



COLORADO

**Department of
Labor and Employment**

DIVISION OF OIL AND PUBLIC SAFETY

ANNUAL UPDATE FOR FISCAL YEARS 2017 & 2018

SB 181

COMPLIANCE WITH WATER QUALITY STANDARDS AND CLASSIFICATION

JANUARY 2, 2019

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 fiscal years 2017 and 2018.

Technical Activities for Fiscal Years 2017 and 2018

Number of 2017 Open Releases	639
Number of 2018 Open Releases	613
Number of New 2017 Confirmed Releases	155
Number of New 2018 Confirmed Releases	240
Number of Sites Issued NFA Letters in 2017	279
Number of Sites Issued NFA Letters in 2018	228

State Fund Information for Fiscal Years 2017 and 2018

Number of FY2017 reimbursement applications heard by the PST Committee	64
Number of FY2018 reimbursement applications heard by the PST Committee	61
Dollars reimbursed in FY2017 by the PST Committee (including State Lead and LUST Trust).....	\$33,575,404
Dollars reimbursed in FY2018 by the PST Committee (including State Lead and LUST Trust).....	\$32,633,739
Total dollars reimbursed since inception of the Fund (1991).....	\$659,707,997

Enforcement Actives for Fiscal Years 2017 and 2018

Number of Notices of Violations issued in FY2017.....	984
Number of Notices of Violations issued in FY2018.....	855
Number of Notices of Violations resolved in FY2017.....	901
Number of Notices of Violations resolved in FY2018.....	810
Number of Enforcement Orders issued in FY2017.....	37
Number of Enforcement Orders issued in FY2018.....	36
Number of Enforcement Orders resolved in FY2017.....	32
Number of Enforcement Orders resolved in FY2018.....	29
Number of Tanks with Delivery Prohibition in FY2017.....	23
Number of Tanks with Delivery Prohibition in FY2018.....	29

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 and implementing sound release closure plans. In addition, the successful implementation of Tier III and Tier IV closure criteria resulted in an increase in NFA letters in 2017, which has declined in 2018 due to the remainder of more challenging legacy sites. The number of new confirmed releases has increased because of the compliance incentive program, which is described below.

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 continues to engage with impacted offsite property owners 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. Since implementation in October 2014, OPS has issued 129 Tier III and Tier IV closures, which represents 10% of the 1,269 release closures since 2014.

Consultant-Based Program Enhancements

Recognized Environmental Professionals (REPs) replaced Individual Listed Consultants on 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, due to 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 improvement of the release conditions.
- Decision-making as it relates to assessment, cleanup, progress toward regulatory endpoints, budget development and 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 updating and enhancing the guidance for the purpose of clearly stating the program expectations and requirements.

Continuing education requirements exist as a part of maintaining active REP status. OPS has developed two required REP Continuing Education courses. The “Effective Corrective Action Plan Preparation” course was provided in September 2017, October 2017, and December 2018 to a total of 90 attendees. The “Conceptual Site Model (CSM) Development” course was provided twice in July 2018 and was attended by 63 attendees. Both courses involved hands-on group exercises and were well received as an effective way to clearly convey program expectations related to the assessment and remediation of petroleum releases to the environment. These two required courses will be offered in 2019 and 2020 to provide REPs the opportunity to meet the continuing education requirement for REP recertification in 2021.

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 extended the Compliance Incentives to December 31, 2018, to allow owners/operators the opportunity to upgrade release prevention equipment and receive the benefit of the deductible waiver.

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. Beginning October 1, 2017, OPS uses facility compliance history, equipment material and age, previous releases, and other criteria to determine inspection frequency. OPS will inspect higher-risk facilities annually. These inspections are announced ahead of time to encourage owner/operator involvement. OPS notifies owners/operators to meet the OPS Inspector on-site for these announced inspections at higher-risk facilities. The OPS Inspector

performs a compliance inspection as usual, and uses the opportunity to 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.

New Inspection App

In an effort to increase inspection efficiency and communication effectiveness for facility inspections, OPS developed an iPad Inspection App. The App was very inexpensive to develop and is fully configurable by in-house staff. Some of the efficiency benefits of the Inspection App include reducing handoffs, eliminating paperwork, and providing instantaneous communication of violations to owners/operators.