2024 Petroleum Storage Tank Regulation Updates

The Division of Oil and Public Safety (OPS) is revising the Colorado Petroleum Storage Tank Regulations (7 CCR 1101-14). A draft of the proposed regulation changes was presented during a July 8, 2024 stakeholder meeting (online). A second stakeholder meeting (in person) is planned for 10:00 a.m. on Tuesday, July 30th, at the OPS office in downtown Denver:

Division of Oil and Public Safety
633 17th St, Floor 5, Room 5C
Denver, CO 80202

OPS encourages you to review the proposed changes, provide public comment, and attend the in person stakeholder meeting on July 30th if you are interested in participating.

The regulation revisions include:

- The adoption of current ASTM International and National Institute of Standards and Technology (NIST) fuel quality codes and new volatility requirements for Colorado fuels
- The clarification of periodic system testing requirements while in temporary closure
- The alignment of aboveground storage tank rules with National Fire Protection Association (NFPA) codes
- The introduction of Certified Aboveground Storage Tank Installer requirements
- Revisions to the definitions of confirmed and suspected releases
- Updates to our soil and soil vapor cleanup standards, and
- The introduction of a percent deductible for reimbursement.

If you have questions about the Petroleum Storage Tank Regulations or for follow up comments about the changes, please email cdle_ops_public_comment@state.co.us.

Surficial Soils

Criteria for eliminating the surficial soil point of exposure have recently been clarified to protect human health and the environment. Formerly, the online Petroleum Guidance indicated that the surficial soil pathway could be eliminated if impacted soil was covered with an impervious surface. This was an option that was put into the Petroleum Guidance in error. The risk-based program that OPS uses to grant No Further Actions (NFA) does not allow for engineering or institutional controls. Surficial soils that are impacted greater than the surficial soil risk-based screening level (RBSL) and/or total petroleum hydrocarbon threshold limit must be removed or treated to below the corresponding levels. Sites that have been granted an NFA using the erroneous criteria will not be reopened based on this correction. The online Petroleum Guidance has been changed to reflect this. For questions regarding this, please contact Mary White at marykv.white@state.co.us or 720-584-5101.

OPS Certified Laboratories

The Colorado Department of Labor and Employment Division of Oil and Public Safety (CDLE-OPS) only accepts laboratory data from a CDLE-OPS certified laboratory. OPS has recently changed the CDLE-OPS Certified laboratory listing to include the method and matrix for which each lab is accredited. Please see the listing here:

Listing of CDLE-OPS Certified Laboratories

A laboratory must be accredited to become an approved CDLE-OPS certified laboratory (see the four options below). Reimbursement costs depend on the laboratory's in-state or out-of-state presence. See our Reasonable Cost Guidelines (RCG) Policies for specific reimbursement rates.

Provide one of the following four options to become a CDLE-OPS certified laboratory:

1. National Environmental Laboratory Accreditation Program (NELAP);
2. Drinking Water Laboratory Certification from the Colorado Department of Public Health & Environment (CDPHE) or USEPA Method 524;
3. Any other laboratory accreditation program that requires passing at least one annual performance test; or
4. A report of passing results from an accredited laboratory performance test provider for at least one annual performance test for EPA Method 8260.

Beginning **August 1, 2024**, OPS will not accept lab analyses from non-CDLE-OPS Certified laboratories and will not allow reimbursement for these analyses.

For questions regarding this, please contact Mary White at marykv.white@state.co.us or 720-584-5101.

Remediation Status Update – Second Quarter 2024 (as of 6/30/2024)

Confirmed Releases: 47

Closed Release Events: 47

Total Open Release Events: 574

Environmental Response Surcharge - Increase July 1, 2024

The environmental response surcharge (ERS) will increase to $100 per delivery, effective July 1, 2024. Previously, the ERS was $50; the increase is due to consistent low revenue reporting. Increasing the surcharge ensures the Fund's sustainability and enables quick reimbursement turnaround times.

Petroleum Storage Tank Fund Status Update – Second Quarter 2024

PSTF Balance (as of 6/30/2024): $1.2M

Reimbursement Applications (PREQs) Received FY24: 805 PREQs

PREQs Average Days to Process (FY24): 90 days

Reasonable Cost Guidelines (RCGs)
In May, OPS proposed an overall increase of 5.2% to all labor task labor codes. OPS determined this increase to be fair and equitable per the inflation rate for 2023. In 2022, OPS implemented roughly a 15% increase to all labor rates, which included the projected inflation rate for that same year. In July 2023, OPS implemented a wide range of increases for drilling and subcontractor rates, ranging anywhere from 16% to 167%.

The public comment period was extended through July 21, 2024. Two public comments were submitted during the comment period in support of a 10.2% increase on labor task labor code RCGs; however, during the July 19, 2024 PSTC meeting, OPS staff did not change the recommendation previously made from the 5.2% increase citing that the proposed labor rates were caught up with current inflation. The PSTC voted to increase the labor rates by 5.2% and not 10.2%

The new RCGs will take effect on August 1, 2024 and will be posted on the OPS website.

If you have any questions, please reach out to Jenna Calkins or Mary White.

What you need to know about Portable Fuel Containers

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It's summer – time to fuel up everything from lawn and landscape equipment to boats, go-karts and lots of other fun toys! And that means OPS gets more calls about portable fuel containers.

The main issue we hear from consumers is that they were able to put more than the specified amount of gasoline into a container – for example putting 5.5 gallons of fuel into a container labeled 5 gallons.

Portable fuel containers are not precision measuring devices! They are manufactured to hold more than their stated volume to allow for product expansion and help prevent overfilling. This is particularly critical in states like Colorado where the altitude can change significantly from where the fuel is purchased to where it is used.

Fuel containers can be approved and certified by UL (Underwriters Laboratory), NFPA (National Fire Protection Association), ANSI (American National Standards Institute) and/or ASTM (American Society for Testing & Materials). That means that the container meets the requirements to legally and safely hold flammable liquids. For everyone's safety, never transport or store fuel in a container that is not certified by at least one of these recognized authorities.

In addition, gasoline tends to carry a static electric charge. For safest use, a portable container should always be filled on the ground, which is especially critical for metal containers! If a can is sitting on concrete/ground, any static charge that builds up can safely flow away. However, when a can is sitting on plastic, such as the bed liner in a truck, the static charge cannot escape because the plastic does not conduct electricity. That static can discharge as a spark that can ignite the flammable gasoline vapors present at the container opening.

Remember:

- Only use an approved container
- Do not fill a container while it's inside a vehicle
- Always place the container on the ground
- Keep the nozzle in contact with the container while filling
- Never use the automatic shut-off latch device while filling a portable container
- Don't smoke

And have a safe and fun summer!

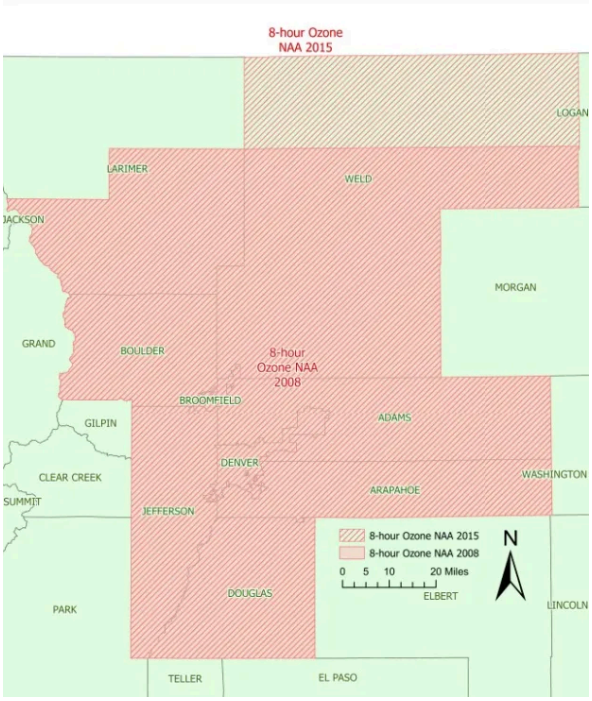
Fuel Quality Lab - Second Quarter 2024

Fuel Samples Analyzed: 333

Analytical Compliance Rate: 93.4%

Reformulated Gasoline Update

As we published in our first and second quarter 2024 OPS Bulletins, the Denver Metro / Northern Front Range area was designated as a "severe" nonattainment area by the US Environmental Protection Agency (EPA) in the fall of 2022.



As a result, reformulated gasoline (RFG) has been required to be sold at retail locations within the nonattainment area since June 1, 2024.

RFG is gasoline blended to burn more cleanly than conventional gasoline. It has the same components as conventional gasoline but is further processed and refined so that it produces less carbon monoxide and fewer VOCs. RFG should have a maximum vapor pressure of 7.4 psi.

Since June 1st, OPS Inspectors have been collecting RFG samples throughout the nonattainment area for analysis at our OPS Fuel Lab. We're happy to report that the analytical results have confirmed that the gasoline being sold in the nonattainment area has been in compliance with the RFG maximum vapor pressure of 7.4 psi. OPS will continue to collect and analyze RFG samples throughout the nonattainment area, and we expect to see continued compliance with the 7.4 psi requirement until more relaxed seasonal requirements take effect on September 15th.

For more information about ozone and RFG you can visit:
https://cdphe.colorado.gov/nonattainment-federal-ozone-pollution-standards

https://www.epa.gov/gasoline-standards/reformulated-gasoline

Compliance Status Update – Second Quarter 2024 (as of 6/30/2024)

Storage Tanks Installed: 48 (includes liquefied and compressed gasses)
Storage Tank Closures/Removals: 38
Technical Compliance Rate for USTs: 93.1%