund Program Management And Administrative Costs;
SFYs 2000–2009**

SFY	FOD	ODD	MOD	GREE
2000	\$109,306	\$579,709	\$20,196	NA
2001	91,889	549,116	12,581	NA
2002	85,740	1,055,057	12,715	\$50,651
2003	106,873	1,136,340	59,730	306,663
2004	225,224	770,722	61,203	333,731
2005	308,693	807,965	71,947	375,633
2006	261,755	1,068,955	115,083	613,614
2007	243,128	1,148,406	139,363	701,816
2008	389,567	1,151,038	142,158	481,379
2009	\$452,900	\$1,494,593	\$53,551	\$476,802

Source: LBA analysis of SFY 2000-2009 statements of appropriation.

**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

APPENDIX C

Site Remediation Contractors Survey

Notes:

- Responses are in bold.
- Totals may differ based on respondents' answer and work area.
- Fifteen surveys were emailed and 13 (87 percent) were returned.

Purpose:

Contractors performing residential cleanup and remediation work during State fiscal years 2008 and 2009 funded by the Fuel Oil Discharge Cleanup Fund were selected to participate in our survey. The survey population consisted of fifteen consulting or contracting firms receiving the most amount of reimbursement and performing the most number of fuel oil cleanup projects.

Survey Questions:

The survey consisted of sixteen questions. However, the survey was divided into two parts, questions pertaining to cleanup work performed in New Hampshire and questions pertaining to cleanup work performed in other states. All contractors responding may not perform cleanup and remediation work outside of New Hampshire and therefore their surveys did not include responses for questions 11 through 16. In addition, some respondents provided more than one answer for some questions.

Confidentiality Statement:

All responses are confidential, consistent with RSA 14:31-a, II. Individual surveys were not shared with the NHDES. Responses were combined with others and are reported as aggregate data here.

New Hampshire Fuel Oil Cleanup And Remediation Process

1. Please describe your level of satisfaction with the following services performed by the NHDES (Select One Answer For Each Row Listed):

	Very Satisfied	Satisfied	Dissatisfied	Very Dissatisfied
Guidance regarding required documents and submittal deadlines.	4	7	1	1
Guidance through the work scope submittal process.	6	6	1	0
Guidance through the work scope <i>change order</i> process.	5	7	1	0
Thoroughness of work scope and budget review.	4	9	0	0
Consistency among reviewers in approving work scope and budget.	1	11	1	0
Updates on the status of your work scope and budget review.	4	7	2	0
Timeliness of work scope review and approval.	5	7	1	0
Guidance through the reimbursement process.	4	6	1	2
Thoroughness of reimbursement request review.	3	7	2	1
Consistency among reviewers for approving reimbursement requests.	1	9	1	2
Updates on the status of your reimbursement request.	1	6	3	2
Timeliness of reimbursement review and approval.	1	5	4	3
Timeliness of receiving the actual reimbursement check.	1	3	6	3
Quality of NHDES project manager visits during the course of the project.	5	6	2	0

If you were dissatisfied or very dissatisfied with any of the services, please explain:

- **Contractors would prefer to receive reimbursement in a timelier manner.** 6
- **Contractors are acting as lenders due to untimely reimbursements.** 3
- **Review time for work scopes and reports with action item recommendations can be exceedingly slow.** 3
- **Dissatisfaction with office personnel, the way reviews are handled, and the way fund policies are interpreted.** 1
- **A shortfall in funding has been a major obstacle to performance.** 1

2. How were you selected as a remediation contractor?

References (oil co., ins. co., homeowner)	8
NHDES List	2
Contacted By NHDES	1
Reputation	1
No Answer	1

Were you satisfied with the selection process?

Yes	7
No	6

3. How often do you work with the same NHDES project manager on *different* residential fuel oil cleanup and remediation projects?

2	Less than 10% of the time
6	10% - 25% of the time
3	26% - 50% of the time
1	51% - 75% of the time
1	More than 75% of the time

4. For *specific* residential fuel oil cleanup and remediation projects, do you work with one NHDES project manager throughout the entire project or do you work with several different project managers?

11	One Project Manager
2	Multiple Project Managers
0	Don't Know

5. Through the course of a fuel oil cleanup and remediation project, how many times, on average, does an NHDES project manager visit the work site?

Does Not Visit	1
Not Often	1
Visits Once	3
Visits Once Or Twice	4
Visits Twice	2
Visits 75% Of The Time	1
Not Applicable	1

6. From the time you submit your **completed** work scope and budget for a residential fuel oil cleanup and remediation project, how long does it take for the NHDES to notify you of its approval?

11	Less Than 1 Week
0	1 to 2 Weeks
0	2 to 3 Weeks
1	3 to 4 Weeks
0	4 to 5 Weeks
0	5 to 6 Weeks
1	More Than 6 Weeks

7. From the time you submit your **completed** request for reimbursement for a residential fuel oil cleanup and remediation project, how long does it take to receive the *notice of reimbursement*?

0	Less Than 1 Month
2	1-2 Months
4	2-3 Months
3	3-4 Months
4	4-5 Months
0	5-6 Months
3	More Than 6 months

Three contractors answered more than once.

8. From the time you submit your **completed** request for reimbursement for a residential fuel oil cleanup and remediation project, how long does it take to receive the *actual payment*?

2	Less Than 1 Month
1	1-2 Months
3	2-3 Months
2	3-4 Months

- | | |
|----------|--------------------|
| 4 | 4-5 Months |
| 1 | 5-6 Months |
| 4 | More Than 6 Months |

Three contractors answered more than once.

9. When conducting a residential fuel oil cleanup and remediation project NOT reimbursable by the Fund (e.g. a fuel oil dealer overfills the tank and is responsible for cleanup and remediation), how do your rates compare to the costs allowable by the NHDES?

- | | |
|-----------|----------------|
| 0 | Lower |
| 11 | About The Same |
| 2 | Higher |
| 0 | Not Applicable |

Fuel Oil Cleanup And Remediation In Surrounding States

10. Does your company perform residential fuel oil cleanup and remediation in other states?

- | | |
|-----------|---|
| 10 | Yes |
| 3 | No If no, please stop and thank you for your participation in our survey. |

If yes, which states?

Connecticut	4
Maine	7
Massachusetts	9
New Jersey	1
Rhode Island	2
Vermont	6

11. Compared to other states where your company performs residential fuel oil cleanup and remediation (Please Select One Answer For Each Row Listed Below):

	Lower	About The Same	Higher	Not Applicable
the <i>unit-based</i> rates allowable by the NHDES are: One contractor did not respond.	2	3	2	2
the <i>project-based</i> rates allowable by the NHDES are:	1	3	1	5
once a request for reimbursement is submitted, the amount of time to receive payment from the NHDES is: One contractor did not respond.	2	0	3	4

12. In other states where your company performs residential fuel oil cleanup and remediation, how many times, on average, does a project manager visit the work site?

Rarely To Never	4
Visits Once	2
Visits Once Or Twice	1
Visits Twice	1
Visits Five Or Six Times	1
Visits 50% Of The Time	2
Do Not Know	1

13. Compared to other states where your company performs residential fuel oil cleanup and remediation, please rate your level of satisfaction with *NHDES'* performance:

	More Satisfied With NHDES	About The Same Level Of Satisfaction	Less Satisfied With NHDES	Not Applicable
Guidance regarding required documents and submittal deadlines.	9	0	1	0
Guidance through the scope of work submittal process.	6	1	1	2
Guidance through the scope of work <i>change order</i> process.	6	2	0	2
Thoroughness of scope of work and budget review.	4	3	0	3
Consistency among reviewers in approving scope of work and budget.	4	3	1	2
Updates on the status of your scope of work and budget review.	1	6	0	3
Timeliness of scope of work review and approval.	4	6	0	0
Guidance through the reimbursement process.	4	1	2	3
Thoroughness of reimbursement request review.	3	3	1	3
Consistency among reviewers for approving reimbursement requests.	2	4	1	3
Updates on the status of your reimbursement request.	2	3	2	3
Timeliness of reimbursement review and approval.	3	2	2	3
Timeliness of receiving the actual reimbursement.	2	3	3	2
Quality of state project manager site visits during the course of the project.	6	3	0	1

14. In other states where your company performs residential fuel oil cleanup and remediation, from the time you submit your completed scope of work and budget for a residential fuel oil cleanup and remediation project, how long does it take to notify you of its approval?

- 2 Less Than 1 Week
- 4 1-2 Weeks
- 2 2-3 Weeks
- 2 3-4 Weeks
- 0 4-5 Weeks
- 0 5-6 Weeks
- 1 More Than 6 Weeks

One contractor did not answer and two answered twice.

15. In other states where your company performs residential fuel oil cleanup and remediation, from the time you submit your completed request for reimbursement for a residential fuel oil cleanup and remediation project, how long does it take to receive notification a reimbursement was approved?

- 2 Less Than 1 Month
- 1 1-2 Months
- 1 3-4 Months
- 0 4-5 Months
- 1 5-6 Months
- 0 More Than 6 Months

Five contractors did not answer.

16. In other states where your company performs residential fuel oil cleanup and remediation, from the time you submit your completed request for reimbursement for a residential fuel oil cleanup and remediation project, how long does it take to receive the *actual payment*?

- 1 Less Than 1 Month
- 3 1-2 Months
- 1 2-3 Months
- 0 3-4 Months
- 1 4-5 Months
- 0 5-6 Months
- 1 More Than 6 Months

Three contractors did not answer.

**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

APPENDIX D

State Oil Discharge Cleanup Programs Survey

Notes:

- Responses are in bold.
- Ten surveys were emailed and eight (80 percent) were returned.

Purpose:

The primary purpose of this survey was to obtain information for comparing other states' oil discharge cleanup programs organization, responsibilities, and funding structures with the NH Fuel Oil Discharge Cleanup Fund and assist us in developing constructive recommendations for the NH Legislature and the NHDES.

Survey Questions:

The survey consisted of twenty questions. The survey was divided into two parts, Background and Program Responsibilities. Space is provided at the end of the survey to add additional information and comments.

Confidentiality Statement:

All responses are confidential, consistent with RSA 14:31-a, II. Individual responses were combined with others and are reported as aggregate data here. We asked for names to track survey receipt and to follow up on responses when necessary.

We received permission from states returning the survey to report individual state responses.

Background:

1. Does your state have a program to help residential property owners pay for cleanup and remediation of fuel oil discharge on their property?

4 Yes 4 No

If No, please stop and return the survey at this time. Thank you for your assistance.

If Yes, what is the program's name and how long has it been operating?

Delaware:	First Fund	2000
Maine:	Maine Groundwater Oil Cleanup Fund	1994
Maryland:	Cleanup Reimbursement Fund	2000
Pennsylvania:	No name provided	1998

2. Is there a regulatory board responsible for administration and oversight?

2 Yes 2 No

If yes, what is the board's name and size, and how often does the board meet?

Delaware:	NA
Maine:	ME Dept of Environmental Protection, Bureau of Remediation and Maine Fund Insurance Review Board
Maryland:	NA
Pennsylvania:	Underground Storage Tank Identification Board; meets quarterly

3. Are program funds available to all residential property owners in the state?

4 Yes 0 No

Delaware:	Yes
Maine:	Yes
Maryland:	Yes
Pennsylvania:	Yes

4. Is there an income limit on who can access program funds?

1 Yes 3 No

If yes, what is the income limit?

Delaware: **US Environmental Protection Agency computer models, ABEL, and Indipay**

Maine: **No**

Maryland: **No**

Pennsylvania: **No**

5. Approximately how many residential fuel oil spills are eligible for program funds each year?

Delaware: **5**

Maine: **267 (in 2007)**

Maryland: **80**

Pennsylvania: **110**

6. What is the average cost to cleanup and remediate a residential fuel oil spill?

Delaware: **\$6,000**

Maine: **\$16,108 (for 2007)**

Maryland: **\$5,000**

Pennsylvania: **\$6,000**

7. Does your state's program cover business properties as well as residential properties?

3 Yes 1 No (If no, please skip to Question 9.)

Delaware: **Yes**

Maine: **Yes**

Maryland: **No**

Pennsylvania: **Yes**

8. If program funds cover businesses, how many business spills are eligible for program funds each year?

Delaware: **Approximately one business spill is eligible per year**
 Maine: **Does not differentiate**
 Maryland: **Does not cover business properties**
 Pennsylvania: **Approximately ten percent of spills are from businesses**

9. How is the program funded? (Mark all that apply.)

0 General funds 4 A fee or other petroleum products
 2 A fee on fuel oil (**Maine and Maryland**) 0 Federal grants
 0 Other (Please specify):

10. Does the fund function as a loan fund or an excess insurance fund?

0 Loan Fund 2 Excess Insurance Fund 2 Other (Please specify):

Delaware: **Other; Functions as a grant; if a site qualifies, the state takes it over as a state lead site and pays all costs**
 Maine: **Other; Covers cost of remediation minus standard and conditional deductibles to maximum of \$1 million per incident**
 Maryland: **Excess insurance fund**
 Pennsylvania: **Excess insurance fund**

11. Is there a maximum reimbursement amount the state will pay per discharge incident?

3 Yes 1 No

If yes, how much?

Delaware: **No maximum**
 Maine: **\$1,000,000**
 Maryland: **\$20,000**
 Pennsylvania: **\$4,000**

12. Does your state have a program to assist low-income property owners in replacing an oil tank, oil lines, or meeting other compliance standards?

1 Yes 3 No

Delaware: **No**
Maine: **Yes; program temporarily suspended for 2008 and 2009 due to lack of funds**
Maryland: **No**
Pennsylvania: **No**

13. Does your state require residential properties to be registered in order to be eligible for program funds?

0 Yes 4 No

Delaware: **No**
Maine: **No**
Maryland: **No**
Pennsylvania: **No**

14. Does your state's program require property owners to be in compliance with installation and maintenance requirements prior to a spill in order to be eligible for funds?

1 Yes 3 No

Delaware: **No**
Maine: **Yes**
Maryland: **No**
Pennsylvania: **No**

15. Are responsible parties required to pay a deductible for oil spill cleanup and remediation?

3 Yes 1 No (If no, please skip to Question 17.)

Delaware: **No**
Maine: **Yes**
Maryland: **Yes**
Pennsylvania: **Yes**

16. If yes, what is the deductible amount and how is it determined?

- Delaware: **NA**
Maine: **Standard deductible based on volume stored; \$500-\$2,500 per incident; Conditional deductibles based on compliance**
Maryland: **\$500**
Pennsylvania: **\$1,000 required for all applications**

Program Responsibilities:

17. Does your state use private contractors or state personnel to perform cleanup and remediation work? (If your state only uses state personnel, please skip to Question 20.)

4 Private Contractors 1 State Personnel

- Delaware: **Private Contractors**
Maine: **Private Contractors & State personnel**
Maryland: **Private Contractors**
Pennsylvania: **Private Contractors**

18. If contractors are used, what level of oversight does your state have over contractors?

(For instance, is one state project manager assigned to oversee all aspects of each project? How often do state project managers visit project sites? Are state project managers required to be professional geologists, hydrologists, or engineers?)

- Delaware: **All remediation plans must be approved in advance by state personnel. Typically a maximum of two personnel are assigned to a project – An Environmental Scientist oversees tank removal activities and initial sampling; if the site requires remediation a staff Hydrologist oversees all remediation activities. Visits to project sites are not required.**
- Maine: **All site cleanups are managed by a state responder and/or a geologist, engineer based on the risks. Contractors are usually hired directly by Department of Environmental Protection in rare cases the homeowner or insurance company leads and oversight is done by Department of Environmental Protection prior to reimbursement.**
- Maryland: **Case manager provides oversight.**
- Pennsylvania: **There is no state contractor oversight. Tank owner hires the contractor and submits for reimbursement when work is complete and paid for.**

19. If your state uses contractors, do you have a list of maximum allowable rates for routine cleanup and remediation tasks?

Yes No

Delaware: **No**

Maine: **No**

Maryland: **No**

Pennsylvania: **No**

What are the rates based on? **N/A**

How often are they updated? **N/A**

Where can we obtain a copy of the rates? **N/A**

20. Are program personnel responsible for:

	Yes	No	Don't Know
Performing a site investigation to determine the cause and extent of the spill?	2	2	
Performing analysis on soil and water samples?	2	2	
Determining appropriate remediation techniques?	2	2	
Approving contractors' project work scopes and budgets?	3	1	
Approving changes to contractors' project work scopes and budgets?	3	1	
Processing contractors' reimbursement requests?	4		
Educating the public about leak prevention?	4		

Please include any additional information or comments.

Delaware: **NA**

Maine: **See home heating portion of Department of Environmental Protection website, home heating oil tank system discharges are now the largest source of oil pollution in ME, more costly than USTs or larger commercial ASTs.**

Maryland: **We do not approve budgets. Reimbursement applications come from the tank homeowner not the contractor. Tank/homeowner pays the contractor then seeks reimbursement from the fund.**

Pennsylvania: **Heating oil tanks for consumptive use onsite are not regulated in PA, therefore, the amount of program oversight is minimal. Program staffs direct involvement only occurs when the discharge migrates to a surface water, drinking water supply, or migrates off site.**

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**STATE OF NEW HAMPSHIRE
FUEL OIL DISCHARGE CLEANUP FUND**

APPENDIX E

Fuel Oil Discharge Cleanup Fund Homeowner Survey

Notes:

- Responses are in bold.
- Totals may differ based on respondent's answer.
- 135 surveys were delivered and 80 (59 percent) were completed.

Purpose:

The purpose of this survey was to capture consumer experiences regarding the Fuel Oil Discharge Cleanup Fund (FOD Fund) reimbursement process for State fiscal years (SFY) 2008 and 2009. The survey population consisted of property or homeowners who had an open and closed spill site during SFYs 2008 or 2009. There were a total of 147 applicable sites during the survey time period, however, only 135 surveys were deliverable. The purpose of using the original 147 open and closed cases was to capture the recipients who experienced the entire remediation process.

Survey Questions:

The survey consists of 19 customer service related questions. The survey questions relate to timeliness of reimbursement, resources and assistance available, appropriate level of guidance provided by the NHDES, and follow-up from the NHDES.

Confidentiality Statement:

All responses are confidential, consistent with RSA 14:31-a, II. Individual surveys were not shared with the NHDES. Responses were combined with others and are reported as aggregate data here.

Background:

1. Please indicate the entity you dealt with for each of the following questions.
 (Select All That Applies For Each Row Listed Below)

Entity:	NHDES	Oil Company	Private Insurance	Contractor	Other	Not Applicable
Who did you initially contact after the fuel oil spill was identified?	19	44	15	9	16	1
Did your initial contact redirect you to any of the following entities?	46	1	13	13	11	13
Who referred you to the cleanup specialist or contractor?	38	14	7	6	9	6
How did you learn about the Fuel Oil Discharge Cleanup Fund?	46	6	3	19	9	4
Who provided you with the most guidance during the cleanup, remediation and reimbursement process?	47	4	4	31	5	1

If you answered **other** to any of the above questions please explain.

- **Fire Department** 11
- **Relationship With Contractor** 7
- **Oil Company / Plumbers** 4
- **Real Estate Agent** 3
- **Owner Representative** 2
- **Town Office** 1
- **Insurance Company** 1

Insurance Company and Oil Company are on the original list however the sequence of events makes them noteworthy.

(To Answer The Following Questions, Please Mark The Box That Best Describes Your Answer Or Answer The Question On The Line Provided. Select One Answer For Each Question Unless Instructed To Mark All That Apply.)

2. Which type of fuel oil tank caused the leak for which you sought reimbursement from the Fuel Oil Discharge Cleanup Fund?

- 22 Basement Aboveground Fuel Oil Storage Tank
 49 Outside Aboveground Fuel Oil Storage Tank
 9 Underground Fuel Oil Storage Tank

3. What was the cause of the fuel oil spill? (Please mark all that apply.)

- 22 Fuel Oil Tank Was Rusty
 3 Fittings Or Lines Connected To The Fuel Oil Tank Were Rusty
 4 Fuel Oil Tank Or Fittings Were Punctured
 29 Fuel Oil Tank, Lines, Or Fittings Were Damaged By Snow Or Ice From The Roof
 3 Fuel Oil Tank Fell Over
 23 Other (Please Specify):

- **Faulty Equipment** 8
- **Weather related (not falling snow or ice)** 4
- **Older/Worn Tank** 3
- **Tank Overflowed** 3
- **Tank or lines were hit** 2
- **Spill During Removal** 2

4. Did you experience a fuel oil spill **prior** to the one between July 1, 2007 and June 30, 2009?

4 Yes 74 No

If yes, how long ago was the spill? **1 of 4 answered: Early 1980s.**

5. Were you aware of the Fuel Oil Discharge Cleanup Fund prior to your fuel oil spill?

6 Yes 74 No

If Yes, from where? **2 of 6 answered: The NHDES.**

10. Not including the cost of installing the new fuel oil tank, did your contractor charge you directly for any costs associated with cleanup and remediation?

Yes No Don't Know Not Applicable

If yes, what type of costs did your contractor charge to you?

- **Paid a small amount for cleanup that was not reimbursed.**
- **A bill for \$11,000 was sent to me from the contractor.**
- **\$100 Deductible/\$100 Application fee for Fund.**
- **Partial cleanup.**
- **Project foreman hours, equipment, contaminated soil transportation, report writing costs, electronic data submission, disposal costs, lab costs.**
- **Relocated the fuel tank and ran a new line underground to heating unit.**
- **\$100 to take away the old tank.**
- **\$1,200, not satisfied with contractor, over-charged.**
- **\$250.**
- **Charged for a new fuel line.**
- **Fill and deductible.**
- **Had to pay for tank removal, up front amount for accessing cleanup funds and out of pocket costs to replace entire porch over crawl space that was demolished to get to the tank and soil.**
- **I provided equipment and labor to assist contractor.**
- **\$100 paperwork.**
- **Installed a new tank in the garage.**

NHDES Performance:

11. From the time you contacted the NHDES about the discharge, how long did it take for the NHDES to contact you regarding your Fund eligibility status?

<input type="text" value="59"/>	Less Than 1 Week
<input type="text" value="7"/>	1 to 2 Weeks
<input type="text" value="3"/>	2 to 3 Weeks
<input type="text" value="2"/>	3 to 5 Weeks
<input type="text" value="1"/>	More Than 5 Weeks

12. From the time you submitted your request for reimbursement, how long did it take to receive payment?

- | | |
|-----------|--|
| 3 | Less Than 1 Month |
| 7 | 1-3 Months |
| 2 | 3-6 Months |
| 0 | 6-9 Months |
| 2 | 9-12 Months |
| 1 | More Than 12 Months |
| 59 | Not Applicable, Contractor Received Reimbursement Directly |

13. From the time you notified the NHDES of the fuel oil spill, how long did it take to complete the remediation work (please exclude annual or semi-annual groundwater monitoring)?

- | | |
|-----------|---------------------|
| 38 | Less Than 1 Month |
| 19 | 1-3 Months |
| 8 | 3-6 Months |
| 4 | 6-9 Months |
| 3 | 9-12 Months |
| 3 | More Than 12 Months |

14. Was one NHDES employee, such as a case or project manager, assigned exclusively throughout the process or were there several different NHDES personnel working on the cleanup process?

- | | |
|-----------|------------------------------|
| 53 | Same Case Or Project Manager |
| 5 | Different People |
| 19 | Don't Know |
| 0 | Not Applicable |

15. Please describe your level of satisfaction with the following services performed by the **NHDES**. (Select One Answer For Each Row Listed Below)

	Very Satisfied	Satisfied	Dissatisfied	Very Dissatisfied	Not Applicable
Customer Service:					
Availability for discussion throughout the cleanup, remediation, and reimbursement process.	55	20	1	0	3
Updates on the status of your claim.	38	21	2	0	16
Timeliness of the initial response.	59	12	1	0	6
Processing of your application.	48	16	0	0	12
Availability of guidance, information, and resources to guide you through the cleanup and reimbursement process.	54	14	1	1	8
Cleanup and restoration of your property.	42	23	4	1	9

16. If you were dissatisfied or very dissatisfied with the NHDES' services, did you file a complaint with anyone?

Yes No Don't Know

Explain:

- **Called the NHDES about the footing sinking when the ground thawed.**
- **Was never told about the funds.**
- **Haven't heard from the NHDES since initial contact, all information comes from contractor.**
- **Wrote letters to the NHDES and the contractor.**
- **How do you file a complaint when only one company in your area does it?**
- **Never had contact with the NHDES after initial evaluation, the contractor handled things.**
- **I would like to be paid by the contractor for the equipment he used.**

17. Please describe your level of satisfaction with the following services performed by **your contractor**. (Select One Answer For Each Row Listed Below)

	Very Satisfied	Satisfied	Dissatisfied	Very Dissatisfied	Not Applicable
Customer Service:					
Availability for discussion throughout the cleanup, remediation, and reimbursement process.	50	22	6	0	1
Updates on the status of remediation.	44	22	5	2	5
Timeliness of the initial response.	54	21	2	0	2
Timeliness of remediation work.	48	22	5	2	3
Availability of guidance, information, and resources to guide you through the cleanup process.	47	22	5	2	1
Cleanup and restoration of your property.	44	24	5	3	3

18. If you were dissatisfied or very dissatisfied with the contractor’s services, did you file a complaint with anyone?

Yes No Don’t Know

Explain: Both Yes respondents wrote letters to the contractors.

19. Would you suggest additional resources to assist applicants through the application process?

Yes No Don’t Know

Explain:

- **As a taxpayer and consumer after the contractor got their money and told me too bad they were done.**
- **As a firefighter it was nice to have access to pads.**
- **More info on funds available would be helpful.**
- **Fund is unfair because if someone has insurance the Fund does not pay and they pay the deductible and have insurance rates go up. Every consumer who buys oil has paid into the fund but only those who aren't fully insured get NHDES help.**
- **It would be nice to know what needs to be done and shown the testing results. I don't even know what the job cost the State, I would bet it was more than it was worth or needed.**
- **Wrote a letter to the NHDES.**

- **The office should have info available so anyone can provide answers instead of waiting so long for a call back.**
- **Not many people know of such funds/services.**
- **Better Web support.**
- **The State should not offer the contractor I used.**
- **Didn't have much to do with the application process, one less thing to stress or deal with.**
- **More communication between property owner, contractor, and NHDES would be helpful.**
- **A single point of contact would be helpful.**
- **Get the word out on this program.**
- **Let people know they may get a bill from the contractor but can disregard.**

Additional Comments:

- **I was not comfortable with the contractor being more in control than NHDES. There also seemed to be some issues with reimbursement requests however, NHDES was terrific and I am thankful for the program.**
- **We are very thankful for the fund, there is no way we could have paid for this service. The State and participating contractors were wonderful.**
- **Everything went well.**
- **The inspector from NHDES was very helpful and knowledgeable.**
- **The town office was very helpful and the contractor was wonderful.**
- **The contractor did a great job.**
- **My updates came from the contractor not NHDES.**
- **Everyone I dealt with was very helpful and supportive.**
- **My contact at NHDES was outstanding, thorough, professional, competent, and compassionate.**

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**PERFORMANCE AUDITS
ISSUED BY THE
OFFICE OF LEGISLATIVE BUDGET ASSISTANT**

<u>TITLE OF REPORT</u>	<u>DATE</u>
Bureau of Elderly and Adult Services Medicaid Long-Term Care Program	July 2009
Liquor Commission	April 2009
State of New Hampshire Service Contracting	March 2009
Department of Resources and Economic Development Division of Parks and Recreation Revenues of the State Park Fund	September 2008
Fleet Management	September 2008
Office of Information Technology	July 2008
State of New Hampshire Succession Planning	July 2008
Board of Medicine	April 2008
Department of Fish and Game	January 2008
Department of Environmental Services Alteration of Terrain and Wetlands Permitting	August 2007
Insurance Department Consumer Protection Functions	August 2007
Department of Education No Child Left Behind Fund Distribution	February 2007
Insurance Procurement Practices	September 2006
Enhanced 911 System	January 2006
Department of Education Adequate Education Grant Data	December 2004
Board of Mental Health Practice	November 2004
Home Care for Children with Severe Disabilities	April 2004
Department of Corrections Division of Field Services	December 2003

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<u>TITLE OF REPORT</u>	<u>DATE</u>
Judicial Branch Administration	November 2003
Department of Health and Human Services Division of Elderly and Adult Services Home and Community-Based Care	April 2003
Department of Corrections – Inmate Health Care	January 2003
Department of Corrections – Sexual Harassment and Misconduct	October 2002
Department of Environmental Services Performance-Based Budgeting	March 2002
Department of Safety – Division of Fire Safety	November 2001
Department of Education – Construction and Renovation Programs	September 2001
Department of Health and Human Services Division for Children, Youth and Families Foster Family Care	September 2001
Department of Education – Bureau of Vocational Rehabilitation and Service Delivery	August 2001
Department of Transportation – Bureau of Turnpikes Performance-Based Budgeting	April 2001
Judicial Branch – Family Division Pilot Program	January 2000
Year 2000 Computing Crisis – Special Report – Update	July 1999
Special Education – Catastrophic Aid Program	July 1999
Year 2000 Computing Crisis – Special Report	March 1999
Juvenile Justice Organization	November 1998
Marine Patrol Bureau Staffing	March 1998
Health Services Planning and Review Board	January 1998

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<u>TITLE OF REPORT</u>	<u>DATE</u>
Economic Development Programs	October 1997
Job Opportunities and Basic Skills Training Program	May 1997
Child Support Services	December 1995
Multiple DWI Offender Program	December 1995
Managed Care Programs for Workers' Compensation	November 1995
State Liquor Commission	July 1994
Property and Casualty Loss Control Program	November 1993
Child Settlement Program	March 1993
Workers' Compensation Program for State Employees	January 1993
Prison Expansion	April 1992
Developmental Services System	April 1991
Department of Administrative Services Division of Plant and Property Management State Procurement and Property Management Services	June 1990
Mental Health Services System	January 1990
Hazardous Waste Management Program	June 1989
Review of the Indigent Defense Program	January 1989
Review of the Allocation of Highway Fund Resources to Support Agencies and Programs	March 1988
Review of the Public Employees' Deferred Compensation Plan	December 1987
Review of the Management and Use of State-Owned Passenger Vehicles and Privately Owned Vehicles Used at State Expense	August 1984
Management Review of the Policies and Procedures of the Division of Plant and Property Management	June 1984

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