

Oil Spill Contingency Planning Annual Report

October 2018



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 2018 fiscal year beginning July 1, 2017 and ending June 30, 2018. This report provides an analysis to ensure that sufficient fees are collected to meet DEQ's budgetary needs to operate an effective oil spill contingency planning program. This report is made available to those who paid fees under Oregon Revised Statute 468B.405 and to the general public.

This report is required by Oregon Revised Statutes 468B.405 and 468B.412. The state statutes establish fees to be submitted to DEQ for covered vessels and facilities for oil spill contingency planning and response preparedness. The fees are dedicated to implement work required of DEQ by Oregon Revised Statute 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 Oregon Revised Statute 468B.405 on covered vessels, and facilities located offshore and onshore
- DEQ activities described by Oregon Revised Statute 468B.410(4)
- Details on penalties received due to the willful or negligent discharge of oil and the use of those funds

Fees collected by DEQ are used to review and industry oil spill contingency plans, and participate in drills and exercises to ensure plan holders and state responders are able to quickly and effectively respond to oil spills. To be approved by DEQ, Oil spill contingency plans must meet requirements specific to protecting Oregon's navigable waterways. There are 20 contingency plan holders that submit plans for DEQ review and approval, which must be renewed on a five-year schedule, and updated throughout that five-year period for substantive changes in the plan resulting from changes in industry operations. In any given year, DEQ conducts review and approval of three to five plans annually. DEQ also works with plan holders to design, stage and evaluate oil spill exercises. DEQ managed these program activities with fewer full-time equivalent positions than legislatively approved during fiscal years 2017 and FY 2018.

Revenue generated from the oil spill contingency planning fee has been less than the 2015 forecast used to establish the fees enacted in the 2015 Legislative session. The new fee rates passed into law took effect on Oct. 3, 2015, so the full realization of the annual fee revenue was not evident until the completion of fiscal year 2017. When DEQ worked with industry to establish the current fee structure, it agreed with stakeholders that the fee rates should be set at levels that would provide carryover between biennia with adequate funding to avoid the need to request fee increases each legislative session.

Two onshore facilities closed during 2016, which reduced the amount of revenue generated from facility fees in fiscal years 2017 and 2018.

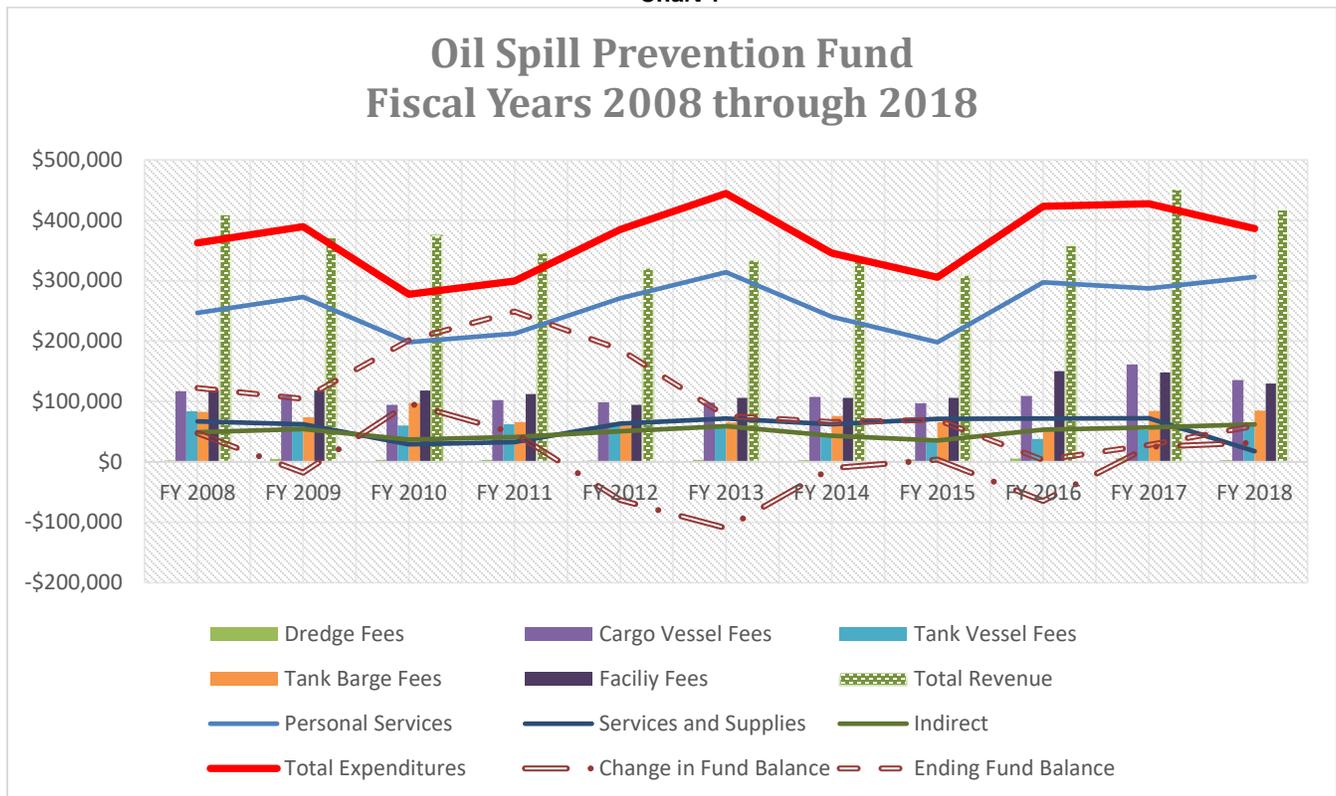
Fees collected from cargo vessels dropped off dramatically during fiscal year 2016, with a reduction of over 14 percent from the prior fiscal year. During fiscal year 2017 cargo vessel traffic rebounded to levels similar to the years before fiscal year 2016. The number of cargo vessel trips in fiscal year 2018 was very similar to the previous fiscal year.

Fees from tank vessels and barges generated less revenue than projected, and barge vessel trips dropped substantially during fiscal year 2016. The type one and type two barge fees generated less revenue than projected during fiscal years 2016 and 2017, partially due the reduction of bunkering on the Columbia and Willamette Rivers. The type three barges appear to have been consistent the last several years after experiencing an increase in

2014. After hitting a low of 21 tank vessel trips in fiscal year 2017, there were 30 tank vessel trips in fiscal year 2018. Part of the increase is due to the export of crude oil from Portland. Crude oil exports present a new challenge for response and preparedness activities. The properties of the crude oil may require additional types of detection and removal equipment.

Chart 1 provides an overall analysis of expenditures and revenue for the Oil Spill Contingency Planning program since fiscal year 2008. Total revenue leveled off between 2012 and 2015 and the ending balance for each year has gone down slightly. Personnel Services shows a reduction during fiscal year 2013 through 2015 and an increase to approximately 2.6 full-time equivalent positions during FY 2016. Personnel services for FY 2017 and FY 2018 was approximately 2.4 full-time equivalent positions versus the 3.35 authorized in the 2015 legislation.

Chart 1



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

DEQ managed the shortfall of fee revenue by using carryover from fiscal year 2015 and by carefully managing activities. The ending balance for 2016 was \$3,117. During fiscal year 2017, with the current fees in place for the entire year DEQ received enough revenue to pay for 2.4 full-time equivalent positions. The ending balance for fiscal year 2017 was \$27,865. During fiscal year 2018, DEQ allocated 2.4 full-time equivalent positions that were paid for with a combination of funds from the Oil Spill Planning Fees and as approved by Oregon Revised Statute 468B.455, the Oil Spillage Control Fund. In June 2018, the Oil Spill Planning Fund balance declined to a level that required \$47,000 to be transferred from the Oil Spillage Fees into the Oil Spill Planning Fund to cover monthly operational expenses. The final balance for the Oil Spill Planning fund was \$58,970. More details on the Oil Spillage Control Fund and this transfer are included toward the end of this report.

During discussions with industry before the fee increase in 2015, stakeholders anticipated that there would be enough carryover funds to fund future years without fee increases. Assuming the current level of revenue generating activities and fees remain the same, DEQ will need to further reduce the number of full-time equivalent positions by approximately 50 percent of the legislatively approved level for the 2019/2021 biennium.

Looking toward fiscal year 2019, if the fee generating activities remain at fiscal year 2017/18 levels, the program may need to reduce activities or use more of the funds generated in the Oil Spillage Control Fund to carry out program activities. DEQ monitored fee-generating activities closely during fiscal year 2018 and based on those activity levels, which appear to have stabilized, DEQ will recommend a fee increase during the 2019 legislative session. DEQ anticipates the cost of 3.3 full-time equivalent positions for the 2019/2021 biennium to be approximately \$747,000 each year through fiscal year 2021. The cost of 4.25 full-time equivalent positions is estimated at approximately \$958,000 per 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.							

Fee-generating Activities

DEQ worked with the petroleum and maritime industry to forecast the number of annual activities generating fees under Oregon Revised Statute 468.B.405. Table 2 shows the actual fee-generating events for fiscal years 2008 through 2018.

Table 2.

Actual Fee-Generating Activities for Fiscal Years 2008 through 2018

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	FY 2018 Activity
Facilities	20	20	20	17	17	17	17	18	18	16	16
Cargo Vessels	1,826	1,508	1,386	1,457	1,393	1,386	1,465	1,385	1183	1436	1432
Tank Vessels	71	52	54	49	54	52	32	31	26	21	30
Barge Type 1	568	476	581	554	454	294	314	288	156	161	108
Barge Type 2	582	566	492	386	425	602	680	527	374	353	472
Barge Type 3	43	50	55	41	43	66	96	89	85	85	88
Dredges	58	140	73	84	61	96	69	112	106	117	104

Projected and Collected Revenue

Table 3 shows the 10-year average revenue for the fiscal years 2009 through 2018 and compares the projected revenue for fiscal years 2017 and 2018 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 for 2017 and 2018 is \$479,600 per year.

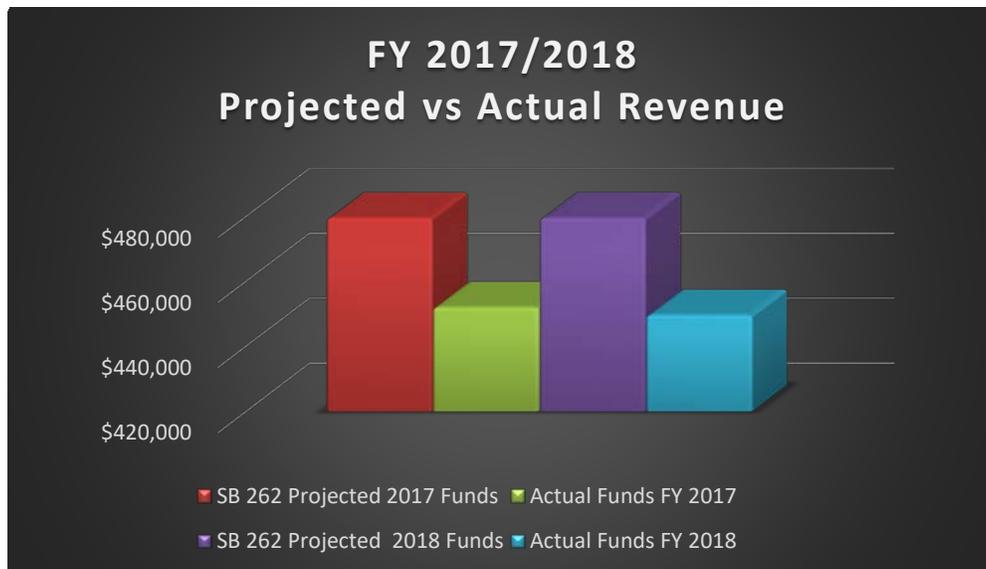
Table 3

10-Year Average Revenue, Projected Revenue and Actual Revenue for Fiscal Year 2017 & 2018

Type	10 year Average FY 2009-2018	SB 262 Projected 2017/18 Funds/YR	Actual Funds FY 2017	Actual Funds FY 2018
Facilities	\$119,010	\$166,500	\$148,000	\$148,000
Cargo Vessels	\$111,284	\$149,100	\$150,780	\$150,360
Tank Vessels	\$53,760	\$63,000	\$44,100	\$63,000
Barge Type 1	\$21,132	\$29,750	\$13,685	\$9,180
Barge Type 2	\$37,638	\$52,250	\$38,830	\$51,920
Barge Type 3	\$10,405	\$15,000	\$21,250	\$22,000
Dredges	\$3,844	\$4,000	\$5,850	\$5,200
Total	\$357,073	\$479,600	\$452,055	\$449,660

Chart 2 shows the actual revenue for fiscal years 2017 and 2018 and the projections for those same years.

Chart 2
Actual Revenue FY 2017/18
vs
Projections



DEQ Oil Spill Contingency Planning Activities Conducted in Fiscal Year 2018

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 approximately 2.4 full-time equivalent staff positions to the oil spill contingency planning fund during fiscal year 2017. This increased from 1.8 full-time equivalent staff positions charged in fiscal year 2015 and compares to 3.0 full-time equivalent positions during the 2011-13 biennium. DEQ's operating budget allows for 3.3 full-time equivalent positions. Chart 3 below shows how the activities were charged to the fund.

Chart 3

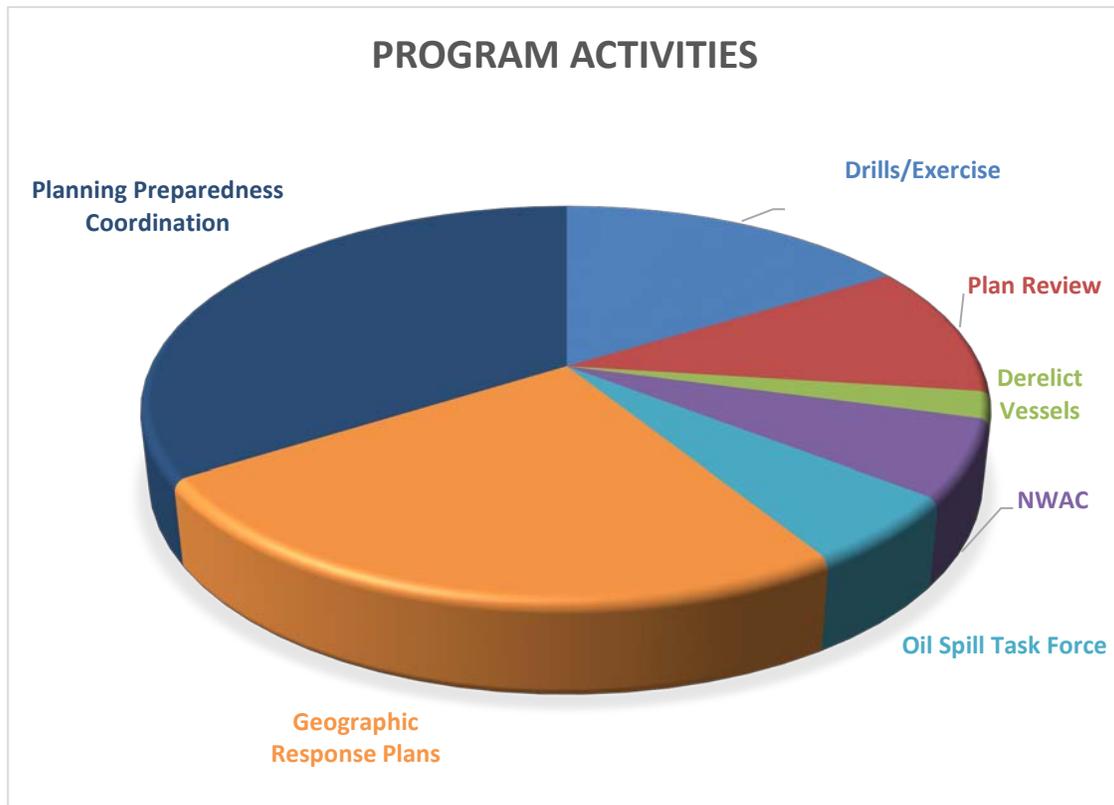
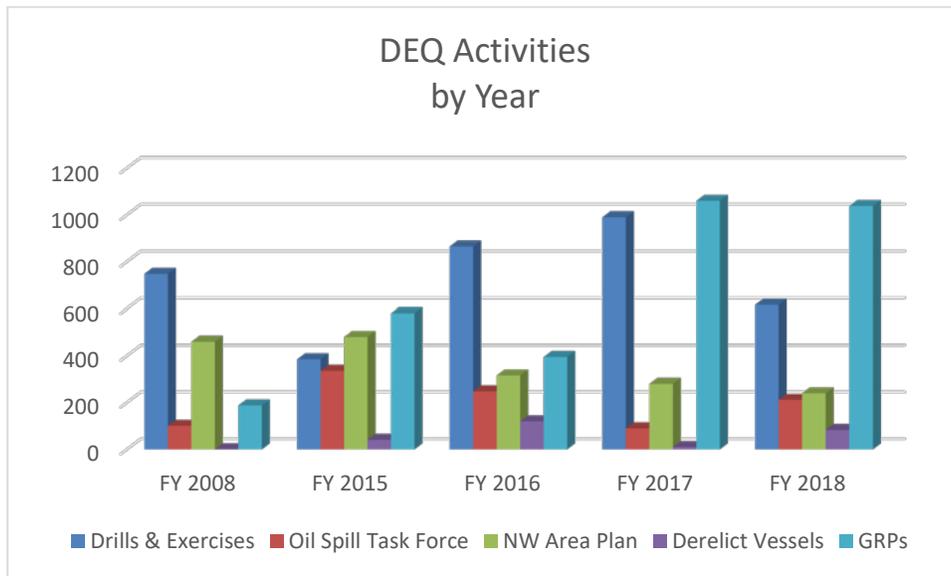


Chart 4
Hours Charged to Specific Activities by Year



Plan Review/Coordination

DEQ currently has 16 facility plan holders and four 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 three facility plans during FY 2018:

- Phillips 66
- TLP Management Services
- Zenith Terminals

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.

Four contingency plans will be need to be renewed during FY 2019.

Drills and Exercises

DEQ participated in and evaluated several exercises during FY 2018. 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 2018 included:

- BP and Olympic Pipeline
- Columbia Pacific Bio Refinery
- Tidewater Umatilla Terminal
- Tesoro Pipeline
- McCall Oil

- MFSA
- 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.

Thirteen plan-holders are scheduled for worst-case exercises in fiscal year 2019.

Regional Response Team and Northwest Area Committee

In December 2017, the Northwest Area Committee and stakeholders met to identify elements of the Northwest Area Contingency Plan to improve in 2018. The committee established a task force to work on each of these high-priority areas.

In FY 2018, DEQ participated in the following [task forces](#):

- **[96-Hour Plan Toolkit](#)**: The Northwest Area Committee created a 96-hour plan and an accompanying toolkit in 2017 to provide responders with a game plan for the first four days of an emergency response. The 2018 96-hour Plan Toolkit Task Force improved this game plan by determining that these resources should be hosted on the [committee's website](#) and by designing templates that expedite planning early in a response. These templates are described below. The 96 Hour Plan Toolkit Task Force focused on continuing the improvement of the first 96 hours of a response by identifying a location where the 96 Hour Plan and Toolkit would be stored for use during incidents. It was determined that an access point would be created on the Northwest Area Committee's website for storage of the plan and the toolkit. New items to be included in the toolkit were identified, and are discussed in the following section.
 - **Water Quality Sampling Plan**: The 96-Hour Plan Toolkit Task Force developed a template for an initial Environmental Sampling and Analysis Plan and improved the template for a Water Quality Sampling Plan that responders can use early in the response. These resources will be added to the 96-Hour Toolkit in 2018
- **[Unmanned Aircraft Systems](#)**: The Unmanned Aircraft Systems Task Force was convened to gather policies on drone use, capabilities and resources in the region so that agencies and industry partners could create a white paper that summarizes the information gathered and compares the various policies, to provide clear direction on the process to restrict air space and create public messaging templates, and to add known resources to the Western Region Resources List for agencies and Oil Spill Response Organizations.
- **[Fisheries Management](#)**: The Fisheries Management Task Force was assembled to determine which agencies have the authority over tribal, commercial and recreational fisheries closures, to develop contact lists and checklists for notification and coordination during incidents, to define where the issue of fisheries management during a release is conducted within the Incident Command System and to update of Section 9309 to expand beyond the scope of shellfish.
- **[Hazardous Materials Risk](#)**: The Hazardous Materials Risk Task Force was convened to determine the top five types of hazardous materials that move through the region, gather relevant resources and information for

these hazards based on category (US Department of Transportation classes, sinking or floating, for example) and to connect with Local Emergency Planning Committees to assess the status of potential planning gaps.

- **Tribal Outreach and Technical Training:** Continued to track training and exercise opportunities for Tribal Nations, especially those that included tribal representatives in the design process and captured related training materials to share forward with other planners:
 - Researched spill response capacity building opportunities and compiled information into two resource documents to share with Pacific Northwest Tribal Nations.
 - Consolidated and updated a tribal government contact list for contingency planning outreach purposes.
 - Conducted outreach and started engaging potential candidates who might be identified as Tribal Coordination Specialists, as described in the Liaison Manual of the NWACP.

In addition to working on the task forces above, DEQ also reviewed and submitted comments on the United States Coast Guard directive to separate the Northwest Area Contingency Plan into separate documents covering each Coast Guard Sector. The U.S. Environmental Protection Agency will cover the inland area. Although the form and format of the reorganization of the Northwest Area Contingency Plan has not been finalized, the reorganization is slated for completion in fiscal year 2019.

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 shorelines, bays or major river systems. These plans identify sensitive resources and describe strategies to protect these resources and recover released oils. Response contractors and responding agencies use these plans to provide a coordinated initial response until a Unified Command is established. DEQ periodically updates the plans as information changes or new resource information becomes available. However, due to a lack of resources (including staff and information-technology resources) it has been approximately 20 years since the coastal plans have been updated.

In fiscal year 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 Geographic Response Plan data, and assist in producing updated coastal zone plans. In August 2017, DEQ began the two-year project to revise and update the plans covering the north and south coast of Oregon and the estuaries and bays. This additional resource allowed DEQ to devote nearly two full-time equivalent positions (one DEQ Emergency Response Planner funded by the Oil Spill Planning Fund and one NOAA Fellow).

In 2018, DEQ conducted the following activities in support of GRP development:

- Developed a Geographic Response Plan template for integrating Geographic Information System data and tabular/text data into a two-page document for each plan strategy.
- Developed a geodatabase of natural resource information to help in the prioritization of areas to be protected during Geographic Response Plan strategy development.
- Developed a strategy-naming convention that utilizes river mile markers for strategies along rivers and within estuaries, and utilizes Highway 101 mileposts for open coast strategies and strategies which are not located along rivers.

- Conducted field inspections along the entire Oregon coastline and major streams/estuaries during the summer of 2018 to identify opportune locations for capturing spilled oil, and to design protective strategies for natural, cultural and economic resources where possible.
- Reviewed existing strategies and made them more specific, feasible and user-friendly.
- More than doubled the number of individual response strategies along the Oregon Coast and estuaries, bringing the number of response strategies from 171 up to more than 400.
- Created more than 500 new notification strategies to keep sensitive nearby facilities informed in the event of an oil spill.
- Met with local public works agencies, aquaculture operations personnel, hatchery managers, aquarium operators, harbor masters, and managers of other sensitive facilities to design notification and protection strategies.
- Met with local natural resource agencies to help identify and prioritize protection of endangered species, public shellfish and other sensitive natural resources in the coastal zone.
- Created a GIS Story Map to explain the project to the public, resource agencies and response agencies. The GIS Story Map can be found at this address: <https://goo.gl/jfno7q>
- [The Oregon Coastal GRP Update](#) timeline can be found at this link.

In the latter part of 2018 and through 2019, DEQ will complete the development of a Geographic Response Plan publishing system, use that system to publish new coastal zone plans for Oregon, and make the data available to stakeholders and response industry partners and agencies to use during spills. DEQ will provide printed documents and data that can be incorporated into incident response common operating picture viewers.

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 hosted the 2018 Oil Spill Task Force annual meeting and associated meetings in Portland in June. DEQ also hosted the Clean Pacific Conference and participated in the planning and implementation of the conference during 2018. Overall there has been an increase in hours that DEQ has allocated to the Oil Spill Task Force over the last year. DEQ anticipates a slight decrease of hours during fiscal year 2019 due to hosting the annual meeting and Clean Pacific in June, 2018. The Oil Spill Task Force will be working on a new five-year strategic during 2019.

Oil Spillage Control Fund

The original Oil Spill Contingency Planning Act, passed in 1991, established the Oil Spillage Control Fund (Oregon Revised Statute 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. Senate Bill 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 Oregon Revised Statutes 468B.495.

Additionally, Senate Bill 262 requires that the report required by Oregon Revised Statute 468B.412 (this report) shall include penalties recovered by DEQ and the agency's activities related to this account. The Oil Spill Control Fund received \$7,633 for fiscal year 2017 and \$ 3,146 for fiscal year 2018. No expenditures from the fund were used for the additional duties authorized by Senate Bill 262. During fiscal year 2017, \$28,849 was used to carry out cleanup activities which were authorized under the original statutes. During fiscal year 2018, DEQ used \$9,850 from the Oil Spillage Control Fund for the purposes authorized under the original statutes. Also during fiscal year 2018 DEQ transferred \$48,000 to the Oil Spill Contingency Planning Fund for activities authorized under Senate Bill 262. The May 2018 balance in the Oil Spill Contingency Planning Fund was down to \$211. DEQ transferred funds from the OSCR to cover the remainder of the fiscal year. During June fees generated \$48,000 and the fiscal year ending balance was \$58,970.

Conclusion

DEQ fees for oil spill contingency planning and preparedness have only been sufficient to maintain 2.4 full-time equivalent positions to support the oil spill contingency planning program. 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 full-time equivalent positions resulting in a long backlog of contingency plans requiring review and drastically reduced DEQ participation in drills and exercises. The approved legislation intended to allow DEQ to dedicate up to 3.3 full-time equivalent positions toward the Oil Spill Contingency Planning Program during the 2015-17 fiscal years, however, there was not enough revenue generating activities to support the legislative approved workload.

The fee increase that went into effect during the second quarter of fiscal year 2015 experienced a decrease in projected revenue generating activities and led to lower funding than anticipated. At the same time DEQ was in the process of restoring the program activity to the legislatively approved level. Under other circumstances, DEQ would have faced a fund deficit but the additional fee revenue provided a fund balance carryover from fiscal year 2015. The fund balance at the end of fiscal year 2016 was nearly zero and provided little carryover to fiscal year 2017.

For fiscal year 2017, the fee approved in 2015 was in effect for the whole year. Chart 2 shows that the original projection for fiscal year 2017 would generate approximately \$479,600. Actual fees for fiscal year 2017 generated \$452,055. While this revenue was not sufficient to support the workload approved by the legislature, it allowed DEQ to maintain 2.4 full-time equivalent positions. For FY 2018, fees generated \$449,660, which again was less than anticipated but was balanced out by limiting activities to 2.4 full-time equivalent positions. Looking forward to fiscal year 2019 and beyond, if the activities remain at fiscal year 2017/2018 levels, the program will need to look at reducing activities and using some of the funds generated in the Oil Spillage Control Fund. The Oil Spillage Control Fund balance at the end of fiscal year 2018 was \$37,000 and is not a viable source for long-term funding.

During the last two fiscal years, DEQ has been able to fund 2.4 full-time equivalent positions for the Oil Spill Contingency Planning Program. DEQ has made significant progress in the area of geographic response plan updates during fiscal year 2018 due in a large part to the benefit of participating in the NOAA fellowship program. This program has demonstrated the need to enhance the Oil Spill Contingency Planning Program. To continue this progress and to effectively fulfill the contingency plan review and drill and exercise expectations, DEQ needs to add one additional full-time equivalent position to the legislatively approved level and be able to support 4.25 full-time equivalent positions. In order to maintain a viable oil spill contingency planning program, DEQ will seek a fee increase during the 2019 session.