



ANNUAL UPDATE FOR CALENDAR YEAR 2022

SB 181

COMPLIANCE WITH WATER QUALITY STANDARDS AND CLASSIFICATION

FEBRUARY 1, 2023

This update to the Water Quality Control Commission summarizes the activities of the Division of Oil and Public Safety’s Storage Tank Program related to SB 181 for calendar year 2022.

Technical Activities for Calendar Year 2022

Number of Open Confirmed Releases	588
Number of 2022 Confirmed Releases	206
Number of Cleanups Initiated	226
Number of Cleanups Completed	196

State Fund Information for Calendar Year 2022

Number of Reimbursement Applications Reviewed by the PST Committee.....	67
Number of Supplemental Reimbursement Applications Approved by Staff.....	771
Reimbursement by the PST Committee (including State Lead/LUST Trust).....	\$35,924,823

Enforcement Activities for Calendar Year 2022

Number of Notices of Violations Issued.....	721
Number of Notices of Violations Resolved.....	533
Number of Enforcement Orders Issued.....	20
Number of Enforcement Orders Resolved.....	14
Number of Tanks with Delivery Prohibition.....	15

Summary of Statistics

The number of open releases at the beginning of January 2022 was 562 and by December 31, 2022, OPS had closed 196 open releases. The number of open petroleum release events remained below six hundred with a total of 588 open releases in January 2023. This was a slight increase from our programmatic low during 2021. This is a result from the spill bucket testing requirements that cycles on a three year basis.

OPS continues to lead EPA Region 8 with 196 completed cleanups in calendar year 2022. There are several factors including release prevention and detection efforts, identifying releases earlier, developing better conceptual site models, implementing effective corrective action plans, and continuing to successfully close sites under our Tier III and Tier IV risk based criteria.



OPS Program Achievements and Improvements

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

OPS Outreach

OPS successfully completed two in-person outreach sessions in August 2022. In Arvada, we had over 200 attendees and in Grand Junction, we had 80 attendees and we partnered with over 25 different stakeholder organizations from the state. OPS shared recent industry trends, tips for staying in compliance, and expectations on report submissions. Feedback was extremely positive and we will be looking for ways to revise our current format to continue to reach more owners and operators that we serve in the future.

Fund Solvency

The Petroleum Storage Tank Fund remains solvent, and we have requested the Department of Revenue reduce the Environmental Response Surcharge to \$75 per tanker load effective in January 2023.

Risk-Based Closures

OPS implemented Tier III and Tier IV risk-based closure criteria in October 2014 to allow for regulatory closure of releases with low-risk contamination offsite but no actual risk to receptors. OPS continues to engage with impacted offsite property owners as early as possible in the assessment process to discuss the risks associated with the releases. All Tier III and Tier IV closures are clearly identified on our GIS [Interactive Map Viewer](#) publicly available on the OPS website with a link to a fact sheet that summarizes release conditions at the time of closure. During 2022, OPS completed 15 Tier III and Tier IV closures.

The number of Tier III and Tier IV closures are lower than in years past, mainly because releases are being discovered earlier. Due to early detection, releases are not of the same magnitude as legacy releases, which allows OPS to employ Tier I and Tier II closures for the majority of releases that are reported. As such, 181 closures during 2022 were closed through Tier I and Tier II closure criteria.

Risk-Based Inspections

In an effort to prevent petroleum releases, OPS began varying the frequency of facility inspections and the facility owner/operator's level of involvement in 2017. The inspection frequency is determined by OPS using facility compliance history, equipment material and age, previous releases, and other criteria to identify higher-risk facilities versus lower-risk facilities. Higher-risk facilities are inspected annually and OPS announces these inspections ahead of time to encourage owner/operator involvement. The OPS Inspector performs a compliance inspection as usual, conducts an onsite compliance records review, and uses the opportunity to educate the owner/operator on compliance tips and discuss the owner/operator's monthly and annual inspections.

Storage Tank Operational Compliance

The Technical Compliance Rate (TCR) for underground storage tank systems in Colorado remains quite high at 92.6% at the end of the calendar year 2022. A top priority for OPS is to prevent petroleum releases, and maintaining a high compliance rate is the most direct way for our regulated tank owners to help us achieve that goal.

Petroleum Storage Tank Committee Policy 29

All UST systems installed in Colorado after August 2008 are secondarily contained and inherently pose a lower risk of a release to the environment. Releases from these newer secondarily contained tank systems are usually detected earlier, are small in size, and consequently are easier and less expensive to remediate. During 2019, thirty-year warranties began to expire on thousands of USTs across the country that were installed to comply with EPA's 1988 UST rule. In Colorado, almost 30% of the more than 7,100 active USTs are over 30 years old. In an effort to reduce the environmental risk posed by an aging tank population, the Committee authorized Policy 29 to use monies in the Petroleum Storage Tank Fund to provide reimbursement of UST removal costs. This enabled tank owners or operators to proactively make decisions to replace or close aging UST systems, with replacement systems being upgraded to include secondary containment. Reimbursement of UST removal costs from Policy 29 included the following limitations and requirements:

- UST(s) must have been installed prior to August 2008.
- Reimbursement is \$1 per gallon of UST volume removed, up to \$30,000 per facility.
- An owner/operator is limited to up to \$1,000,000 in UST removal reimbursement per year.
- The Committee will allocate no more than \$4,000,000 per year for UST removal reimbursement, subject to available funds.
- Reimbursement is only available to owners or operators of active UST systems, and property owners with abandoned or orphaned tanks, who are eligible to the Fund.
- The entire UST system must be removed on or after January 1, 2019.

Tank Removal Incentive

The Colorado Revised Statutes [§ 8-20.5-103 (3.5)] authorize monies in the Petroleum Storage Tank Fund (Fund) to be used as incentives to underground or aboveground storage tank owners and operators for significant operational compliance or to upgrade existing tank systems. In addition to Policy 29, the Committee offered an incentive to reduce the financial burden for an owner/operator who discovers confirmed releases while removing and permanently closing their entire tank system. The Committee finds that maximum environmental benefit is achieved when tank systems are removed altogether and not replaced, ending fuel-dispensing activities at the property. Therefore, an owner/operator's maximum operational compliance is achieved through the complete discontinuation of fuel-dispensing activities. This incentive is in the form of a waiver of the \$10,000 deductible when an owner/operator seeks reimbursement from the Fund for cleanup of a confirmed release that is determined to be eligible by the Committee. This tank removal incentive has some limitations and requirements including:

- A maximum of 10 facilities per owner/operator, with only one incentive allowed per facility.

- The facility must be in significant operational compliance with release detection and release reporting as identified by OPS and evaluated by the Committee.
- The incentive only applies to systems removed and not replaced.

Outcome of Policy 29 and Incentive

During 2022, the Committee approved the reimbursement of \$384K for the removal of 52 aging USTs in accordance with Policy 29. In addition, we waived \$50k in deductible amounts due to contamination found during the removal of aged tanks, making for a combined total of \$434K.

Recognized Environmental Professional Program

Recognized Environmental Professionals (REPs) replaced Individual Listed Consultants on January 1, 2018. During February 2021, the Remediation group conducted recertification reviews on all active REPs. The review resulted in 29 REPs being granted a probationary status, leaving 60 in good standing. The probationary REPs were given a tailored plan to regain their good standing within the calendar year. At the end of 2022, OPS had 96 REPs in the program.

REP Continuing Education

With the second REP Recertification period coming to a close at the end of 2023, the OPS Remediation program partnered with Midwest Geosciences Group to grant the REPs a free Introduction to Slug Testing webinar. Furthermore, Midwest Geosciences Group offered all certified REPs a discounted rate on all of their online courses to attend for continuing education credits. As always, webinars, workshops, courses, and conferences related to site assessment and remediation from organizations such as the Interstate Technology and Regulatory Counsel, EPA CLU-IN, and the New England Interstate Water Pollution Control Commission count toward REP education credits.