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Report to the Joint Standing Committee on Environment  
and Natural Resources  
128<sup>th</sup> Legislature, First Session

# Biennial Report of the Clean-up and Response Fund Review Board

*April 2017*

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Contact: David Burns, Director  
Remediation and Waste Management Bureau  
Phone: (207) 287-7890



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 State House Station | Augusta, Maine 04333-0017  
[www.maine.gov/dep](http://www.maine.gov/dep)

## Executive Summary

On July 4, 2015 the Ground Water Oil Clean-up Fund and the Coastal and Inland Surface Water Oil Clean-up Fund were merged and became the Maine Ground and Surface Waters Clean-up and Response Fund. This is the first biennial report on the experience administering the Maine Ground and Surface Waters Clean-up and Response Fund.

The Maine Ground and Surface Waters Clean-up and Response Fund (Fund) provides for the prompt and effective clean-up of petroleum releases and compensation of third party damages. The Fund is approved by the U.S. Environmental Protection Agency (EPA) as an acceptable mechanism for Maine's tank owners to meet the federal financial responsibility requirements. The Fund is an important source of funding for the clean-up of oil-contaminated sites necessary to protect public health and the environment, and to support the continuing economic value of properties. The Department has implemented a variety of strategies to reduce expenditures, prioritize spending and control costs such as targeting removal of contaminated soils using health-based clean-up guidelines, and considerations for the re-use of properties. The Clean-up and Response Fund Review Board (Review Board) provides oversight to the Department regarding these measures, and has placed a heightened focus on the cost effectiveness of remedial measures.

This report satisfies the reporting requirement of 38 MRSA § 568-B(2-D). The law requires that:

Beginning on April 15, 2015 and every other year thereafter, the Clean-up and Response Fund Review Board, with the cooperation of the commissioner, shall report to the joint standing committee of the Legislature having jurisdiction over natural resource matters on the department's and the review board's experience administering the fund, clean-up activities and 3rd-party damage claims. The report must include an assessment of the adequacy of the fund to cover anticipated expenses and any recommendations for statutory change. To carry out its responsibility under this subsection, the review board may order an independent audit of disbursements from the fund.

This report represents the Review Board's experience administering the Fund for the period beginning January 1, 2015 and ending December 31, 2016, and the Department's experience administering the Fund during state Fiscal Year 2015 (July 1, 2014 – June 30, 2015) and state Fiscal Year 2016 (July 1, 2015 – June 30, 2016). The report is divided into two sections. Part I covers the activities of the Review Board, and Part II addresses the Department's administration of the Fund including an assessment of the adequacy of the Fund.

## PART I

### CLEAN-UP AND RESPONSE FUND REVIEW BOARD

#### A. Mission of the Clean-up and Response Fund Review Board

The duties of the Clean-up and Response Fund Review Board (“Review Board”) are established at 38 MRS § 568-B(2). The Review Board has the following duties: (1) to hear appeals from insurance claims-related decisions of the Commissioner of the Department of Environmental Protection and the State Fire Marshal’s Office, (2) to adopt rules and guidelines necessary for the furtherance of the review board’s duties and responsibilities, (3) to monitor income and disbursements from the fund, and adjust fees as required to avoid a shortfall, (4) to at such times and in such amounts as it determines necessary, and in consultation with the department, direct the transfer of funds from the Underground Oil Storage Replacement Fund to the fund, (5) to review department priorities for disbursements from the fund and make recommendations to the Commissioner on how the fund should be allocated, (6) to review and comment on the State’s Marine Oil Spill Contingency Plan, and (7) to review and monitor issues for oil spill prevention and response and recommend to the commissioner any regulatory changes that are appropriate

#### B. Review Board Governing Law and Composition

The Review Board consists of fourteen members appointed for 3-year terms, including: the Commissioner of the Department or their designee; the State Fire Marshal or their designee; two persons representing the petroleum industry, one of whom is a representative of a statewide association of energy dealers; two persons with expertise in oil storage facility design and installation, oil spill remediation or environmental engineering; and four members of the public, two of whom have expertise in biological science, earth science, engineering, insurance or law; one member representing marine fisheries interests; one member familiar with oil spill technology; one member with expertise in coastal geology, fisheries biology or coastal wildlife habitat and one member who is a licensed state pilot or a licensed merchant marine officer. The Appeals Panel hears and decides appeals from applicants aggrieved by an insurance claims related decision and consists of the four public members. As of January 2017, there are 3 vacancies on the Review Board. The members listed below serve on the Review Board.

Michael Bonzagni\*, Chair  
 Richard Knowlton\*  
 Brenda Beaulieu\*  
 Dirk Brunner \*  
 Jamie Py  
 Steve Pinette

Patrick Coughlin  
 David Burns, DEP  
 Richard McCarthy, SFMO  
 Brian Beal  
 Peter Sarnacki

\*Appeals panel member

38 MRSA § 568-B requires the Review Board to meet six times per year unless the Review Board votes not to hold a meeting. The Review Board met 3 times in 2015 and one time in 2016.

**C. Appeals Activities**

During the calendar year ending December 31, 2015, the Fund Insurance Review Board received 2 appeals, and in calendar year 2016 the Review Board received one appeal. In calendar year 2016 the appeals panel heard and decided the three pending appeals. In carrying out its responsibilities, the Appeals Panel holds appeal hearings after the conclusion of regularly scheduled meetings.

**D. Regulatory Activity**

In 2015, the Fund Insurance Review Board did not undertake any rule making activities. In 2016, the Review Board posted chapters 3, 4 and 5 of its Rules for public comment, proposing amendments to reflect the change from the Ground Water Oil Cleanup Fund to the Maine Ground and Surface Waters Clean-up and Response Fund. Adoption of the proposed rules is included on the agenda for the upcoming meeting in April 2017.

## **PART II**

### **Administration of the Maine Ground and Surface Waters Clean-up and Response Fund Maine Department of Environmental Protection**

#### **A. Introduction**

State statute prohibits oil discharges and requires oil discharges to be cleaned up to the Commissioner's satisfaction, using remedies that are cost effective, technologically feasible and reliable, and that effectively mitigate or minimize damages and provide adequate protection of public health, welfare and the environment. Maine law provides an incentive for the prompt cleanup of petroleum releases by forgoing penalty actions against responsible parties that cooperate with the Department to promptly clean up releases to the satisfaction of the Commissioner and reimburse the state's expenditures that are not eligible for coverage by the fund. The Maine Ground and Surface Waters Clean-up and Response Fund provides for the prompt and effective cleanup of petroleum releases and compensation of third party damages. The fund is approved by the U.S. Environmental Protection Agency as an acceptable mechanism for Maine's tank owners to meet the federal financial responsibility requirements.

#### **B. Summary of Revenues and Expenditures**

In fiscal year 2015 and 2016, the main sources of revenue into the Fund were the fees on each barrel of oil transferred into Maine by ship, road or rail.<sup>1</sup> Currently the base fees are 41¢ per barrel of gasoline, 22¢ per barrel of most other refined petroleum products (#2 fuel oil, kerosene, jet fuel, diesel fuel and other refined products), 7¢ per barrel of #6 fuel oil and 3¢ per barrel of unrefined crude oil and liquid asphalt. Additionally, Chapter 4 (90-564 CMR 4) of the rules of the Review Board upon final adoption will implement the provisions of 38 MRS §551-4(F) to establish a surcharge of up to 20¢ per barrel of gasoline and up to 10¢ per barrel of other refined petroleum products, except unrefined crude oil, liquid asphalt and #6 oil, if the balance in the Fund falls below \$6 million dollars. The modifications to the existing surcharge are necessary to maintain consistency with the applicable statute. The surcharge was in effect throughout state fiscal years 2015 and 2016 (July 1, 2014 - June 30, 2016).

Table 1 illustrates financial activity in the Ground Water Oil Clean-up Fund for fiscal year (FY) 2015 (July 1, 2014 – June 30, 2015). A balance of \$4,527,694 was carried forward from FY 2014. The net balance for FY 2015 was \$18,982,379, including the carry forward balance. Expenditures totaled \$13,233,288, and the net fund availability at the end of the fiscal year was \$5,305,799.

Table 2 illustrates financial activity in the Maine Ground and Surface Waters Clean-up and Response Fund for fiscal year (FY) 2016 (July 1, 2015 – June 30, 2016). A balance of \$5,749,076 was carried forward from the former Ground Water Oil Clean-up Fund from FY 2015. The net balance for FY 2016 was \$22,453,533, including the carry forward balance. The net balance also includes the transfer of \$2,312,608 from the former Maine Coastal and Inland Surface Oil Clean-up Fund.

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<sup>1</sup> See 38 MRS § 551(4)

Expenditures for the fiscal year totaled \$13,182,389, and the net fund availability at the end of the fiscal year was \$8,700,258.

In FY 2016, there was an increase of \$3,471,154 in income due to the surcharge and a modest decrease of \$50,899, in expenditures compared to FY 2015.

The Department continues to implement cost control measures in consultation with the Clean-up and Response Fund Review Board. These efforts include prioritized spending and heightened focus on the cost effectiveness of remedial measures.

Table 1 provides a summary of the income, expenditures and fund balance for FY 2015.

**TABLE 1**  
**STATEMENT OF CASH POSITION**  
**GROUNDWATER OIL CLEAN-UP FUND**  
**AT JUNE 30, 2015**

BALANCE FORWARD (July 1, 2015)	\$ 4,527,694
INCOME	\$16,411,622
Minus Fee Refunds	- \$ 1,956,937
NET INCOME	\$14,454,685
NET BALANCE	\$18,982,379
EXPENDITURES	
Personal Services	\$ 4,454,288
All Other	\$ 6,727,499
Capital	\$ 30,801
Indirect Cost Transfers	\$ 1,755,783
Other Transfers	\$ 264,917
NET EXPENDITURES	\$13,233,288
CASH BALANCE (June 30, 2015)	\$ 5,749,076
INDIRECT COST OBLIGATION (June 30, 2015) (untaken)	\$ 105,845
ENCUMBRANCES AND OBLIGATIONS (untaken)	\$ 337,430
NET FUND AVAILABILITY (June 30, 2015)	\$ 5,305,799 *

\*Does not consider outstanding liabilities required to characterize sites that have not been investigated, complete ongoing remedial work, or pay user fee obligations.

NOTES:

- "INCOME" INCLUDES FEES, INTEREST, REIMBURSEMENTS, FINES AND MISCELLANEOUS INCOME.
- "OTHER TRANSFERS" INCLUDES TRANSFERS TO OTHER STATE AGENCIES, AND INTERNAL TRANSFERS TO OTHER ACCOUNTS.
- "EXPENDITURES" INCLUDE ADJUSTMENTS TO BALANCE FORWARD INCOME (CREDIT TO EXPENSES).
- THROUGH 7/4/2015, THE COLLECTION OF FEES IS SUSPENDED WHEN THE FUND BALANCE REACHES \$12,500,000.
- NET FUND AVAILABILITY INCLUDES ENBUMBRANCES AND INDIRECT COST OBLIGATIONS (UNTAKEN).



Table 2 provides a summary of the income, expenditures and fund balance for FY 2016.

**TABLE 2**  
**STATEMENT OF CASH POSITION**  
**MAINE GROUND AND SURFACE WATERS CLEAN-UP AND RESPONSE FUND**  
**AT JUNE 30, 2016**

BALANCE FORWARD (July 1, 2015)		\$5,749,076
INCOME	\$16,603,059	
Transfer of Surface Water Fund Balance	\$2,312,608	
Less Fee Refunds	<u>-\$2,211,210</u>	
NET INCOME		\$16,704,457
NET BALANCE		\$22,453,533
EXPENSES		
Personal Services	\$5,877,269	
All Other	\$5,457,752	
Capital	\$20,534	
Indirect Cost Transfers	\$1,830,641	
Other Transfers	<u>-\$3,807</u>	
NET EXPENSES		\$13,182,389
CASH BALANCE (June 30, 2016)		\$9,271,144
INDIRECT COST OBLIGATION (June 30, 2016) (untaken)		\$114,447
ENCUMBERANCES AND OBLIGATIONS (untaken)		\$456,439
NET FUND AVAILABILITY (June 30, 2016)		\$8,700,258*

\*Does not consider outstanding liabilities required to characterize sites that have not been investigated, complete ongoing remedial work, or pay user fee obligations.

NOTES:

- "INCOME" INCLUDES FEES, INTEREST, REIMBURSEMENTS, FINES AND MISCELLANEOUS INCOME.
- "OTHER TRANSFERS" INCLUDES TRANSFERS TO OTHER STATE AGENCIES, AND INTERNAL TRANSFERS TO OTHER ACCOUNTS.
- "EXPENDITURES" INCLUDE ADJUSTMENTS TO BALANCE FORWARD INCOME (CREDIT TO EXPENSES).
- AFTER 7/4/2015, THE COLLECTION OF FEES IS SUSPENDED WHEN THE FUND BALANCE REACHES \$18,500,000.
- NET FUND AVAILABILITY INCLUDES ENBUMBRANCES AND INDIRECT COST OBLIGATIONS (UNTAKEN).

Table 3 provides the net income for each of the past 5 years.

FY 2016	\$16,704,457
FY 2015	\$14,454,685
FY 2014	\$9,162,406
FY 2013	\$11,938,299
FY 2012	\$13,878,862

The net fund income includes all revenue received minus fee refunds made in the fiscal year. The fee is assessed on the first transfer of gasoline and other refined petroleum products and their by-products including #2 fuel oil, kerosene, jet fuel, diesel fuel and #6 fuel oil. The fee is assessed on the first transfer of those products by oil terminal licensees and on a person who first imports oil into the State by road or rail. The fee is not assessed on petroleum products that are exported from this State. An entity that paid fees on oil offloaded at a marine oil terminal is entitled to a refund if the oil subsequently was exported directly from the terminal to an out-of-state location and is not distributed in Maine.<sup>2</sup> Refunds during FY 2015 increased by \$229,952 compared to FY 2014. Refunds made during FY 2016 also increased by \$254,273 when compared to refunds in FY 2015. The amount refunded in each of the past 5 years is listed in Table 4 below:

FY 2016	\$2,211,210
FY 2015	\$1,956,937
FY 2014	\$1,726,985
FY 2013	\$1,906,347
FY 2012	\$2,512,921

### C. Fund Adequacy

The net fund availability (cash balance minus encumbrances) in the Fund was \$8,700,258 at the end of FY 2016 (June 30, 2016). This represents an increase of \$2,951,182 since the beginning of the fiscal year. All approved claims for reimbursement, payments to contractors and third party claims have been paid. Funding for cleanup activities is prioritized to insure that sites posing the greatest risk are cleaned up.

<sup>2</sup> See 38 MRSA § 551(4-B) and chapter 685 of Department rules, 06-096 CMR 685.

A number of oversight and control measures have been implemented to help maintain solvency of the Fund, including:

- Close technical oversight, including internal “peer review” of clean-up remedies and budgets for all state led clean-up projects;
- Use of analytical procedures to identify the toxicity of petroleum hydrocarbons, allowing for more accurate characterization and targeted removal of the contaminated soil posing the highest risk;
- Use of a revised budgeting system to prioritize Fund expenditures;
- Close evaluation of clean-up criteria to insure sites are cleaned commensurate with plans for re-use to reduce the likelihood of repeat clean-ups at sites where property uses are likely to change; and
- Use of revised health based clean-up standards.

The Department’s implementation of health based clean-up guidelines has dramatically improved the cost effectiveness for the clean-up of oil discharges from underground and aboveground oil storage (UST and AST) facilities. Most of these cost savings have been realized at sites requiring soil remediation.

#### **D. Status of Applications for Coverage of Clean-up Costs**

Table 5 provides statistics for eligibility determinations of applications for coverage of eligible clean-up costs and third party damages under the Fund Insurance Program. Under this program, owners and operators of underground oil storage tanks that have suffered a discharge may apply to the fund for coverage of eligible clean-up costs and third party damages up to \$1 million per occurrence, while owners and operators of aboveground oil storage facilities may apply to the fund for coverage of eligible clean-up costs and third party damages up to \$750,000 per occurrence.<sup>3</sup> Applications related to underground oil storage facilities (UST) are filed with the Department of Environmental Protection. Applications for eligibility determinations for aboveground oil storage facilities (AST) are filed with the Office of State Fire Marshal.

Eligible applicants are required to pay a standard deductible based on the number of underground oil storage facilities they own or, in the case of aboveground tanks, total tank capacity. Conditional deductibles may also be assessed for non-compliance with the applicable facility installation, operation, removal and spill reporting requirements. The assessment of deductibles may be appealed to the Review Board (see Part I of this report). All deductible amounts are established in statute<sup>4</sup>.

From July 1, 2014 through June 30, 2015, the Department received 3 applications for the coverage of clean-up costs at UST facilities. By comparison, in FY 2016, the Department received 4 applications for UST facilities. All applicants in both years were found to be eligible for coverage of cleanup costs.

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<sup>3</sup> See 38 MRSA § 568-A

<sup>4</sup> See 38 MRSA § 568-A(2)

During FY 2015, 234 orders finding applicants eligible for coverage of clean-up costs and third party claims at AST facilities were forwarded to the Department from the Office of State Fire Marshal. Two applicants were determined not to be eligible. This represents an increase of 2 eligible applicants compared to FY 2014. In FY 2016, 199 orders finding applicants at AST facilities eligible for coverage were issued by the Fire Marshal (one applicant was determined not to be eligible). This represents a decrease of 35 approved applications when compared to FY 2015.

Table 5 summarizes application activity from aboveground and underground oil storage facilities in FY 2015 and FY 2016.

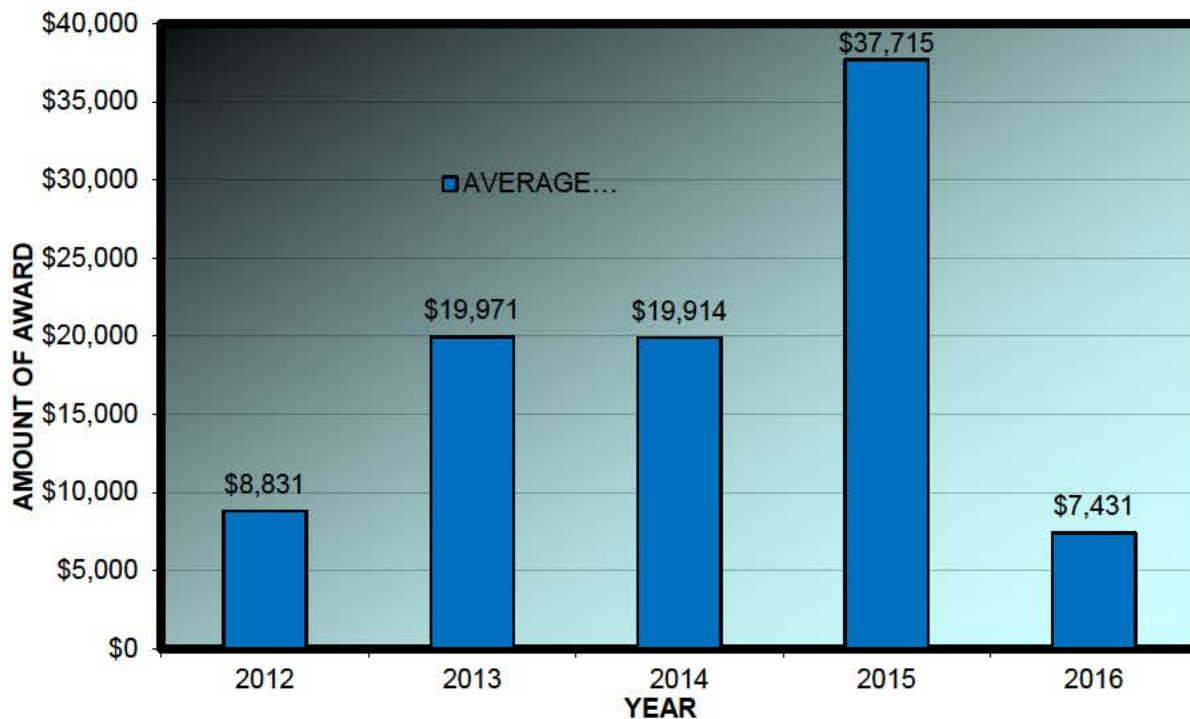
Total Received FY 15	239	Total Received FY 16	204
Eligible	237	Eligible	203
Ineligible	2	Ineligible	1

### **E. Administration of Third Party Claims**

The Department is currently processing 9 claims against the Maine Ground and Surface Waters Clean-up and Response Fund, which is the successor in function to the Ground Water Oil Clean-up Fund for coverage of eligible clean-up costs and damages to third parties. During FY 2015 and FY 2016, the Department completed processing eleven (11) third party claims and awarded a total of \$165,723 to third party claimants. The average cash award to third party claimants for claims that were fully resolved in FY 2015 was \$37,715. The average cash award to third party claimants in FY 2016 was \$7,431.

Figure 1 illustrates the average cash award to third party claimants from 2012 through 2016. The average award is easily influenced by the number of claims processed that include a cash award. Settlement of a small number of claims that include property devaluation for a property or properties located where property values are high can result in a high average award. Processing multiple claims in an area that includes individual point of entry treatment units for drinking water supplies may involve awards for property devaluation and operational subsidies for maintaining and monitoring the effectiveness of the drinking water treatment system. This scenario would also likely result in a high average award for that year. Many third parties do not file a claim because the damages are mitigated during site clean-up through the connection to public water systems, installation of treatment units and individual well replacements.

**FIGURE 1  
AVERAGE THIRD PARTY DAMAGE CLAIM AWARD**



#### F. Compliance with Tank Abandonment Schedule

As of December 2016, there were 3,341 conforming underground oil storage tanks registered and in operation in Maine. Approximately 35,921 non-conforming underground tanks have been properly removed or abandoned in place since removal deadlines were enacted over twenty five years ago. This includes 32 non-conforming tanks that were removed in 2016. The Department continues to use a combination of technical and financial assistance and enforcement actions to get these tanks properly removed, with priority given to locations storing motor fuels in sensitive geologic areas.

In addition to the non-conforming tanks, approximately 4,579 conforming (corrosion resistant) underground oil storage tanks also have been removed or permitted to be abandoned in place. Conforming underground tanks must be removed upon confirmation of a leak or upon the expiration date of the tank manufacturer's warranty. Owners of 30 removed tanks have failed to submit the required site assessment. The site assessment is needed to determine if clean-up actions are necessary. Non-compliant tank owners are the subject of enforcement action by the Department.

#### G. Voluntary Response Action Program (VRAP)

The Maine Ground and Surface Waters Clean-up and Response Fund can be used to clean up oil contaminated commercial property that is being sold or has been sold for redevelopment. As businesses close and properties are sold for other uses, site assessments are typically required as a condition of the property transfer by the lending institution involved in the transaction. When oil

discharges from eligible storage systems are identified, the buyer or seller may be eligible for coverage by the Fund for costs of cleaning up oil contamination. Thus, the Fund facilitates cleaning up the site for redevelopment.

## H. Remediation Sites

The Fund was established to “provide for the investigation, mitigation and removal of discharges or threats of discharge of oil from aboveground and underground storage facilities.”<sup>5</sup> Sites where oil discharges pose a significant and imminent risk to public health and safety continue to be the highest funding priority. Work on lower priority sites is carried out as resources allow while maintaining a Fund balance that is sufficient to clean up future releases that threaten public health and sensitive geologic areas. When the Department becomes aware of a contaminated site, the site is assessed to determine the risk to human health from contamination of soils, surface water, groundwater, indoor air, and drinking water supplies. The list of sites is prioritized based on the risk to human health.

Table 6 lists the number of sites requiring long term remedial work in each of the past five years. This list includes all sites requiring long term clean up where the remedial effort is not complete. Table 6 also provides the number of sites requiring long term remedial actions that have been completed in each of the past 5 years.

	<u>Completed</u>	<u>Remaining</u>
2016	126	525
2015	151	524
2014	144	500
2013	141	480
2012	158	469

Figure 2 illustrates the number of long-term petroleum remediation sites that have been cleaned to the Department’s satisfaction using the Fund from 2012 through 2016. The figure includes only sites that were referred to the Department’s Division of Technical Services. It does not include sites that were successfully remediated with oversight from spill response staff in the Division of Response Services. Typically, only sites with substantial contamination are referred to Technical Services for ground water investigation and longer term remedial efforts. Petroleum spills that can be cleaned up immediately or only require short term oversights are not included in this Figure. Prompt response continues to be the key to minimization of damages and the associated costs.

<sup>5</sup> See 38 MRSA § 561

Figure 2 also illustrates the number of new remediation sites added each year from 2012 through 2016. As this number fluctuates, managing expenditures through the prioritization of sites and cleaning sites to levels commensurate with the degree of risk posed will remain an important function for the Department. Revenue and expenditures will be carefully monitored to ensure they remain in alignment.

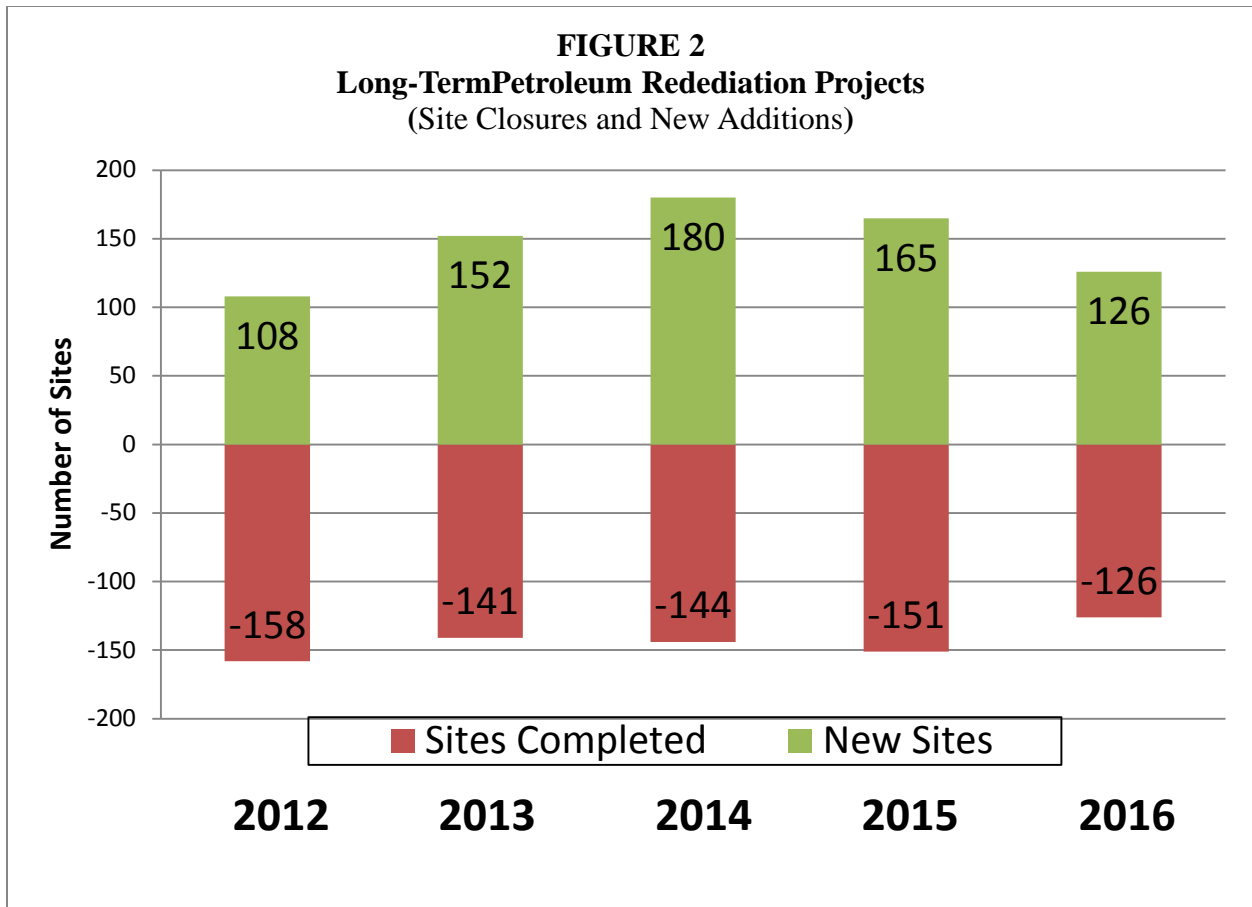


Figure 3 illustrates the makeup of sites referred annually for long-term clean-up activities based on the predominant petroleum product released. Data from 2012 through calendar year 2016 is provided. Sites contaminated by fuel oil and kerosene accounted for 135 of the 165 sites (82 %) in 2015 and 109 of 126 sites (87%) in 2016.

**FIGURE 3**  
**Petroleum Sites Referred for Long-Term Remediation**

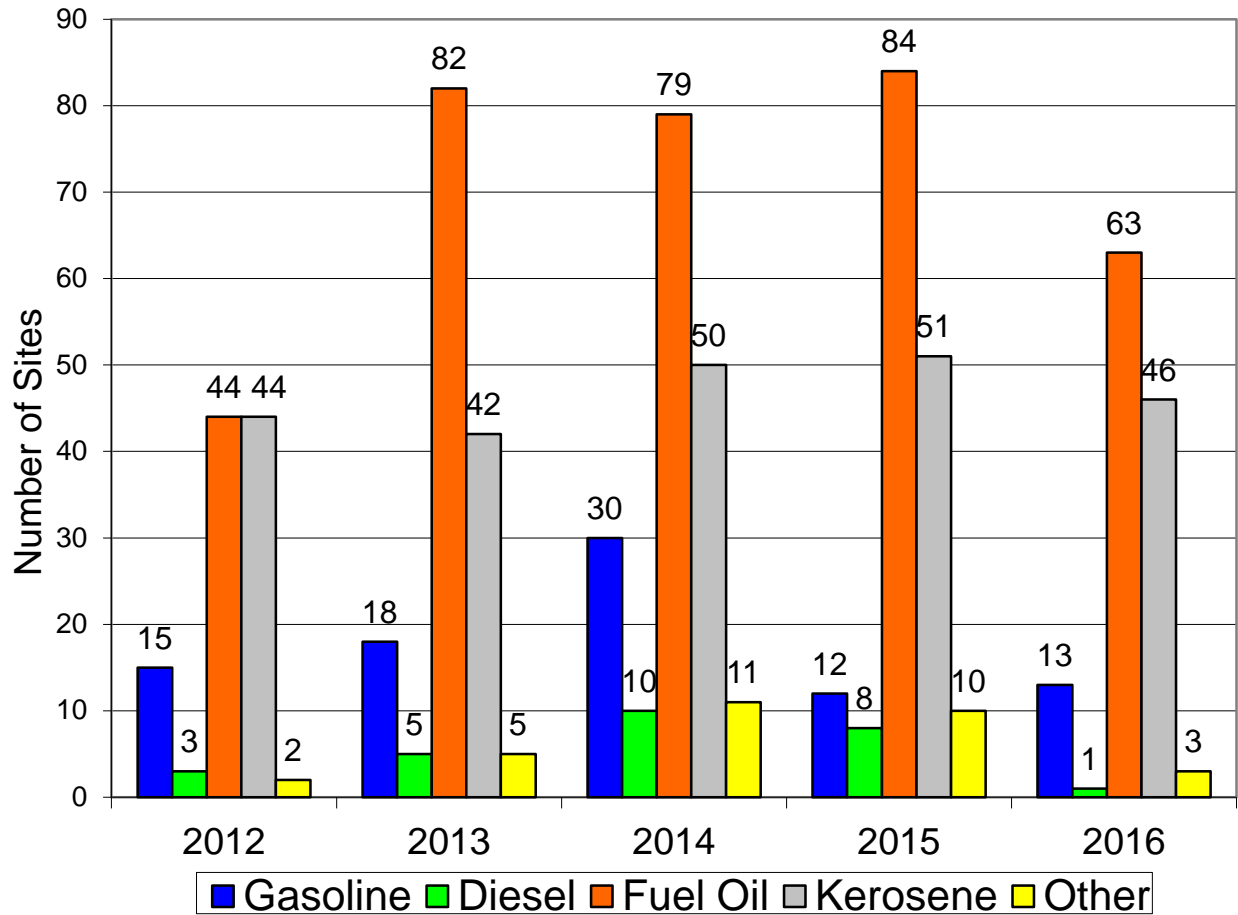
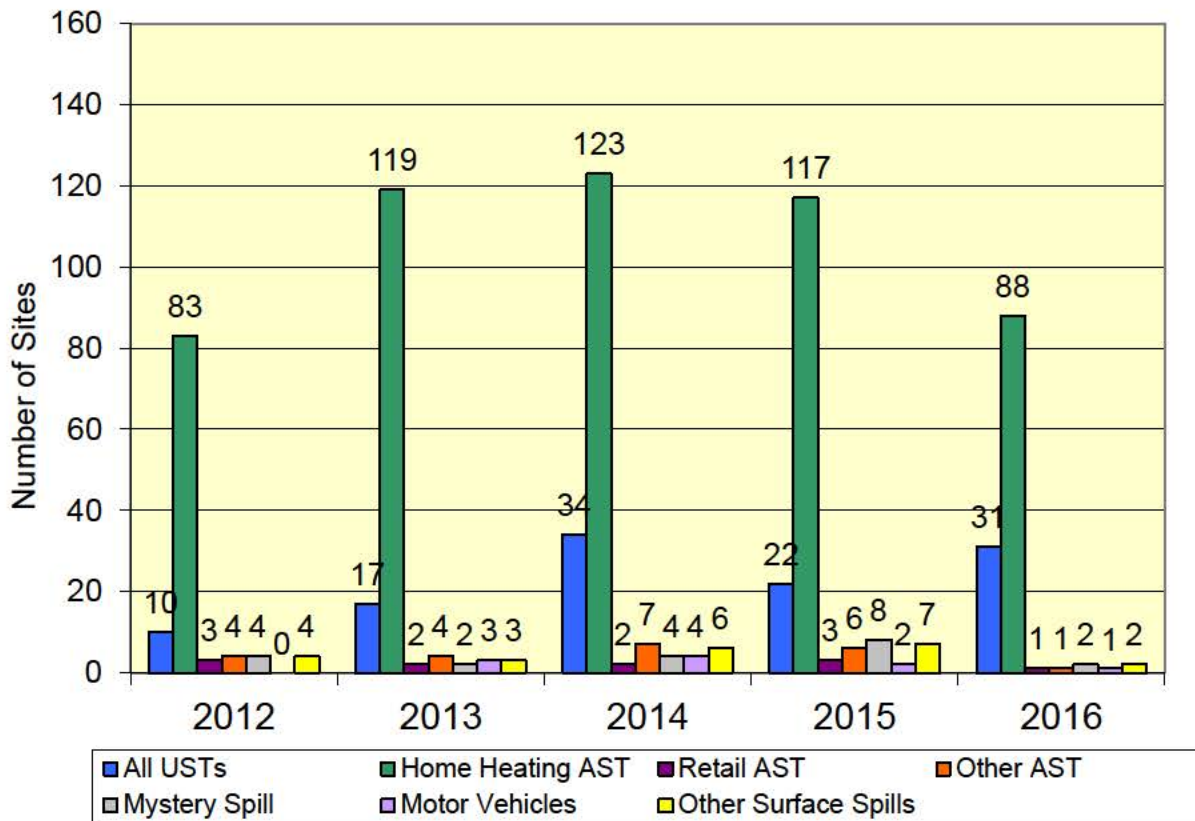




Figure 4 illustrates the make-up of sites subject to long-term clean-up activities based on the source or type of storage tank facility for the past five years. This analysis demonstrates that aboveground oil storage facilities account for 126 sites out of a total of 165 sites (76%) in calendar year 2015 and 90 out of 126 (72%) in 2016. The majority of new petroleum releases consist of kerosene and heating oil that occur at above ground storage tank sites.

**FIGURE 4**  
**Petroleum Sites Referred For Long-Term Remediation**



**I. Ongoing Activities**

The Department is implementing the following initiatives to help prevent releases and reduce expenditures:

1. Third party inspections

Since July 1, 2003, passing annual inspection reports must be filed with the Department for all underground oil storage tanks. In November 2016, Notices of Violation (NOVs) were issued to 173 non-compliant tank owners. This is a decrease of 79 non-compliant tank owners when compared to 2015. By December 2016, approximately 92% of all registered tank owners had gained compliance with the inspection requirement. Department staff continues to use a combination of inspections, technical assistance and enforcement actions to encourage facility owners to achieve compliance.

## 2. Certified Installers and Inspectors

Installation and testing of underground tanks, piping, and associated equipment and completion of an annual inspection report must be performed by an installer or inspector certified by the Board of Underground Storage Tank Installers. As of December 2016, 72 installers and 53 inspectors were certified. Installers and inspectors must participate in continuing educational training to stay abreast of changing technologies and maintain their certification.

## 3. Maintain field presence

Department staff continues to maintain a field presence through the performance of compliance/technical assistance inspections across the state. In FY 2016 (July 1, 2015 - June 30, 2016) Department staff completed 233 inspections. Inspection efforts targeted motor fuel facilities for which no passing annual compliance inspection was submitted in the previous 12 months, or that had not been inspected by Department staff in 3 years, or where tank ownership had changed.

## 4. Aboveground Storage Tanks (AST)

As of December 2015, there were 158 registered motor fuel AST facilities with underground piping. By the end of 2016, that number increased to 187 facilities. The State Fire Marshal's Office (SFMO) forwards permit applications for the installation of AST's to the Department to determine compliance with the Department's Chapter 692: Siting of Oil Storage Facilities. In the prior two fiscal years, staff reviewed 43 permit applications in FY 2015 and 60 in FY 2016 for compliance with the AST siting requirements. By comparison, in 2014, staff reviewed 38 applications to the State Fire Marshal.

## 5. Operator Training

The Federal Energy Policy Act of 2005 (Act) requires each state to provide training opportunities for operators of underground oil storage facilities storing motor fuels. Pursuant to the Act, each facility subject to federal underground storage tank regulation must have a trained operator by August 8, 2012. The Department's internet based training program, "TankSmart", was developed in consultation with the regulated community and meets the requirements of the Act. The program has been available since February 2010 and is free of charge. The program is designed to be cost effective and user friendly. Operators may enter a facility specific registration number and are directed to a series of facility specific training modules or may choose to view all the training modules and become certified as a General Operator and operate any underground storage tank system in the state. Upon successful completion of a computer generated test, operators may print a certificate to document the training has been completed. A written training program is also available for those that do not have a computer or prefer a written training and testing program.

As of December 2016, 2,531 individuals had current certifications through this program. Of those, 934 are General Operators who may operate multiple facilities, and 864 facilities have facility-specific trained operators. Many facilities have more than one certified operator and

the quality of the TankSmart program is so good that tank operators from other states often take Maine's training program and complete the certification test.

#### 6. Home Heating Oil Tank Replacement Program

Since the Home Heating Oil Tank Replacement Program began in 1998, over 8,000 tanks at single family residences have been replaced, protecting the water supply wells of 16 water districts, 4 public water systems and the sole source aquifer on 5 islands and on the peninsula of Harpswell. The replacement of tanks determined to be at high risk of failure with new tanks prevents the need for costly clean-ups.

In 2015, \$500,000 was distributed to Maine's Community Action Programs (CAPs) to replace home heating oil tanks (typically 275 gallon tanks). In 2016, the year-long contracts with the CAPs were extended 3 months so that its termination date coincided with the end of the State fiscal year (June 30, 2017). Going forward the contracts will be one year long and begin and end with the State fiscal year. The current (2016) contracts amount to \$707,500 and range from approximately \$37,000 to \$145,000. The awards are based on the proportional number of Low Income Heating Energy Assistance Program (LIHEAP) clients in each CAP district. The CAPs receive an implementation fee ranging from \$250 to \$325 per tank replaced depending on the geographical area served.

The Department also expended an additional \$190,000 in 2015 and \$120,000 in 2016 replacing home heating oil tanks determined to be at risk at individual locations state wide. Homeowner eligibility for this funding is established considering the risk to public health and through use of a means test to evaluate tank owner income relative to the mean county income.

The replacement program now offers conversion to propane as an option. The elimination of any risk from a future oil discharge by providing a propane heating appliance is often a cost effective solution for oil tanks located outside.

In 2016, the Department prepared a home heating oil tank assistance brochure to help home owners and oil marketers identify potential problems when inspecting these tanks.

## J. Conclusion

The Fund provides an important source of funding to clean-up oil contaminated sites to protect public health and the environment, and to support the continuing economic value of properties. The Department has implemented a variety of strategies to control costs, reduce expenditures, and prioritize spending from the Fund. The Clean-up and Response Fund Review Board provides effective guidance and oversight to the Department regarding these measures, and has placed a heightened focus on the cost effectiveness of remedial measures, including targeted removal of contaminated soil and consideration for re-use of properties. The Department's implementation of health based clean-up guidelines has dramatically improved the cost effectiveness for the clean-up of oil discharges from UST and AST facilities.