

Release Reporting Requirements In Colorado

I. General

In addition to the federal reporting requirements regarding oil and hazardous substance releases pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Oil Pollution Act (OPA); Clean Water Act (CWA); and Emergency Planning and Community Right-to-Know Act (EPCRA), similar reporting requirements have been established in the State of Colorado. The extent to which these reporting requirements apply to a particular release depends on the type and amount of oil or hazardous substance involved as well as the source of the release.

The following is intended to provide an overview of the State of Colorado's release reporting requirements in light of the various State regulatory agencies that have jurisdiction over those releases.

II. Colorado Department of Public Health and Environment

The Colorado Department of Public Health and Environment (CDPHE) regulates all releases of petroleum products and hazardous substances above their reportable quantities (RQs), including their cleanup *except* those that are described in Sections III through V below.¹ Therefore, releases of oil and hazardous substances that would normally be reported in accordance with the above federal statutes must also be reported to the CDPHE via the Environmental Release/Incident Report Hotline at 877-518-5608.

For example, a release of oil that violates an applicable water quality standard; causes a sheen upon the surface of the water or adjoining shoreline; or causes a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shoreline must be reported to the CDPHE as well as the National Response Center (NRC). Additionally, the release of a CERCLA hazardous substance to the environment above its reportable quantity would likewise need to be reported to the CDPHE as well as the NRC.

III. Colorado Oil and Gas Conservation Commission

The Colorado Oil and Gas Conservation Commission (COGCC) regulates releases of substances associated with oil and gas exploration and production (E&P) activities such as crude oil, produced water and drilling, completion, treatment and stimulation fluids and chemicals that were *used* in connection with those activities. Conversely, releases of *unused* drilling, completion, treatment and stimulation fluids as well as lube oils, hydraulic fluids, solvents, paints and other substances that are unrelated to E&P activities are regulated by CDPHE. The following outlines the COGCC's reporting requirements insofar as the release of E&P-related substances are concerned:

¹ Note that certain State regulatory agencies identified in Sections III through V require that the CDPHE be notified of a release even though they assert primary jurisdiction over the release itself.

- A. A release of E&P-related substances (e.g. crude oil, produced water, drilling, completion, treatment and stimulation fluids, etc.) in *any amount* that impacts or threatens to impact Waters of the State shall be immediately reported to:
- Colorado Oil and Gas Conservation Commission at 970-871-1963 or 303-894-5138
 - National Response Center (NRC) at 800-424-8802; and
 - Colorado Department of Public Health and Environment at 877-518-5608.

Where a release impacts or threatens to impact a surface water intake used for drinking, irrigation or industrial purposes, it shall likewise be reported to the owner/operator of the intake immediately after its discovery.

After verbally notifying the above entities, a written report must be submitted to the COGCC within 72 hours after the release was discovered using Spill/Release Report, Form 19, unless that timeframe has been extended by the COGCC. The report must include, at a minimum, the location where the release occurred and information regarding the type(s) and volume(s) of wastes or fluids involved.

- B. A release of E&P-related substances (e.g. crude oil, produced water, drilling, completion, treatment and stimulation fluids, etc.) that meet any of the following criteria must be reported to the COGCC verbally or in writing as soon as practicable but no later than 24 hours after its discovery:
1. A release of *any amount* that impacts or threatens to impact a residence or occupied structure, livestock or public road;
 2. A release of *one barrel or more* outside a secondary containment system; or
 3. A release of *5 barrels or more* inside a secondary containment system.

If the report was made verbally, a written report must be submitted to the COGCC within 72 hours after the release was discovered using Spill/Release Report, Form 19, unless that timeframe has been extended by the COGCC. The report must include, at a minimum, the location where the release occurred and information regarding the type(s) and volume(s) of wastes or fluids involved.

- C. For a release reported to the COGCC pursuant to Sections III.A, III.B.1 or III.B.2 above, the owner/operator must *also* notify the following entities within 24 hours after its discovery:
1. *Surface owner (or the owner's appointed tenant)*. The notification may be verbal and must include the information provided in the initial report to the COGCC. If the surface owner can't be reached within 24 hours, efforts must continue to be made until notification of the release has been provided.

2. *Local government.* The notification may be verbal or written and must include the information provided in the initial report to the COGCC. If the release occurred within the city limits of a municipality, the notification should be made to the appropriate office or department with jurisdiction over emergency response. If the release did not occur within a municipality, the notification should be made to the appropriate county officials in which the release occurred.
- D. Within 10 days of a release's discovery that was reported to the COGCC pursuant to Sections A and B above, a supplemental written report must be submitted to the Commission using Spill/Release Report, Form 19 that includes the following:
1. Topographic map (i.e. 8 ½ x 11-inches) showing the governmental section and location of the release area *or* an aerial photograph showing its location;
 2. Information about the release that was not previously reported; and
 3. A description of efforts to investigate, mitigate and remediate the release.

The COGCC may require further supplemental reports or additional information.

III. U.S. Department of Interior Bureau of Land Management

The U.S. Department of the Interior's Bureau of Land Management (BLM) regulates releases of crude oil, produced water, gas and/or toxic liquids on Federal land. The following outlines the BLM's reporting requirements insofar as the release of these substances are concerned.

- A. The following are considered "major events" that must be reported to the BLM's Kremmling Field Office at 970-724-3000 as soon as practicable but no later than 24 hours:
1. A release of crude oil, produced water, gas or toxic liquids in *any amount* that occurs in a sensitive area such as a park, recreational site, wildlife refuge, lake, reservoir, stream, or urban or suburban area;
 2. A release of *100 or more barrels* of crude oil, produced water or toxic liquids outside a secondary containment system;
 3. A release of 500 or more MCF of gas;
 4. Any fire which consumes the volumes specified in Sections III.A.2 or III.A.3 above;
 5. An accident that involves a fatality; and
 6. A blowout (loss of control of any well).

Within 15 days of reporting a major event, a written report must be submitted to the BLM Field Office that includes the following:

- The date and time of event;
- The date and time the event was reported to the BLM;
- The location where the event occurred, including surface ownership and lease number;
- The specific nature and cause of the event;
- A description of any damage that resulted from the event;
- A description of actions taken and the length of time required to control the event through its eventual clean-up;
- The estimated volumes of crude oil, produced water, gas and/or toxic liquids released and volumes lost;
- Where fatalities are involved, the cause of death, if known;
- Actions that have been or will be taken to prevent a recurrence of the event;
- Other State or federal agencies that were notified of the event; and
- Any additional information requested by the BLM field manager

Interim reports may be requested by the BLM Field Manager until clean-up of the event has been accomplished.

- B. The following are considered “non-major events” that must be reported in writing to the BLM’s Kremmling Field Office within 15 days of the event:
1. A release of at *least 10 but less than 100 barrels* of crude oil, produced water or toxic liquids outside of a secondary containment system in a non-sensitive area;
 2. A release of *100 or more barrels* of crude oil, produced water or toxic liquids inside a secondary containment system;
 3. A release of at *least 50 but less than 500 MCF* of gas in a non-sensitive area;
 4. Any fire that consumes the volumes specified in Sections III.B.2 and III.B.3 above; and
 5. Each accident involving a major or life-threatening injury.
- C. Releases involving less than 10 barrels of crude oil, produced water or toxic liquids or 50 MCF of gas in non-sensitive areas do not need to be reported pursuant to Sections III.A or III.B above. However, the volumes released as a result of these minor incidents must be reported in the monthly Oil and Gas Operations Report (i.e. OGOR, Form MMS-4054).

IV. Colorado Department of Labor and Employment Division of Oil and Public Safety

The Colorado Department of Labor and Employment’s Division of Oil and Public Safety (CDLE) regulates releases of regulated substances (e.g. gasoline, diesel fuel, cleaning solvents, etc.) from aboveground petroleum storage tanks the capacities of which are

between 660 and 39,999 gallons.^{2,3}

A. With regard to a release of a regulated substance from an aboveground storage tank that meets either of the following criteria, the release must be reported within 24 hours after its discovery:

1. A release *in any amount* that is not cleaned up within 24 hours.
2. A release that is *greater than 25 gallons*.

The release must be reported to:

- Colorado Department of Labor and Employment's Division of Oil and Public Safety during normal business (i.e. 8:00am to 5:00pm, Monday through Friday) at 303-318-8547; or
- Colorado Department of Public Health and Environment after normal business hours and on week-ends at 877-518-5608.

V. **Colorado Department of Transportation**

The Colorado Department of Transportation has specific reporting requirements regarding the release of hazardous materials during transportation. The release of a hazardous material, including fuel from a fuel tank that serves the motor vehicle and/or equipment on that vehicle in quantities of greater than 25 gallons must be immediately reported to the nearest law enforcement agency:

- Jackson County Sheriff's Office, Walden CO at 911

After notifying the nearest law enforcement agency, the release must then be reported as soon as possible to the Colorado State Patrol and Colorado Department of Public Health and Environment (CDPHE) via the Environmental Release/Incident Report Hotline:

- Colorado State Patrol at 303-239-4501
- Colorado Department of Public Health and Environment at 877-518-5608
- Colorado Department of Transportation Water Quality Hot Line: 303-512-4426

If the incident involves the release of hazardous waste, the CDPHE must be notified at the above number. A written report must then be submitted to the CDPHE within 15 days after the incident.

² Regulated substances are defined as "volatile, flammable or combustible liquids used to generate heat, light or power in internal combustion engines or for cleaning or other similar uses".

³ Aboveground storage tanks whose capacities are less than 660 gallons or greater than 39,999 gallons are not regulated by the CDLE. Releases from these above storage tank systems in the quantities identified in Section IV.A above should be reported to the Colorado Department of Public Health and Environment.