

## 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

More than 20 billion gallons of oil are transported as cargo in Washington State each year.

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, while 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, jeopardizes our capacity to respond to spills or carry out our ongoing prevention and preparedness work moving forward.

The Governor's 2020 supplemental operating budget proposes a multi-step solution for stabilizing the projected OSPA fund balance long-term, and provides additional cash and appropriation authority needed to respond to additional 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 support 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. The legislation also provide four years of funding for the Military Department to support regional hazardous materials planning, and an ongoing diversion of OPSA revenue to the Military Department's Active State Service Account for their response activities. To help fund this work, the Legislature added oil imported by

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**

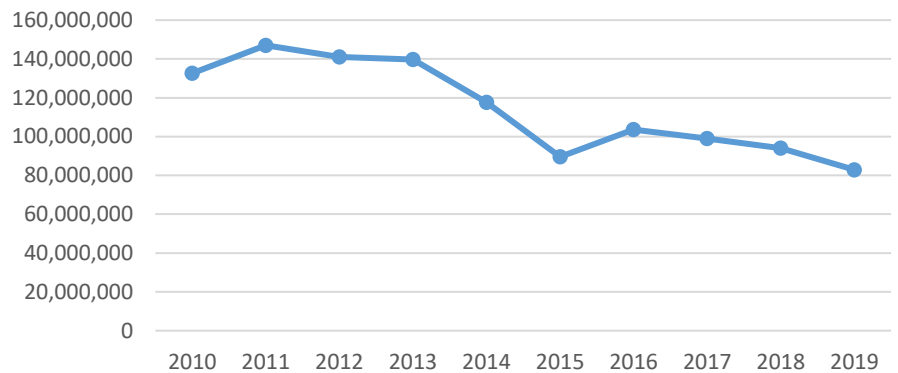
- Establish advance notice for transfers of crude oil from rail and pipelines.
- Report on vessel traffic safety in the Strait of Juan de Fuca and Puget Sound.
- Establish a Salish Sea Shared Waters Forum.
- Report on oil spill program activities and funding.

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rail and pipeline to the barrel tax. While this helped compensate for loss of revenue due to decreased vessel imports over time, it was not enough to cover both the program’s ongoing base-budget, and the new work assigned by the legislation.

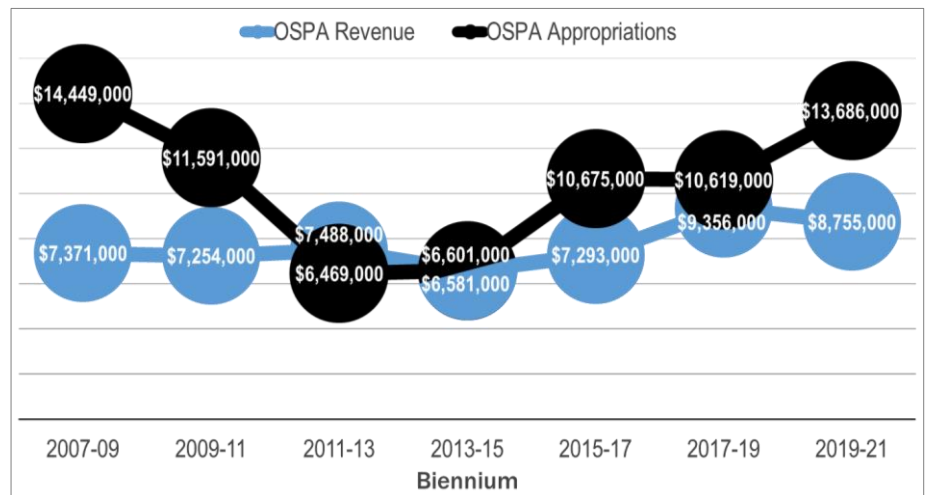
**Vessel Imports (Barrels of Oil) - 2010 - 2019**



Source: Ecology’s Advanced Notice of Transfer (ANT) System

**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 revenue 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) November 2019 forecast, and the 2019-21 Operating Budget, Ecology projects a \$2.6 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

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.

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.

**Revenue Transfers Out of OSRA – 2015 - 2019**

Session	Amount	Transferred To	Reason for Transfer
2015	\$2,225,000	Oil Spill Prevention Account (Fund 217)	Fund ESHB 1449 (Oil Transportation Safety Act)
2018	\$4,700,000	Oil Spill Prevention Account (Fund 217)	Fund E2SSB 6269 (Strengthening Oil Transportation Safety Act)
2019	\$1,040,000	Oil Spill Prevention Account (Fund 217)	Fund the Military’s Department’s development and annual review of local emergency response plans in RCW 38.52.040(3) during the 2019-21 Biennium.
<b>Total</b>	<b>\$7,965,000</b>		

**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 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**

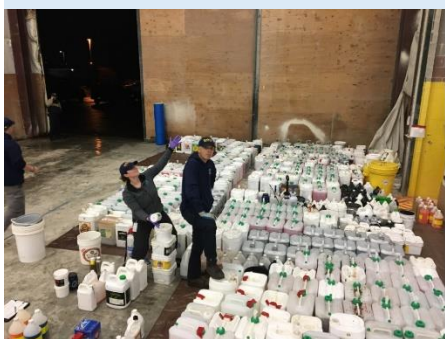
The combination of a shrinking funding cap, recent revenue transfers out of OSRA, and the brewery spill have left the OSRA cash balance dangerously low. As of January 1, 2020, the account’s cash balance was \$291,000, and is not expected to increase above \$500,000 until May 2020. The account will be slow to accumulate revenue, leaving no cash or appropriation authority for another large spill or series of smaller spills this biennium.

**Multi-step approach to fix OSPA and OSRA**

The Governor’s 2020 supplemental operating budget proposes a multi-step approach to solidify and stabilize the funding needed for the Spills Program, both now and into the future.



Ecology staff deploy boom during an exercise.



Spill responders collected thousands of gallons of chemicals as part of Operation Green Jade.



Capitol Lake response 2019.

### Step 1: Stabilize OSPA fund balance long term

Shifts \$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 doubles to \$4.4 million beginning in 2021–23 and stabilizes the projected fund balance for OSPA long term.

*Projected OSPA fund balance (based on DOR November 2019 forecast)*

\$ in thousands	2021–23	2023–25	2025–27	2027–29
Without fund shift	(\$2,636)	(\$7,387)	(\$12,759)	(\$18,778)
With fund shift	\$1,525	\$1,867	\$1,377	\$501

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

Transfers \$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.

Increases appropriation authority in OSRA to match the 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 \$1 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.

### Step 5: Replenish Equipment Cache Grant funding from MTCA – Operating.

Provides \$1 million in one-time appropriation from MTCA – Operating to replenish a portion of Ecology’s Equipment Cache Grant funding this biennium, which had to be used to pay for part of the brewery spill response costs.

The Governor’s supplemental budget addresses the immediate funding issues facing OSRA and places the state in the financial position to more effectively respond to additional oil spills that may occur this biennium. The budget also fully funds the Ecology’s Equipment Cache Grant Program this biennium, and solidifies one of the state’s primary funding sources for preventing and preparing for oil spills into the future.

**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.