



COLORADO

**Department of
Labor and Employment**

DIVISION OF OIL AND PUBLIC SAFETY

ANNUAL UPDATE FOR FISCAL YEAR 2016 – 2017

SB 181

COMPLIANCE WITH WATER QUALITY STANDARDS AND CLASSIFICATION

SEPTEMBER 2017

This update to the Water Quality Control Commission summarizes the activities of the Division of Oil and Public Safety Storage Tank Program related to SB 181 for the period ending June 30, 2017.

Technical Actives for Fiscal Year 2017

Number of Open Releases as of June 30, 2016.....	639
Number of New Confirmed Releases	155
Number of Sites Issued NFA Letters	279
Number of CAPs Reviewed	174

State Fund Information for Fiscal Year 2017

Number of reimbursement applications heard by the PST Committee.....	61
Number of supplemental reimbursement applications approved by Staff.....	1,026
Dollars reimbursed by the PST Committee (including State Lead and LUST Trust).....	\$33,575,404
Total dollars reimbursed since inception of the Fund (1991).....	\$627,074,258

Enforcement Actives for Fiscal Year 2017

Number of Notices of Violations issued.....	984
Number of Notices of Violations resolved.....	901
Number of Enforcement Orders issued.....	37
Number of Enforcement Orders resolved.....	32
Number of Tanks with Delivery Prohibition.....	23

Summary of Statistics

The number of open release events within our program continues to gradually decline. This has been a result of increased release prevention efforts, identifying releases earlier and developing sound release closure plans. This past year saw a larger than normal increase in NFA letters issued as a result of the successful implementation of Tier III and Tier IV closures.

OPS Program Improvements

Listed below are improvements made by the Division to more effectively protect groundwater from contamination associated with petroleum storage tank system failures and protect the solvency of the Petroleum Storage Tank Fund.

Environmental Cleanup Program

Tier III and Tier IV risk-based closure update

Tier III and Tier IV closure criteria became effective in October 2014 and established criteria to allow for regulatory closure of releases with low-risk contamination offsite but no risk to actual receptors. OPS continued to engage with impacted offsite property owners over the course of the year to discuss the risks associated with the releases. Offsite properties and contaminant boundaries of releases granted closure under Tier III/Tier IV criteria are communicated to Colorado 811 such that change in exposure scenarios can be identified prior to work (e.g., utility upgrades or structural improvements) being completed. Additionally, release closure conditions are clearly identified on the Interactive Map Viewer, publically available on the OPS website.

61 of the 279 closures granted over the year were issued with Tier III or Tier IV status. For the Fiscal Year, the average release age at the time of closure for Tier III/Tier IV sites was 18 years compared to an average age of 6 years for Tier I/Tier II sites. To date, 97 Tier III and Tier IV closures have been granted.

Consultant-Based Program Enhancements

Recognized Environmental Professionals (REPs) will replace Individual Listed Consultants effective January 1, 2018. The purpose of the REP designation is to better align decision-making responsibility between OPS, environmental consultants and responsible parties by identifying environmental consultants who can demonstrate decision-making experience on releases to the environment.

A REP is an individual who by reason of education, training and experience is qualified to be the principal decision maker on work related to environmental assessment, risk characterization and remediation on OPS projects. The REP of record for a particular release event will be responsible for:

- Signing off on submitted reports (i.e., characterization reports, corrective action reports and data evaluation monitoring reports) related to the assessment and progress of the release conditions.
- Decision-making as it relates to assessment, cleanup, project progress toward regulatory endpoints, budget development and budget management.
- Communication of regulatory deadlines to both the responsible party and OPS should an issue be identified by the REP.

This distinction will better align responsibility between the responsible party, consultant and the State and will ultimately allow for OPS to shift program resources toward education and release prevention.

Program Guidance and Continuing Education

The Petroleum Program published program-wide web-based guidance in February 2016. Since that time, OPS has remained active in identifying and enhancing guidance for the purpose of clearly stating the program expectations and requirements.

Continuing education requirements exist as a part of maintaining active Recognized Environmental Professional status. OPS developed and presented a training class titled Effective Corrective Action Plan Preparation in September and October of 2017. The course was attended by over sixty environmental consultants and was well received as an effective way to further convey program expectations related to petroleum releases to the environment.

Compliance Incentives

Providing storage tank owners with incentives that encourage additional release prevention measures will reduce the long term cost of cleanups, saving the Fund and the State millions, while protecting the environment. OPS and stakeholders including the Colorado Wyoming Petroleum Marketers Association, the Petroleum Storage Tank Committee members and tank contractors met in late 2016 to develop Compliance Incentives for 2017. Incentives for 2017 included a waiver of the \$10,000 release response deductible, or a portion of it, for those owners who met new testing requirements and upgraded leaking equipment to a higher standard than required by regulations. OPS intends on renewing the Compliance Incentives for 2018, and more assertively identifying those owners who may be ready to remove their storage tank systems in order to receive a waiver of the deductible.

Risk-Based Inspections

In an effort to further prevent petroleum releases, OPS has begun varying the frequency of our inspections and the facility owner/operator's level of involvement during the inspection. OPS will inspect higher-risk facilities annually. Beginning October 1, 2017, OPS will be using facility compliance history, equipment material and age, previous releases and other criteria to determine inspection frequency. These inspections will be announced ahead of time to encourage owner/operator involvement. OPS will ask owners/operators to meet the OPS Inspector on-site for these announced inspections at higher-risk facilities. The OPS Inspector will perform a compliance inspection as usual, but will also educate the owner/operator on compliance tips and discuss the owner/operator's monthly and annual inspections. OPS will continue to inspect lower-risk facilities in unannounced inspections.