



Maryland
Department of
the Environment

REPORT ON THE STATUS OF THE MARYLAND OIL DISASTER CONTAINMENT, CLEAN-UP AND CONTINGENCY FUND

FY19 Data

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Prepared for:
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House Environmental Matters Committee

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I. EXECUTIVE SUMMARY

Section 4-411(h) of the Environment Article, Annotated Code of Maryland, requires the Maryland Department of the Environment (MDE or the Department) to provide to the standing committees (Senate Education, Health and Environmental Affairs and the House Environment and Transportation Committees) of the Maryland General Assembly a status report on the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund (the Fund).

MDE's Land and Materials Administration (LMA) and the Air and Radiation Administration (ARA) are the units responsible for regulating state oil pollution control programs. The Oil Control Program (OCP) within LMA and the Air Quality Compliance Program (AQCP) within ARA coordinate these activities. The Emergency Response Division (ERD) provides the emergency response services for oil and hazardous material emergencies. The Water and Science Administration (WSA) may use the Fund for water pollution control activities related to oil.

During FY19, the following major activities were accomplished:

1. OCP was responsible for the oversight of 5,523 facilities that stored, or otherwise handled petroleum products or petroleum-impacted materials.
2. OCP managed a combination of 1,878 Oil Transfer Licenses, Oil Operations Permits, Stormwater Discharge Permits, and Underground Storage Tank (UST) Certifications to assist in the implementation of the state oil pollution control programs.
3. OCP conducted 4,860 on-site inspections, including third party inspections, at 1,674 facilities to ensure that owners/operators are preventing, reducing, or remediating oil pollution.
4. OCP provided direct oversight at 835 ongoing petroleum clean-ups.
5. OCP coordinated 4,078 Public Information Act searches for information on oil pollution activities.
6. ERD received 2,213 oil spill reports and responded to 498 surface oil spill and chemical incidents.
7. Through ERD, MDE continued to supply bales of sorbent pads, bales of sorbent boom, bales of sorbent sweep, and drums to local fire departments to assist them in conducting initial spill response.
8. ERD participated in several oil spill drills in association with federal and local agencies, and the oil industry.
9. AQCP conducted 1,655 air quality activities related to regulated oil facilities having air emissions. It also responded to six citizen complaints concerning air pollution from oil-related facilities.

10. WSA assisted with preventing discharges of oil and coordinated responses to oil-related pollution. This was accomplished through permitting, inspections, data sharing, and technical reviews.
11. In 2019, a total of 359,100 gallons of used oil were collected through the Maryland Used Oil Recycling Program for recycling from citizens who changed the oil in their vehicles. The program is administered by MDE through a Memorandum of Understanding with the Maryland Environmental Service and is supported by the Fund.
12. A total of 93,129,445 barrels of oil were reported as transferred into the state.
13. MDE received \$7,392,808 in oil transfer fees that were deposited to the Fund.
14. MDE collected \$171,406 in cost recovery, and \$71,367 in fines and penalties.

II. INTRODUCTION

Section 4-411(h) of the Environment Article, *Annotated Code of Maryland*, requires MDE to provide the Senate Education, Health and Environmental Affairs and the House Environment and Transportation Committees of the Maryland General Assembly a status report on the Fund.

The Fund revenues were generated by licensees paying \$0.08 per barrel (42 gallons in a barrel) of oil transferred into the state. Anyone transferring oil in the state must have a valid Oil Transfer License and pay the fee. There were 289 companies licensed with the MDE at the end of this fiscal year. Also credited to the Fund are fines collected for oil pollution violations and recovered costs for certain clean-up expenses paid by MDE.

The Fund was established for MDE "to use to develop equipment, personnel, and plans; for contingency actions to respond to, contain, clean-up, and remove from the land and waters of the state discharges of oil, petroleum products, and their by-products into, upon, or adjacent to the waters of the state; and restore natural resources damaged by discharges" (Section 4-411(f)). MDE is the responsible agency for all oil pollution activities. The state has administered a comprehensive program for oil pollution control and oil spill response since 1972.

III. OIL POLLUTION CONTROL ACTIVITIES

A. OCP

As part of LMA, OCP is responsible for coordinating oil pollution activities as required by state statute. These activities include, but are not limited to, the development of regulations, enforcement, permitting, and complaint response with respect to transportation, storage, and disposal of oil (as defined in Section 4-401(h) of the Environment Article). OCP is made up of the Compliance Division, the Remediation Division, the Aboveground Storage Tank (AST) and Permits Section, and the Administrative Resources Section. Table 1 summarizes FY19 activities.

Through OCP, MDE continues to assess the extent of contamination from methyl tert-butyl ether (MTBE), and other gasoline oxygenates in waters of the state. MDE has been tracking the number of domestic wells with MTBE detections greater than 5 parts per billion (ppb) since the summer of 1999. A review of this data revealed that 712 domestic wells have been impacted with MTBE at or above 5 ppb. Any wells with MTBE concentrations at or above the State Action Level of 20 ppb are provided potable water, typically through a drinking water filtration system.

Maryland must provide notification to property owners in the High-Risk Groundwater Use Areas of the state who are within one-half mile of a new petroleum groundwater contamination discovery. MDE made two notifications during the reporting period.

1. Compliance Division

The Compliance Division has the responsibility for the protection of the environment through enforcement of oil pollution and tank management laws and regulations. Timely responses are also made to complaints concerning oil handling practices and operations. Appropriate enforcement actions are initiated when necessary.

The division maintains a field presence, and investigates petroleum discharges, identifies responsible parties (RPs), and oversees clean-up activities performed by the RP and clean-up contractors at surface spill locations. It ensures that the proper clean-up and disposal methods are implemented.

The division manages the UST Information Management System (IMS) to track 9,448 active USTs (7,342 motor fuel and 2,106 heating oil) located at 4,326 facilities in Maryland. UST facility summary reports, facilities issued a delivery ban, and Maryland-certified UST technicians, removers, and inspectors are made available to the public on the website.

The division also manages and administers a certification program for UST system installation, removal, and inspection (i.e., Third-Party Inspection Program). The Compliance Division has highly trained staff and follows up on all UST deficiencies and conducts audits and inspections, as appropriate, of UST system removals, installations, and operations. The Compliance Division performs inspections on regulated AST systems to ensure compliance with Maryland regulations. In FY19, the accredited inspectors and the division completed 3,099 inspections at 919 UST facilities. The division also issued 86 audit notices for regulated heating oil UST systems.

2. Remediation Division

The Remediation Division has the responsibility for the protection of the environment through the investigation and clean-up of sites impacted by petroleum products. Timely responses are made to groundwater pollution complaints concerning oil products. Appropriate enforcement actions are initiated when necessary.

The division oversees the RP for the discharge of oil, the clean-up contractor at subsurface remediation sites to ensure that the proper clean-up methods are implemented, and public health and safety are protected. The division also has primary responsibility for oversight of UST system removals. It had 835 active sites that were being investigated or remediated at the end of FY19.

The division coordinates and oversees state-lead investigation and remediation activities on sites where an RP cannot be identified or where the RP is unable or unwilling to remediate contamination, causing a public health threat. At the end of FY19, a total of 64 sites were being addressed in this manner with state and federal funds. Funded activities include private well sampling, water filtration system installation and maintenance, site assessment, source removal, and remediation of soil and groundwater.

3. AST and Permits Section

The AST and Permits Section is responsible for the development and oversight of permits and performs inspections at regulated AST facilities. The section was involved in the following activities:

- a. Issued 206 permits to facilities operating in the state that were involved in the aboveground storage, transfer, transport, and delivery of petroleum products and the treatment of oil-contaminated soils. A total of 1,197 oil operations permits were in effect at the end of the fiscal year.
- b. Oversaw the compliance of 123 state discharge permits for oil terminals and groundwater remediation systems under delegated authority from the National Pollutant Discharge Elimination System (NPDES) permit system.

4. Administrative Resources Section

The Administrative Resources Section provides support activities required by OCP and was involved in the following activities:

- a. Managed the oil transfer fees and Oil Transfer Licenses resulting in 289 active licenses at the end of FY19.
- b. Coordinated invoice/receipt/refund activities for the OCP, including discharge permit fees, transfer fees, penalties, and cost recovery.

- c. Provided data processing support for monitoring and tracking of closed cases, requisitions, record retention schedules, personnel, vehicles, and daily activities.
- d. Conducted 221 audits of Oil Transfer License holders to ensure those license holders were paying appropriate oil transfer fees to the state. Of the total audits completed: (a) 124 were compliant at the time of audit; (b) six had minor issues that received a notice, but no response was required; and (c) 91 received a notice that required a response. Two Notices of Non-Compliance were issued; no Notices of Violation or Complaint and Orders were issued for FY19.
- e. Implemented, coordinated, and provided testing and renewal certification of UST Technicians, Removers, and Third-Party Inspectors. A total of 179 certifications were issued in FY19, resulting in a total of 392 active certifications at the end of FY19.
- f. Assisted in the response to 4,078 Public Information Act searches for consultants, realtors, lawyers, and individuals for information on oil pollution activities.

B. Emergency Response Division

ERD is the primary state asset that receives and tracks spill reports involving hazardous materials and oil. ERD provides 24-hour emergency response to spill incidents, technical support to other programs within the department, site safety and technical support to the Environmental Crimes Unit during criminal search warrants, and technically specific training to local fire, police, environmental health departments, and other interested parties upon request. ERD responded to 498 oil and chemical spill incidents across the state in CY19.

Annually, ERD participates in numerous oil spill drills and exercises. These spill response exercises include drills with the Salisbury Mutual Assistance Group (SMAG), the U.S. Environmental Protection Agency, Regional Response Team III, and the U.S. Coast Guard. These drills, in association with both federal, state and local agencies, are to test and improve the response capabilities of all responders in the event of a major incident.

ERD has, as in years past, continued to supply sorbent materials to local responders. These materials allow local fire departments to mitigate smaller spills, thereby minimizing the harmful effects on nearby rivers and streams.

The ERD fleet consists of eight primary spill response vehicles, seven of which are assigned to a responder, and the eighth serves as a reserve. In addition, ERD operates a 2002 HME/Marion spill response truck that is equipped for responses to large-scale incidents and bulk petroleum product transfers. The ERD also maintains two 1982 Boston Whaler 22-foot Outrages, a 1988 Boston Whaler 25-foot Guardian, and a 25-foot Maritime Voyager spill response boat with a fully enclosed pilothouse equipped with state-of-the-art marine electronics, including radar and GPS for use in inclement weather. All four vessels are equipped with 500 feet of oil containment boom for rapid deployment.

ERD maintains five spill trailers located at strategic locations across the state. Each trailer is equipped with a minimum of 300 feet of oil containment boom, and a variety of spill containment materials and equipment. The trailers are accessible to both state and local responders in the event of an emergency. ERD also maintains six dedicated boom trailers containing between 1,000 and 2,000 feet of harbor boom each. Additionally, four dedicated boom trailers containing 1,000 feet of open water boom each are in service, enhancing the ERD capability to protect the Chesapeake Bay. Nine of these trailers are housed at the Montgomery Park office, and the tenth trailer is stored in Salisbury, serving SMAG.

During normal business hours, ERD staffs MDE's 24-hour emergency telephone number, 866-633-4686 (866-MDE-GOTO), for reporting incidents involving hazardous materials and oil. Through a partnership agreement, the Maryland Emergency Management Agency Joint Operations Center receives the after-hours and weekend calls. During calendar year 2019, ERD logged (see Table 2 for details): 2,213 oil spill reports; 113 hazardous materials spill reports; and 585 other spill reports for a total of 2,911 spill reports.

C. Air Quality Compliance Program

As part of ARA, AQCP ensures compliance by regulated facilities with air pollution requirements. Program activities primarily include compliance inspections, inspections in response to citizen complaints, and follow up inspections. Inspections are performed on a regular basis at facilities associated with the handling of petroleum products. Such facilities include asphalt plants, pipeline breakout stations, bulk fuel terminals, gasoline dispensing stations, and petroleum contaminated soil remediation activities. In addition, AQCP reviews all Third-Party Stage I & II Vapor Recovery inspections and follow ups on noncompliance issues.

During FY19, AQCP conducted 1,655 Stage I & II Vapor Recovery and air quality related activities, including 26 routine air quality inspections at regulated oil-related facilities, review of 587 Third-Party Stage I & II Vapor Recovery inspection reports, and evaluation of 1,042 Stage I & II Vapor Recovery test reports. In addition, 403 activities were conducted at asphalt plants, bulk fuel terminals, and soil remediation facilities, including inspections and technical report reviews. Air quality inspectors responded to six citizen complaints regarding oil-related facilities, primarily for odors.

D. Water and Science Administration Programs

WSA assisted with preventing and coordinating responses to oil-related pollution. This was accomplished through permitting, inspections, data sharing, and technical reviews.

1. Compliance Program

The Compliance Program is responsible for inspection and enforcement activities related to industrial and municipal wastewater discharges, and construction activities involving sediment control, stormwater management, wetlands, and waterways. The program enters Discharge Monitoring Reports (DMRs) for OCP into the Integrated Compliance Information System (ICIS), and inspects industrial facilities that may have oil storage that are included as part of a Spill

Prevention, Control, and Countermeasures or pollution prevention plan under an NPDES permit. They also permit facilities that store or handle oil associated with construction activities (e.g., construction projects that store oil for heavy equipment) for the discharge of stormwater.

There were 442 DMRs and one inspection of 237 facilities entered into the federal ICIS system related to oil control activities by the WSA Compliance Program for FY19. While the program does not specifically identify or track which construction projects store oil for heavy equipment on-site under an NPDES permit for the discharge of stormwater associated with construction activities, it does check this aspect as part of the construction site inspections for the NPDES permit for stormwater associated with construction activities. There are approximately 4,691 sites approved for the NPDES construction stormwater permit coverage in FY19, some of which store oil for heavy equipment on site.

2. Wastewater Permits Program

The Wastewater Permits Program (WWPP) is responsible for permitting activities associated with industrial and municipal discharges, groundwater discharges, and coordination with local health departments for the regulation of individual wells and septic systems. These permits implement the public health and water quality protections required by NPDES as mandated under the federal Clean Water Act, as well as public health and water quality protections required by the Underground Injection Control Program under the Safe Drinking Water Act.

WWPP performs several hundred inspections annually in wellhead protection areas of the state. If potential sources of contamination are uncovered, further investigation follows, which may result in an enforcement action to eliminate the source or a permitting process to regulate and control the activity.

In addition, WWPP advises the delegated programs when a new or existing well is potentially impacted by pollutants, including petroleum contamination. Generally, if impacts to a drinking water well are suspected, WWPP delegates sampling to the approving authority, and advises as to which constituent should be sampled, including petroleum products. State oversight and technical expertise is critical to the local health departments in their efforts to protect public health.

Finally, WWPP issues individual industrial wastewater discharge permits to more than 164 facilities, and an estimated 86 permits require an evaluation of the potential presence of oil and petroleum related contaminants from the facilities. In addition, there are over 2,700 facilities with authorizations to discharge under general permits. These general permits include specifications related to chemical and fuel storage areas, which may include petroleum related products, such as appropriate controls and/or monitoring requirements for the runoff from those facility areas.

3. Sediment, Stormwater, and Dam Safety Program

The Sediment, Stormwater, and Dam Safety Program is responsible for stormwater management and erosion and sediment control laws, regulations, and policies; NPDES municipal permits; and

dam safety laws, regulations, and policies. Regulatory application relates to two primary areas: 1) the control of stormwater, and 2) pollution prevention considerations.

The division oversees the implementation of environmental site design (ESD) to control new and redevelopment stormwater runoff. ESD is used to attempt to replicate pre-development runoff conditions and meet a maximum extent practicable goal of "woods in good condition" for new development projects. Practices such as rain gardens, bioretention, and promoting sheet flow directed through vegetative practices removes pollutants.

IV. FINANCIAL STATEMENT

An import fee is paid quarterly by persons transferring oil into the state. In FY19, a fee of \$0.08 was assessed per barrel (about \$0.0019/gallon) on oil products transferred into the state. The Department received \$7,392,808 in oil transfer fees that were deposited to the Fund. Another \$171,406 in cost recovery and \$71,366 in fines and penalties were collected and deposited into the Fund.

Table 3 summarizes the petroleum product movement on which the license fees are based. It shows the quantities of different oil products transferred in the state from July 1, 2018 to June 30, 2019. Figure 1 shows a 4.9% decrease in imported petroleum in the state for FY19 to 93,129,445 barrels from the adjusted amount of 97,898,692 barrels in FY18.

Table 4 provides the FY19 financial statement for the Fund.

Table 5 provides the FY19 Fund expenditures by the following MDE units:

- LMA/OCP
- ERD
- ARA/AQCP
- WSA

TABLE 1**Summary of OCP Activities****FY19 (July 1, 2018 – June 30, 2019)**

	Number of Sites Inspected	Number of Inspection s	Number of Registered and Permitted Facilities ⁽¹⁾	Number of Permits and Licenses ⁽²⁾	Number of Ongoing Cleanup s	Number of Enforcement Actions
Underground Oil Storage Facilities	911	3,091	4,326	392	N/A	36
Oil Pollution Remediation Sites	412	1,029	N/A	N/A	835	0
Aboveground Oil Storage Facilities	351	740	1,197	1486	N/A	1
Totals	1,674	4,860	5,523	1,878	835	37

(1) Includes facilities that are required to register USTs, to have Oil Operations Permits, and Stormwater Discharge Permits for Oil Terminals. Does not include Oil Transfer Licenses because they are not issued to a specific facility.

(2) Includes UST Technician, Remover, and Inspector Certifications; Oil Operations Permits; Stormwater Discharge Permits for Oil Terminals; and Oil Transfer Licenses.

TABLE 2
Summary of ERD Activities
Calendar Year 2019

JURISDICTION	REPORTS				RESPONSES
	TOTAL	OIL	HAZ	OTHER	
Allegany	77	17	0	60	2
Anne Arundel	363	289	7	67	71
Baltimore	450	352	17	81	131
Baltimore City	525	394	19	112	74
Calvert	38	29	1	8	1
Caroline	15	10	2	3	1
Carroll	62	44	7	11	27
Cecil	77	61	4	12	21
Charles	69	65	0	4	3
Dorchester	24	22	1	1	3
Frederick	106	75	9	22	20
Garrett	22	17	0	5	1
Harford	109	81	7	21	23
Howard	107	81	10	16	34
Kent	8	5	0	3	1
Montgomery	226	172	5	49	30
Prince George's	233	172	11	50	16
Queen Anne's	51	43	1	7	19
Somerset	17	9	1	7	1
St. Mary's	43	34	0	9	2
Talbot	24	18	2	4	3
Washington	67	54	6	7	10
Wicomico	75	61	1	13	1
Worcester	119	105	2	12	2
Federal Facility	0	0	0	0	0
State Facility	0	0	0	0	0
Out of State	4	3	0	1	1
TOTAL	2,911	2,213	113	585	498

TABLE 3
Oil Transfers Subject to License Fee
FY19 (July 1, 2018 – June 30, 2019)

TYPE OF PRODUCT	NET TO FEE (gallons)		
	FY17	FY18	FY19
Gasoline	1,746,081,603	2,009,023,420	1,867,791,622
Gasohol	906,469,637	686,676,446	691,473,056
Kerosene	34,524,911	23,868,261	45,060,288
Diesel	797,539,265	821,297,856	808,899,626
Biodiesel	52,747,472	18,939,974	11,260,366
Aviation	221,778,357	247,331,030	226,768,516
No. 2	88,468,294	91,627,952	131,693,449
No. 4	119,000	145,393	912,856
No. 5	1,527,820	1,624,724	4,110,297
No. 6	47,586,438	14,529,522	14,757,847
Asphalts	60,258,308	101,110,422	81,199,282
Hydraulic Oil	585,867	732,720	115,097
Lubricating Oil	30,112,876	30,596,711	24,154,872
Crude/Other	177,557	109,522	3,239,539
Total Gallons	3,987,977,405	4,047,613,953	3,911,436,713
Total Barrels 42 gal = bbl	94,951,843	96,371,760	93,129,445
			ADJUSTED AMOUNTS ⁽¹⁾
Adjusted Total Gallons	4,049,192,729	4,111,745,078	
Adjusted Barrels 42 gal = bbl	96,409,350	97,898,692	

- (1) Updates to previous reports: Product reported after Annual Reports for FY17 and FY18 show adjustments to the number of gallons transferred during those years.

TABLE 4**Fund Financial Statement****FY19 (July 1, 2018 – June 30, 2019)**

A. Beginning Fund Balance 7/01/18	\$6,070,598.14
Open Encumbrances FY18	<u>94,417.25</u>
Reconciled Adjusted Balance	\$6,165,015.39

B. <u>FY19 Receipts</u>	
Transfer Fees	\$7,392,808.87
Oil Spill Cost Recovery	171,406.09
UST Installer Fees	0.00
Tank Fees	0.00
Fines & Penalties	71,366.79
Revenue accrued in prior years	-212,560.31
Miscellaneous / DBM Revenue Reduction	0.00
Transfer to 3170	-750,000.00
Interest Income	<u>0.00</u>
Total	\$6,673,021.44

C. Total Funds available FY19 (A+B)	\$12,838,036.83
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D. FY19 Expenditures

Salaries and Wages	\$4,547,079.03
Technical and Special Fees	\$81,409.87
Communications	\$79,081.86
Travel	\$12,429.02
Utilities	\$7,884.93
Motor Vehicle Operations and Maintenance	\$269,697.46
Contractual Services	\$1,188,420.94
Supplies and Materials	\$155,608.43
Equipment	\$131,476.23
Grants	\$0.00
Fixed Charges	\$17,675.40
Total Expenditures	\$6,490,763.17

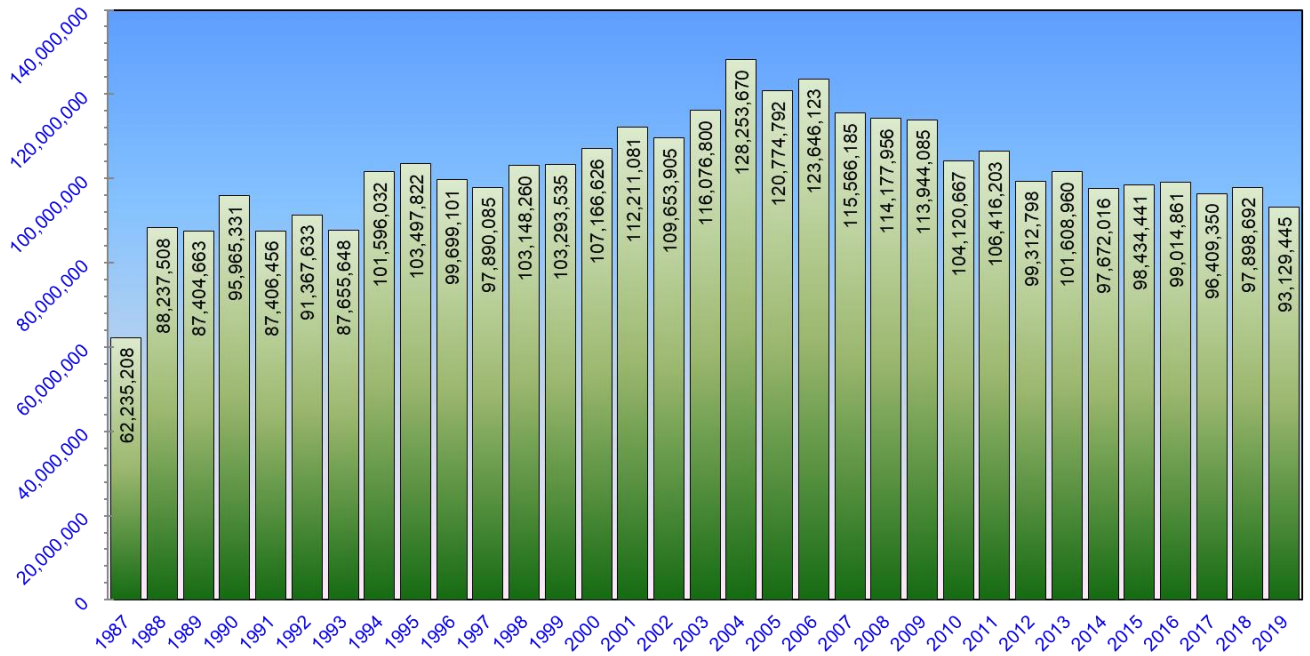
E. Indirect Costs	\$907,206.53
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F. Balance in Fund 6/30/19 (C-D-E)	\$5,440,067.13
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TABLE 5**Fund Expenditures by Administration****FY19 (July 1, 2018 – June 30, 2019)**

	LMA / OCP	ERD	ARA / AQCP	WSA	Total Expenditures
Salaries and Wages	2,888,118.85	884,804.08	149,648.64	624,507.46	4,547,079.03
Technical and Special Fees	81,409.87	0.00	0.00	0.00	81,409.87
Communications	44,325.85	34,756.01	0.00	0.00	79,081.86
Travel	11,585.08	181.65	0.00	662.29	12,429.02
Utilities	0.00	7,884.93	0.00	0.00	7,884.93
Motor Vehicle Operations and Maintenance	124,104.93	145,592.53	0.00	0.00	269,697.46
Contractual Services	1,111,685.90	76,735.04	0.00	0.00	1,188,420.94
Supplies and Materials	15,602.97	139,930.94	0.00	74.52	155,608.43
Equipment	5,355.42	126,120.71	0.00	0.00	131,476.23
Grants	0.00	0.00	0.00	0.00	0.00
Fixed Charges	16,608.40	1,067.00	0.00	0.00	17,675.40
Indirect Costs	597,262.56	200,374.11	21,160.32	88,409.54	907,206.53
Total Expenditures	4,896,059.93	1,617,447.00	170,808.96	713,653.81	7,397,969.70

FIGURE 1: Annual Barrels of Petroleum Imported



Note: Adjustments to previously reported barrels are reflected beginning in FY06.