

Review of Oil Spill Risk and Comparison to Funding Mechanism Report 09-2

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REPORT SUMMARY

To protect Washington's waters from oil and hazardous spills, in 2004 the Legislature established a zero spills strategy. This strategy is to be accomplished through a focus on prevention activities, complemented by preparation for spills, and actual spill clean-up (RCW 90.56.005).

In 2007, the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to investigate a number of issues related to oil spills (2SHB 1488). JLARC's assignment can be summarized into two key questions: 1) What are the sources of oil spill risk in Washington's waters, and 2) Do the sources of revenue that fund the state's oil spill prevention, preparedness, and response programs align with the sources of oil spill risk?

Oil Spills In Washington

Mention of an oil spill may invoke a memory of the *Exxon Valdez* spill of 10.9 million gallons of crude oil in Alaska. The largest spill in Washington during the timeframe for this study (1995-2007) is the 277,200-gallon pipeline spill of gasoline in Bellingham. This analysis identifies that over 90 percent of the oil spills in Washington's waters are less than 1,000 gallons. Many different types of oil are spilled, and spills come from many sources.

What Are the Sources of Oil Spill Risk?

Oil spill risk is a function of both the *probability* (likelihood) of an oil spill and the *impacts* (consequences) of that spill. There are numerous ways to assess risk. The relative risk assessment conducted for this study uses four different approaches to estimate the future of oil spill risk in Washington's waters. The analysis estimates spill impacts using formulas derived from the Department of Ecology's Washington Compensation Schedule, which is a schedule used to calculate individual spill damages. The report provides detail on the results from all four approaches.

No matter which of the four approaches is used, the ***risk results show that oil spills are likely to occur across the state from many sources in both large and small amounts*** rather than concentrated in just one source such as oil tankers.

What Are the Sources of Revenue for the State's Oil Spill Programs?

The two major sources of revenue that fund the state's oil spill programs are two dedicated taxes: the Oil Spill Administration Tax and the Oil Spill Response Tax. These two taxes are imposed on the owner of crude oil or petroleum products when the oil is first received into a storage tank at a marine terminal in Washington from a waterborne vessel or barge (RCW 82.23B.020). These two taxes are not imposed on other marine vessels, other

facilities, or vehicles that may spill oil, nor is this tax imposed if the oil enters a storage tank at a marine terminal by another transportation mode, such as by pipeline. Other revenue sources include the Hazardous Substance Tax, reimbursements, one cent of the marine use motor vehicle fuel excise tax refund, penalties, fees, fines, and natural resource damage assessment settlements.

Do the Sources of Risk and the Sources of Revenue Align?

To determine if the sources of risk are aligned with the sources of revenue that fund the state's oil spill prevention, preparedness, and response programs, JLARC compared the sources of revenue and the sources of risk to determine if there is a *direct* connection between the two. The risk sources are based on the transportation mode or activity involved with the movement or use of oil, such as a pipeline, a tank barge, or a manufacturing facility. The major revenue sources are based on the taxable event of the ownership of the oil at the time the oil is first received into a storage tank at a marine terminal from a waterborne vessel or barge. ***The sources of revenue and the sources of risk are not directly aligned.*** It is possible that there are *relationships* between risk and revenue; for example, the owner of the oil *may* own the facility that is a source of risk. However, any such relationships are coincidental and do not result from an alignment of the sources of revenue and the sources of risk.

Tax Theory, Tax Law, and How Other Coastal States Fund Their Oil Spill Programs

Having determined that the sources of oil spill risk do not align with the sources of revenue, JLARC looked at three issues regarding alternative funding methods: tax theory regarding the attributes of a high quality tax structure, the impacts of Washington tax law on alternatives, and what other coastal states do to provide dedicated funding for oil spill activities.

Tax theory points to the need for balance and equity along with ease of administering taxes. Tax law illustrates the need to pay careful attention to interstate commerce issues. The practices of other states show that while not necessarily aligned with risk, there are other ways of funding oil spill activities. For instance, Oregon taxes each vessel trip. New Hampshire includes pipelines in the tax base. Delaware has a wholesale gross receipts tax paid on the sale of most petroleum products.

Alternative Funding Approaches

Ultimately it is up to the Legislature to choose whether or not revenue sources should be directly aligned with risk sources and to choose the criteria for a revenue structure. In making that decision, if the Legislature is interested in creating a *risk-based* revenue structure there are a number of practical issues to consider. Such an effort would need to include:

- A broad-based approach that includes alignment of revenue collection with the transportation modes and activities associated with oil spill risk;
- A data system designed specifically for the purposes of risk assessment;
- Selection of a specific approach for assessing risk; and
- Incorporation of the fact that risk changes over time.