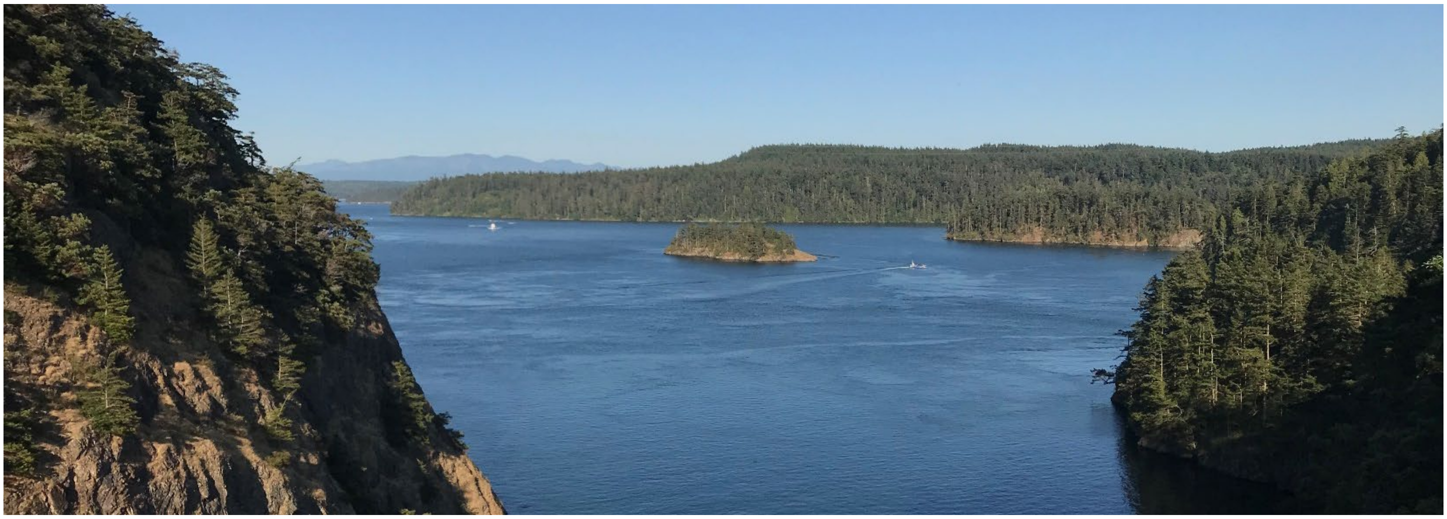
Focus on: Funding for Oil Spills Program



Ecology's Spills Program helps protect Washington's residents, economy, environment, and cultural resources. Long-term investments are needed to stabilize the funding sources that support our work.

WHY IT MATTERS

Washington has one of the lowest per capita spills rate in the nation. Legislation passed in 2015 and 2018 addressed rapid changes in how crude oil is moving through rail corridors and over state waters. This new work was funded by two one-time revenue transfers, and by adding oil imported by rail and pipeline to the barrel tax.

However, there is insufficient long-term revenue for implementing all aspects of our regulatory obligations. Ecology needs a long-term solution to replenish and stabilize two of the state's primary funding sources that support oil spill prevention, preparedness, and response work.

The Oil Spill Prevention Account (OSPA) and Oil Spill Response Account (OSRA) help fund Ecology's Spill Prevention, Preparedness, and Response Program. The OSPA is used for oil spill prevention work. OSRA is the account tapped in urgent situations when oil spills occur. However, an upcoming OSPA fund balance shortfall, and depletion of the OSRA due to a prolonged and costly oil spill response that began last biennium, will jeopardize our capacity to respond to spills or carry out our ongoing prevention and preparedness work moving forward.

Ecology's *Funding for Oil Spills Program* supplemental budget request proposes a multi-step solution for stabilizing the projected OSPA fund balance through the 2027-29 Biennium, and providing additional cash and appropriation authority needed to respond to oil spills this biennium.

Issues with the funding sources

Barrel tax never adjusted.

Revenue for the OSPA and OSRA is generated by a barrel tax on oil transported into the state by vessels, rail, and pipeline. The barrel tax has never been increased or adjusted for inflation since enacted in 1991.

Increased work without ongoing funding to cover it.

2015 and 2018 legislation addressed new safety and environmental risks from the rapid changes in crude oil transportation, including the risks from non-floating oil spills. To help fund this work, the Legislature added oil imported by rail and pipeline to the barrel tax. This helped compensate for loss of revenue due to decreased vessel imports over time, but it was not enough to cover the new and ongoing work assigned by the legislation.

New ongoing and one-time work from 2015 and 2018 legislation

Ongoing

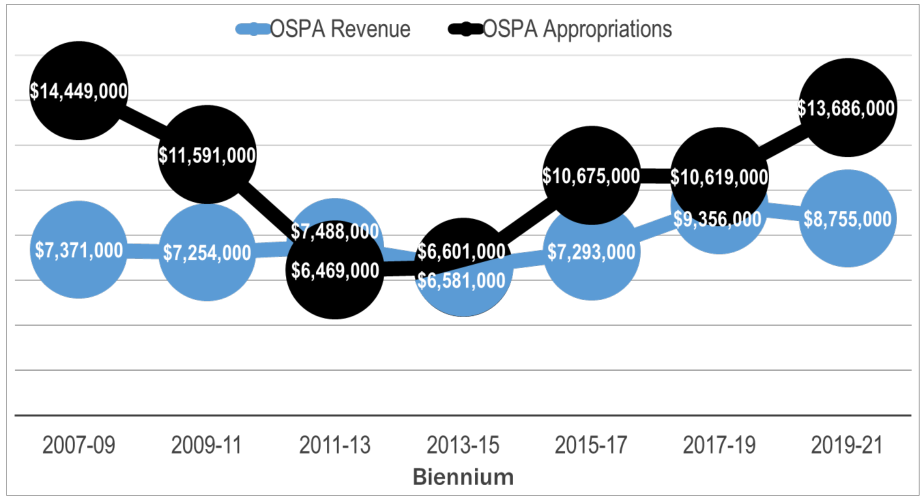
- Spill response and firefighting equipment cache grants (funded by MTCA).
- Spill contingency plans for oil transported by railroads.
- Publish quarterly crude oil movement data.
- Geographic response plans along rail lines.
- Initiatives to assess rail and vessel traffic safety risks.
- Prioritize oil transfer inspections for oils that may submerge or sink.

One-time

- Establish advance notice for transfers of crude oil from rail and pipelines.
- Report on vessel traffic safety in the Strait of Juan de Fuca and Puget Sound.
- Establish a Salish Sea Shared Waters Forum.
- Report on oil spill program activities and funding.

Decreased OSPA revenue over time.

Annual OSPA revenue has dropped from $5–6 million (2000–2006) to $3–4 million (2007–2015). Legislative action has addressed the OSPA revenue shortfalls through multiple one-time fund transfers from the OSRA, State Toxics Control Account (STCA), and General Fund-State, and fund shifts from OSPA into STCA.



OSPA appropriation and revenue, 2007–2021 (Source: DOR and fiscal.wa.gov)

Based on Department of Revenue's (DOR) September 2019 forecast, and the 2019-21 Operating Budget, Ecology projects a $2.7 million fund balance shortfall in OSPA in 2021-23, and a $7.4 million shortfall in the 2023-25 Biennium if no fixes are provided and current appropriations are maintained.

OSRA cap lowered, multiple transfers from OSRA to OSPA.

When the oil spill response tax was established in 1991, it included a funding cap of $25 million, so that any time revenue in the account reached $25 million, the tax would be suspended, and when revenue fell below the cap, the tax would be reinstated. Over time, the cap has been reduced down from $25 million to $10 million in 1997 (ESHB 2096), and then down to the current $9 million cap in 1999 (ESHB 2247). Since January of 2002, the tax has been suspended four times due to revenue reaching the cap. The limitations of the current cap on revenue collections, and recent transfers from the OSRA into the OSPA, have left the OSRA at historic lows. Since the 2015-17 biennium, almost $8 million in revenue has been transferred from OSRA to help cover shortfalls in OSPA and support other agencies.

Olympia Brewery spill: PCBs and cost recovery challenge complicated response

On February 25, 2019, Ecology began responding to an oil spill from a transformer at the former Olympia Brewery site in Tumwater, Washington. While the emergency response was overall very successful, the presence of polychlorinated biphenyls (PCBs) in the oil complicated the cleanup. The presence of PCBs also meant that the spill response was

Multiple attempts to fix the OSPA and OSRA funding

Over the years, Ecology, along with the Governor's Office, Office of Financial Management (OFM), and the Legislature, have considered several options for addressing the long-term, ongoing funding issues with the OSPA.

Funding solution proposals considered since 2007

2007 (SB 5553)

Remove export tax credit. Add fiscal growth factor adjustment to barrel tax. Add new oil spill prevention and response service transfer tax.

2010 (HB 2965)

Expand barrel tax to pipelines. Increase oil spill administration tax from 4 cents to 6 cents. Include fiscal growth factor.

2015 (SB 5087)

Increase oil spill administration tax from 4 cents to 10 cents.

2016 (SB 6418)

Add new $1 barrel tax for crude oil received by vessel, rail, and pipeline.

2017 (HB 1210/SB 5425)

Increase oil spill administration tax from 4 cents to 6½ cents.

2018 (supplemental)

Charge oil spill prevention and preparedness fee on most cargo and passenger vessels weighing 300 gross tons or more.

not eligible for reimbursement through the National Pollution Fund Center, in the event that the responsible party cannot pay the costs.

OSRA challenges: Current cash low balance

The combination of a shrinking funding cap, recent fund transfers out of OSRA, and the brewery spill have left the OSRA cash balance dangerously low. The account's cash balance is projected to be under $100,000 by December 2019, and will not increase above $500,000 until May 2020. The account will be slow to accumulate revenue, leaving no cash or appropriation authority for another large spill or series of smaller spills.

Multi-step approach to fix OSPA and OSRA

Ecology's *Funding for Oil Spills Program* supplemental budget request proposes a multi-step approach to solidify and stabilize the funding needed for the Spills Program, both now and into the future.

Step 1: Stabilize OSPA fund balance long term.

Shift $2.2 million in OSPA expenditure authority on an ongoing basis, beginning in Fiscal Year 2021, from OSPA to the Model Toxics Control Operating Account (MTCA – Operating). This amount will double to $4.4 million beginning in 2021–23 and stabilize the projected fund balance for OSPA through the 2027–29 Biennium.

Projected OSPA fund balance (based on DOR September 2019 forecast)

$ in thousands	2021–23	2023–25	2025–27	2027–29
Without fund shift	($2,728)	($7,479)	($12,850)	($18,869)
With fund shift	$1,776	$1,735	$1,286	$410

Step 2: Increase OSRA cash balance for the next spill response.

Transfer $2.2 million in revenue from OSPA to OSRA, one-time, in Fiscal Year 2021 to help replenish the OSRA cash balance to ensure sufficient funding for oil spill responses the remainder of this biennium. (Note: This can only happen if the fund shift in Step 1 occurs.)

Step 3: Increase OSRA appropriation authority for future spills.

Increase appropriation authority in OSRA to match the $2.2 million in revenue transferred from OSPA to OSRA to support spill responses the remainder of this biennium. (Note: This can only happen if the fund shift and revenue transfer in steps 1 and 2 occur.)

Step 4: Provide contingency funding from MTCA – Operating.

Provide $3 million in one-time contingency funding from MTCA – Operating to be used for spill response activities only if the available OSRA cash balance and/or biennial appropriation level is already fully utilized.

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Accommodations: To request ADA accommodation, visit https://ecology.wa.gov/accessibility or call Ecology at 360-407-6831, Relay Service 711, or TTY 877-833-6341.