

Focus on: Resilience for Catastrophic Oil Spills



WHY IT MATTERS

The Oil Spill Response Account (OSRA) is the state's financial assurance that responses to spills of any size and oil type are rapid, aggressive, and well-coordinated. OSRA helps leverage cleanup efforts to minimize impacts of oil spills to public health and the environment, natural, and cultural resources in the state. In recent years, however, oil spill response and cleanup costs have increased, and the current cap of \$9 million is no longer adequate to ensure the state can address a costly spill while continuing to maintain a high level of response capacity in the event of additional spills. Increasing the cap to \$25 million, the original cap when the account was established in the 1990s, will provide enough capacity in the OSRA so that one costly oil spill response does not impair the state's ability to sustain response funding capacity for additional spills while the OSRA fund balance rebuilds.

Proposed Legislation

Ecology is proposing to restore the original \$25 million fund cap for the Oil Spill Response Account (OSRA), described in [RCW 82.23B.020\(10\)\(a\)](#). The cap was lowered to \$9 million, the current cap, in 1999.

The problem

In the 20 years since the current cap of \$9 million was established, the risk picture for oil spills in Washington has changed significantly. Since 2007, an average of more than 20 billion gallons of oil are imported into the state annually. In 2015, the state began tracking crude oil volumes entering the state by railroad. This newer mode of transport places hundreds of miles of inland surface waters and other sensitive resources at risk for oil spill impacts. As modes of transport for oil evolve, so does the diversity in the types of oil imported, including oils that submerge or sink into the water. In addition to these oils, we now know all oil could submerge due to weathering, creating a more difficult and costly cleanup. Economic analyses of U.S. and global oil response costs have revealed an exponential increase in these costs over the past decade.

Currently, the OSRA's capacity to fund a response is impaired because the account balance was severely drawn down by the Olympia Brewery Oil Spill in 2019. Due to how slowly the fund balance rebuilds from barrel tax revenue and response cost recovery, the OSRA will not have adequate capacity to ensure the state can fund large oil spill responses for several years without emergency assistance from the Legislature.

As of June 22, 2020, the OSRA is under even more pressure due to changes in the definition of "Waters of the United States" (WOTUS). Prior to the change, costs for most of the state's field responses to oil spills to surface waters were eligible for reimbursement through the federal Oil Spill Liability Trust Fund (OSLTF). The OSLTF provides the state with an option to recoup costs for oil spill responses and cleanups charged to the OSRA when cost

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recovery from the responsible party is not an option. While the state has only had to use the OSLTF fund source a limited amount of times, it is an important backstop for very large or costly spills, and for when the OSRA balance is depleted. The new WOTUS definition narrows this eligibility significantly.

The state is still analyzing the impacts from the change, but we estimate that 29% of wetlands in Washington no longer meet the definition of WOTUS. Nor does groundwater, ephemeral streams, constructed stormwater control features in upland areas, or many other important state waters at risk from oil spills. These waters are not only important environmental resources, but are important cultural resources, as well. Response costs for oil spills to any of these excluded waters are no longer eligible for reimbursement from the OSLTF. Without cost recovery from a responsible party, future response costs for oil spills to these same waters will be paid by the OSRA with no other option for cost reimbursement. The additional burden the new WOTUS rule places on the OSRA needs to be addressed.

The solution

The OSRA's funding capacity needs to be increased in consideration of the state's current oil spill risk picture and the increasing cost of oil spill responses.

Ecology's proposal

We are proposing to restore the \$25 million cap on the OSRA, which was last effective in 1999.

How it will work

Revenue from the current \$0.01 per barrel tax on oil imported into the state will continue to build in the OSRA until the fund balance reaches \$25 million.

How it will benefit Washington

Restoring the \$25 million cap on the OSRA will also restore the ability of the account to meet its intended purpose – to ensure that Washington always has the capacity to deploy the right type and size of response for oil spills that happen anywhere in the state. This will also bring our response funding limits closer to those of other Pacific States. Alaska's response account has a cap of \$50 million. California's account has a cap of \$55 million and access to loaned funds from a pooled investment account for spill costs exceeding available fund balance.

Contact information

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ADA Accessibility

To request an ADA accommodation, contact Ecology by phone at 360-407-6831 or email at ecyadacoordinator@ecy.wa.gov, or visit <https://ecology.wa.gov/accessibility>. For Relay Service or TTY call 711 or 877-833-6341.