

Oil Spill Contingency Planning Annual Report

October 2017



Emergency Response Program

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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



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Executive Summary

This report documents fees collected for oil spill contingency planning and related activities conducted by the Oregon Department of Environmental Quality for the 2017 fiscal year beginning July 1, 2016 and ending June 30, 2017. It also provides an analysis to ensure that sufficient fees are collected to meet DEQ's budgetary needs for oil spill contingency planning. This report is made available to those who paid fees under Oregon Revised Statute 468B.405 and to the general public.

This is a required report by ORS 468B.405 and 468B.412, the state statutes governing oil spill contingency planning fees for covered vessels and facilities. The fees are dedicated to implement work required of DEQ by ORS 468B.300 through 468B.500, the statutes governing oil spill contingency planning requirements. Each year DEQ publishes a report for the previous fiscal year addressing:

- Fees assessed and collected under ORS 468B.405 on covered vessels and offshore and onshore facilities
- DEQ activities described by ORS 468B.410(4)
- Details on penalty funds received due to the willful or negligent discharge of oil and the use of those funds

Revenue generated from the oil spill contingency planning fee has been less than the forecast since the fee was increased in 2015. The fee increase passed into law in 2015 took effect on Oct. 3, 2016, so the full realization of the fee on an annual basis was not evident until the completion of FY 2017. Due to the fee increase, DEQ was able to restore activity levels during FY 2016 and maintained that level during FY 2017. DEQ focused on drills and exercises because they are important activities that ensure plan holders and state responders are able to effectively respond to spills. DEQ managed to reduce the backlog of contingency plans under review during FY 2016 and is currently on target for plan review. This was accomplished despite shipping activities that decreased (and therefore revenue) in FY 2016.

Shipping activity levels rebounded during FY 2017 to levels consistent with levels experienced during the previous two biennia. Even with the effect of reduced shipping levels during FY 2016, the fee increase going into effect during October, 2015 and fund balance carryover from FY 2015 allowed DEQ to operate at anticipated activity levels through 2017. However the carryover for future biennia was not realized. When DEQ was working with industry to establish the current fee structure, it was agreed that the fee would enable DEQ to set the fee high enough to provide carryover between biennia that would provide adequate funding without increasing fees during each legislative session.

The number of fixed offshore and onshore facilities remained constant for several years. This has kept the funding from facilities fairly steady. As anticipated, two facility closures during 2016 has reduced the amount of revenue generated from this source in FY 2017 and for future years.

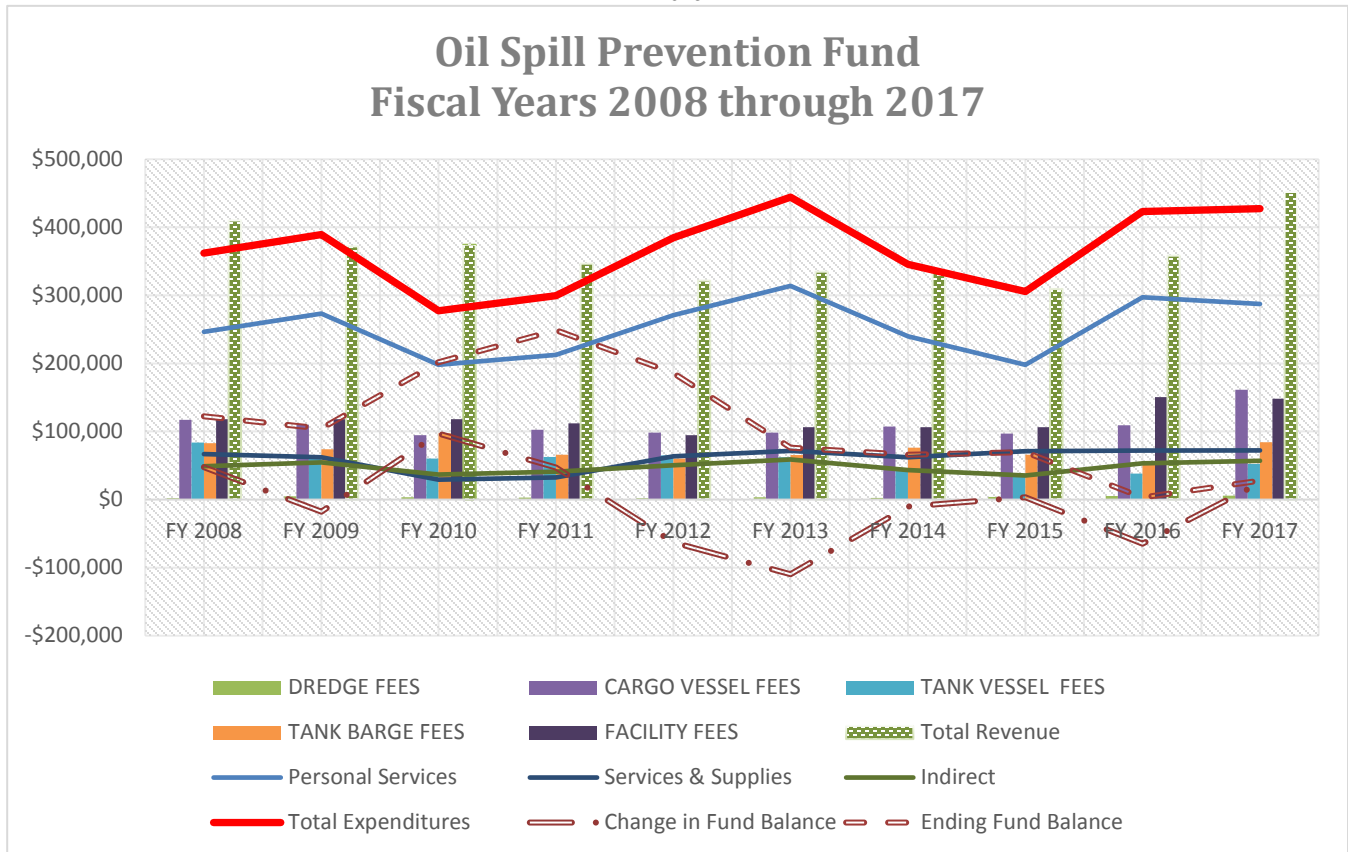
Fees from tank vessels and barges have not generated as much revenue as projected and barge activity dropped substantially during FY 2016. The barge type 1 and type 2 fee category generated less revenue than projected during FY 2016 and FY 2017, partially due the reduction of bunkering on the Columbia and Willamette Rivers.

Fees collected from cargo vessels appeared to be leveling off, however during FY 2016, cargo vessel activity dropped off dramatically with a reduction of over 14 percent from FY 2015. During FY 2017 cargo vessel traffic on the Columbia River rebounded to levels similar to the years prior to FY 2016.

Chart 1 provides an overall analysis of both expenditures and revenue for the Oil Spill Contingency Planning program since FY 2008. Total revenue leveled off between 2012 and 2015 and the ending balance for each year

has had a minor reduction. Personal Services shows a reduction during FY 2013 through 2015 and an increase to approximately 2.6 FTE during FY 2016. Personal services for FY 2017 was approximately 2.4 FTE.

Chart 1



The fee increase approved by the Legislature in 2015 intended to provide an appropriate workload level that ensures continuation of oil spill contingency planning and preparedness to protect Oregon’s marine environment.

DEQ did not receive fee revenue projected for the 2015/2017 biennium in part, due to fewer fee generating activities. DEQ managed this shortfall by using carryover from FY 2015 and by managing activities carefully. The ending fund balance for 2016 was \$3,117. During FY 2017, with the current fees in place for the entire year DEQ received enough revenue to pay for 2.4FTE. The ending balance for FY 2017 is \$27,865. In discussions with industry prior to the most recent fee increase, it was anticipated that there would be enough carryover in fund balance to fund future years without fee increases. If revenue generating activities remain at FY 2017 levels revenue may be reduced by approximately 15 percent for the 2017/2019 biennium.

Looking forward towards FY 2018 and FY 2019, if the fee generating activities remain at FY 2017 levels, the program may need to look at reducing activities or using some of the funds generated in the Oil Spillage Control Fund to carryout program activities. DEQ did not seek a fee increase for oil spill contingency planning during the 2017 legislative session. DEQ will need to monitor fee generating activities closely during FY 2018 and may need to consider a fee increase during the 2019 legislative session. The cost of 3.0 FTE for the 2018/2019 biennium anticipated to be approximately \$520,000 each year.

Fee Categories

Oregon Revised Statute 468B.405 establishes fees to fund DEQ’s oil spill contingency planning requirements. DEQ collects these fees from facilities (including pipelines) that transfer oil in bulk over state defined navigable waters and covered vessels. Covered vessels include vessels more than 300 gross tons, tank ships, barges transporting oil in bulk and dredges. The table below reflects the current fee for each category.

Table 1 Fees by Category

Categories Established by SB 262	Facilities	Cargo and Passenger Vessels	Tank Vessels	Type 1 Barges	Type 2 Barges	Type 3 Barges	Dredges
SB 262 Fees	\$9,250	\$105	\$2,100	\$85	\$110	\$250	\$50
Notes:							
Barge Type 1:vessel carries less than 25,000 barrels of oil							
Barge Type 2:vessel that carries over 25,000 and less than 100,000 barrels of oil							
Barge Type 3:vessel that carries over 100,000 barrels of oil							
Fee rates for facilities are an annual payment; vessels are per trip; and for dredges per day of operation.							

DEQ worked with the petroleum and maritime industry to forecast the number of annual activities generating fees under ORS 468.B.405. Table 2 shows the actual fee-generating events for fiscal years 2008through2017.

Table 2. Actual Fee-Generating Events for Fiscal Years 2008 through 2017

TYPE	FY 2008 Activity	FY 2009 Activity	FY 2010 Activity	FY 2011 Activity	FY 2012 Activity	FY 2013 Activity	FY 2014 Activity	FY 2015 Activity	FY 2016 Activity	FY 2017 Activity
Facilities	20	20	20	17	17	17	17	18	18	16
Cargo Vessels	1,826	1,508	1,386	1,457	1,393	1,386	1,465	1,385	1183	1436
Tank Vessels	71	52	54	49	54	52	32	31	26	21
Barge Type 1	568	476	581	554	454	294	314	288	156	161
Barge Type 2	582	566	492	386	425	602	680	527	374	353
Barge Type 3	43	50	55	41	43	66	96	89	85	85
Dredges	58	140	73	84	61	96	69	112	106	117

Projected and Collected Revenue

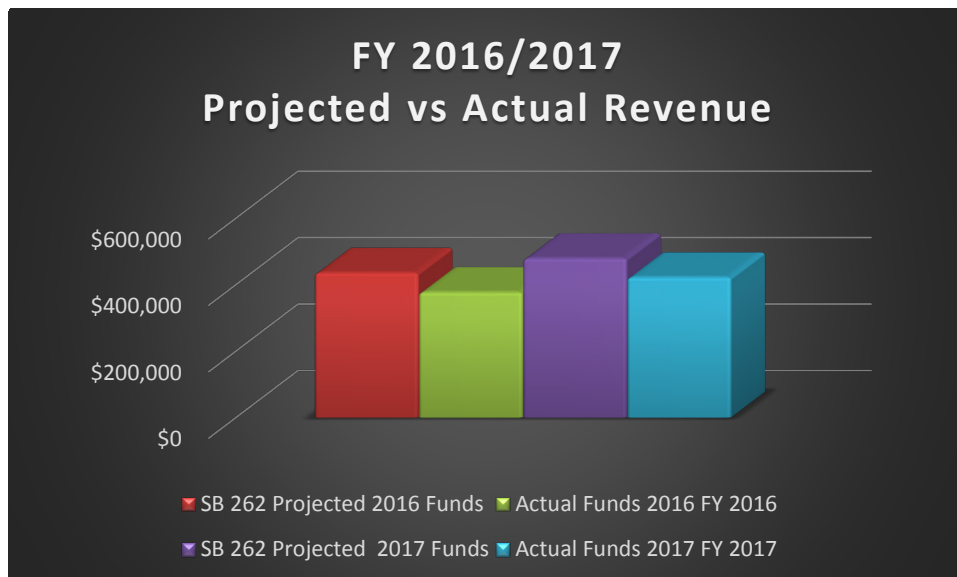
Table 3 shows the 10 year average revenue for the fiscal years 2008 through 2017 and compares the projected revenue for FY 2016 and 2017 based on forecasted activity levels for each fee category and the actual revenue collected during the past two fiscal years. The total target revenue level calculated in 2007 was \$416,120 and the total target revenue level for 2017 is \$479,600. This represents an increase of 15 percent over 10 years.

Table 3
Ten-Year Average Revenue, Projected Revenue and Actual Revenue for Fiscal Year 2016 & 2017

Type	10 year Average FY 2008-2017	Projected 2016	FY 2016 Actual	Projected 2017	FY 2017 Actual
Facilities	\$ 117,780	\$ 150,696	\$ 150,696	\$ 166,500	\$ 148,000
Cargo Vessels	\$ 109,519	\$ 136,675	\$ 113,190	\$ 149,100	\$ 150,780
Tank Vessels	\$ 56,665	\$ 56,250	\$ 42,900	\$ 63,000	\$ 44,100
Barge Type 1	\$ 25,013	\$ 28,563	\$ 12,060	\$ 29,750	\$ 13,685
Barge Type 2	\$ 39,017	\$ 47,500	\$ 47,500	\$ 52,250	\$ 39,710
Barge Type 3	\$ 9,764	\$ 12,750	\$ 16,900	\$ 15,000	\$ 21,250
Dredges	\$ 3,670	\$ 3,720	\$ 4,530	\$ 4,000	\$ 5,850
Total	\$ 361,428	\$ 436,154	\$ 387,776	\$ 479,600	\$ 423,375

Chart 2 shows the actual revenue for FY 2016 and 2017 and the projections for those same years.

Chart 2
Actual Revenue FY 2016 & 2017
vs
Projections for FY 2016 & FY 2017



DEQ Oil Spill Contingency Planning Activities Conducted in Fiscal Year 2017

DEQ responsibilities under the state’s statutes on oil spill contingency planning are:

- To ensure all regulated vessels and facilities have prepared oil spill contingency plans and that those plans meet requirements specific to protecting Oregon’s navigable waterways
- To verify that equipment listed in oil spill contingency plans is available and adequately maintained; that personnel listed in the plans are trained; and that drills and exercises are conducted.
- To conduct drills and exercises in accordance with the Northwest Area Plan and promote a consistent approach.

DEQ activities also charged to the Oil Spill Contingency Planning Fund include:

- Geographic Response Plan updates
- Developing and maintaining an interagency response plan for oil or hazardous material spills
- Northwest Area Committee participation (Updates to Northwest Area Plan, Regional Response Team coordination)
- Oil spill preparedness training (including drills and exercises)
- Pacific States/British Columbia Oil Spill Task Force activities

DEQ charged an approximate 2.4 Full-Time Equivalent staff position to the oil spill contingency planning fund during FY 2017. This increased from 1.8 FTE charged in FY 2015 and compares to 3.0 FTE during the 2011-13 biennium. DEQ’s operational budget allows for 3.0 FTE. Chart 3 below shows how the activities were charged to the fund.

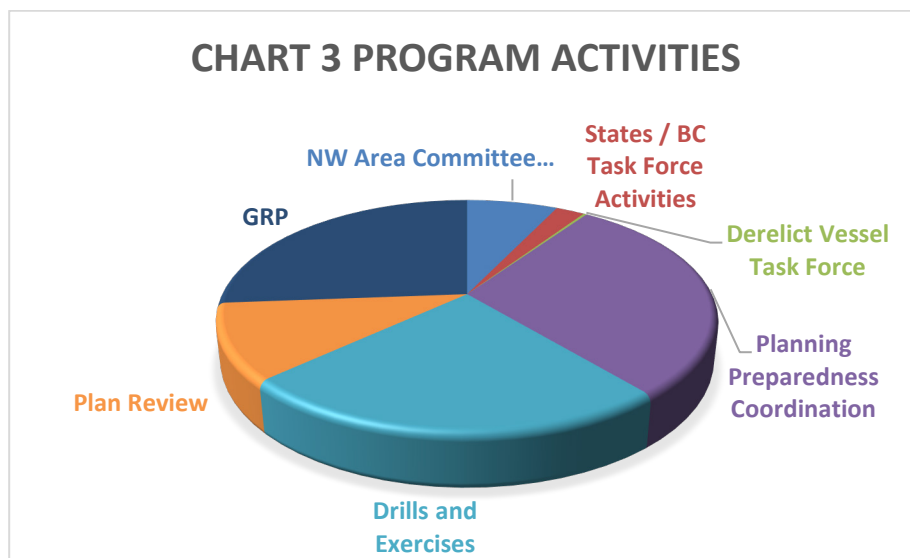
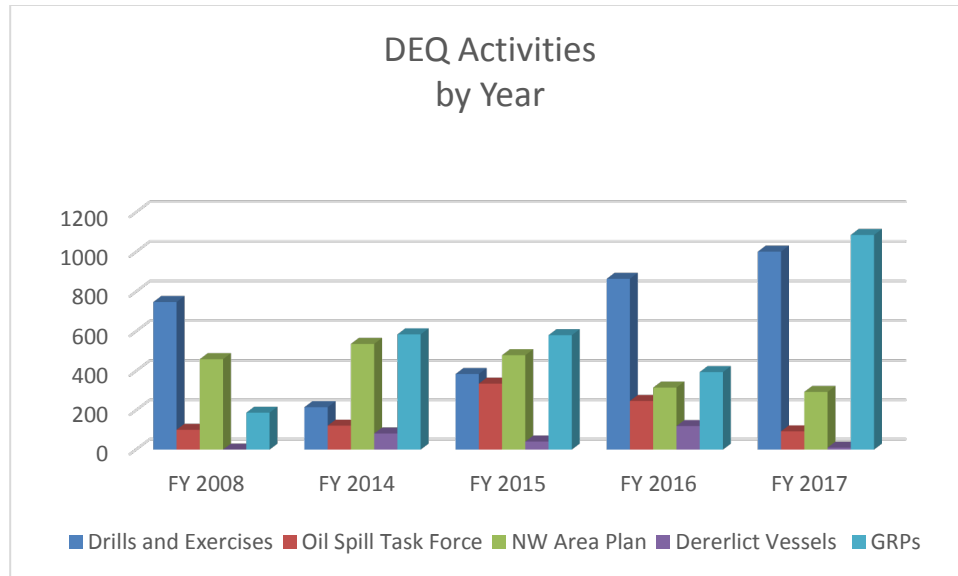


Chart 4
Hours Charged to Specific Activities by Year



Plan Review/Coordination

DEQ currently has 16 facility plan holders and six vessel plans to review and maintain. DEQ approves plans for a five-year period and reviews any significant changes to plans made during the year. DEQ approved one facility plans, one shipping company and one umbrella plan during FY 2017:

- Chevron Willbridge Terminal
- Harley Marine Services
- Maritime Fire & Safety Association

DEQ has a public comment period of no less than 30 days for each plan under review. DEQ makes plans available for public review through its website or by hard copy at DEQ Headquarters office.

Drills and Exercises

DEQ participated in and evaluated several exercises during FY 2017. Drills and exercises are an important aspect of this program testing the organizational and operational skills of plan holders. Drills and exercises help meet DEQ’s objective to work with industry and agency counterparts to train and prepare for spills. Drills and exercises demonstrate the ability to respond to an oil spill in a quick, efficient manner. Lessons learned from drills and exercises assist participants in improving the incident response capacity. This year’s focus included a spill to an urban creek, an alternate product (vacuum gas oil), liaison, social media, volunteer management, tribal coordination and vessel salvage/recovery.

Tabletop exercises for FY 2017 included:

- Kinder Morgan Pipeline
- ARC Terminals
- Tidewater Barge Lines
- Tidewater Pipeline
- BP Portland Terminal
- MFSA/Sause Brothers
- Tesoro Pipeline

DEQ staff participated in and observed several government-initiated unannounced exercises and equipment deployment drills. These exercises provided an opportunity for DEQ to work with its federal partners (U.S. Coast Guard and U.S. Environmental Protection Agency) as well as other key response personnel. These exercises were conducted at:

- Columbia Pacific Bio Refinery
- Kinder Morgan Willbridge Terminal
- Nustar Portland Terminal

DEQ followed the Northwest Area Contingency Plan and protocols extensively at drills and exercises. DEQ staffed positions in the Unified Command including Command Staff, Joint Information Center, Planning Section, as well as liaison and environmental unit. DEQ also participated in the annual Clean Rivers Mutual Aid Exercise (equipment deployment and Geographic Response Plan verification) on the Columbia and Willamette Rivers.

Regional Response Team and Northwest Area Committee

The Northwest Area Committee continued the approach where members and stakeholders identify top priorities for improving the Northwest Area Contingency Plan. New task forces updated four areas of the plan. The task forces work through the year to improve content in their assigned areas. The new content will be included in the next area plan update early in 2017. The task forces will disband when they complete their assignments.

Task forces that DEQ participated in for FY 2016:

- **96-Hour Plan Toolkit:** The 96 Hours Task Force focused on improving the first 96 hours of a response by defining critical initial response milestones, identifying tools for effective external communication and clearly documenting how the Area Plan works with other contingency plans (LEPCs, industry, etc.) As a follow-on to the 96 Hour Plan, the Task Force was reconvened to begin developing tools and templates that can be used to facilitate implementation of the plan, and to help assure that the timelines are met.
- **Air Monitoring for Community and Responder Safety:** The Air Monitoring Task Force focused on identifying private and government air monitoring capability and how those capabilities will be coordinated to conduct air monitoring during incident responses where airborne contaminants (volatiles, particulates from burning, etc.) may pose a risk to local communities or responders. The Task Force also identified roles and responsibilities/ jurisdictions of Local Health Departments and Local Air Authorities, and how they would integrate into the response. In this second year of the Task Force, a Community Air Monitoring Plan was created to aid in the decision making and information sharing process.
- **Tribal Outreach and Technical Training:** Last year's Tribal Engagement Task Force focused on creating a clear process for tribes to join the Regional Response Team (RRT), stating RRT expectations of tribal participation, and creating a Tribal Engagement Strategy. The Tribal Engagement Strategy identified short and long-term goals and objectives for tribal engagement and sovereign interests, capture on-going tribal engagement efforts to identify effective strategies and gaps; including best practices and recommendations for future actions for improving tribal involvement. This year's Task Force developed a job aid for the role of Tribal Coordination Specialist to assist tribes in navigating the Incident Command System during an incident.
- **Fire to Environmental Response:** The Fire to Environmental Response Task Force was aimed at smoothing the transition between a typical fire response under Incident Command to an environmental response under Unified Command. The Task Force had two primary components: 1) Identification of stakeholders (state, county, local fire chiefs associations, and industry) and creating a training mechanism to help educate them regarding Unified Command and incident endpoints for fire departments; and 2)

Creation of a transition document and checklist that outlines the transition process from fire to Unified Command.

- **In Situ Burn Update:** The In Situ Burn Update Task Force developed a map to present a graphic depiction of In Situ Burn Policy, revised the ISB decision making checklist, and a streamlined process for decision making.
- **Non Floating Oils:** The Non-Floating Oils Task Force amended the non-floating oils response tool and applicable policies within Section 9412 and Chapter 4000 of the NW Area Contingency Plan to reflect the National Academy of Sciences' recommendations.

Geographic Response Plan Development

DEQ develops and maintains geographic response plans to cover the first 24 to 48 hours following a significant spill or release to coastal shoreline and bays, and major river systems. These plans identify resources to be protected and describe strategies to protect resources and recover released oils. Response contractors use these plans to provide a coordinated initial response until a Unified Command can be established. DEQ periodically updates the plans as information changes or new resource information becomes available.

In FY 2017, DEQ was matched with a NOAA Coastal Management Fellow under a joint proposal with the Oregon Department of Land Conservation and Development's Coastal Management Program, to further develop the means of publishing GRP data, and assist in producing updated coastal zone GRPs. In August 2017, DEQ began the two year project to revise and update the GRPs covering the north and south coast of Oregon and the estuaries and bays.

In 2017, DEQ conducting the following activities in support of GRP development:

Participation in work groups focused on developing a new, consolidated coastal access database for Oregon, providing a GIS data for beach, river and lake access points for all modes of access from visual overlooks, pedestrian access, vehicle and boat access as well as piers and wharfs.

Conduct outreach meetings to update the Oregon Coastal GRPs, and continue to develop the means to automate GRP publishing leveraging existing data, new features in ArcGIS and potentially, incorporation of features in GeoCortex mapping software.

Pacific States/British Columbia Oil Spill Task Force

Oregon is a member of the Pacific States/British Columbia Oil Spill Task Force. The task force provides a regional forum for coordination and collaboration on oil spill prevention and response policy issues. Task force members are the state and provincial government directors of the oil spill prevention and response agencies in Hawaii, California, Oregon, Washington, British Columbia and Alaska. DEQ's director serves as Oregon's representative to the task force.

DEQ is selective about participation in task force activities, as some projects are not within scope of the Oregon Oil Spill Prevention and Preparedness program. Task force projects that DEQ participated in during the past year include:

- Regional Oil Spill Database
- Information Exchange on Contingency Planning, Drills and Exercises, Mutual Aid, Oil Spill Response Organizations, Natural Resource Damage Assessment and Wildlife Care

- Analysis of information generated from national and international spills
- Federal Partnership meetings

DEQ participated in the Oil Spill Task Force annual meeting and participated in the planning and implementation of the Clean Pacific Conference in June, 2016. The 2017 annual meeting was not held until the last week of September in 2017 so only planning time for the 2017 meeting is included in this year's total. Overall there has been a decrease in hours that DEQ has allocated to the Oil Spill Task Force over the last biennium. DEQ anticipates a slight increase during FY 2018 due to hosting both the annual meeting and Clean Pacific in June, 2018.

Oil Spillage Control Fund

The original Oil Spill Contingency Planning Act, passed in 1991, established the Oil Spillage Control Fund (ORS 468B.455). All penalties recovered through civil penalties for violations related to the willful or negligent discharge of oil are to be deposited in this fund. House Bill 262, passed during the 2015 regular legislative session, changed the allowable use of the Oil Spillage Control Fund. Before the 2015 regular legislative session the fund could only be used for the advancement of cost incurred in carrying out cleanup activities and for the rehabilitation of affected fish and wildlife. SB 262 amends allowable uses of the fund to include: reviewing contingency plans; conducting training, response exercises, inspections and tests to verify equipment inventories and ability to prevent and respond to oil release emergencies or establish the preparedness of the state; verify or establish proof of financial responsibility; and reviewing and revising the oil spill emergency response plan required by ORS 468B.495.

Additionally, SB 262 requires that the report required by ORS 468B.412 (this report) shall include penalties recovered by DEQ and the agency's activities related to this account. For FY 2017 the OSCF received \$7,633. No expenditures from the fund were used for the additional duties authorized by SB 262. During FY 2017, \$28,849 were used for purposes of carrying out cleanup activities which were authorized under the original statutes.

Conclusion

DEQ fees for oil spill contingency planning and preparedness have been sufficient to maintain a sustainable oil spill contingency planning program after DEQ worked with industry to develop a reasonable fee increase during the 2015 legislative session. Had fees not increased, DEQ would have reduced personal services level to 1.5 FTE resulting in a long backlog of contingency plans requiring review and drastically reduced DEQ participation in drills and exercises. The approved legislation allows DEQ to dedicate up to 3.3 FTE toward the Oil Spill Contingency Planning Program during the 2015-17 biennium if there is enough revenue generating activities to support that level of workload.

The Oil Spill Contingency Planning fund collected \$387,776 during FY 2016 and had program expenditures of \$423,145. This expenditure funded approximately 2.6 FTE. During FY 2016 the fee increase did not take effect until the second quarter of FY 2016 and the decrease in projected revenue generating activities led to lower funding than anticipated. At the same time DEQ was in the process of restoring the program activity to the approved level. Under other circumstances, the department would have been facing a fund deficit but was able to make up for the difference using the fund balance carryover from FY 2015. The fund balance at the end of FY 2016 was nearly zero and carryover to FY 2016 was negligible.

For FY 2017, the fee approved in 2015 was in effect for the whole year. Chart 3 shows that the original projection for FY 2017 would generate approximately \$479,600. Actual fees for FY 2017 generated \$423,375. While this is not as much as anticipated, it allowed DEQ to maintain 2.4 FTE and carryover an ending balance of \$27,150 for the year. Looking forward towards FY 2018 and FY 2019, if the fee generating activities remain at FY 2017 levels, the program will need to look at reducing activities or using some of the funds generated in the Oil Spillage Control Fund. It is likely that DEQ will seek a fee increase during the 2019 session.