

## **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

### **Regulation of Aboveground Storage Tanks Less than 5,000 Gallons**

#### **LOCATION OF PROPOSED GUIDANCE**

Proposed guidance document may be reviewed by accessing:

[https://datcp.wi.gov/Pages/About\\_Us/GuidanceDocuments.aspx](https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx)

#### **SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance document may be submitted by accessing:

[https://datcp.wi.gov/Pages/About\\_Us/GuidanceDocuments.aspx](https://datcp.wi.gov/Pages/About_Us/GuidanceDocuments.aspx)

#### **DEADLINE FOR SUBMISSION**

The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

#### **AGENCY PUBLICATION**

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. ch.168 and 227 and Wis. Admin. Code, ch. 93.

#### **CERTIFICATION**

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.



Lara Sutherlin  
Administrator  
Division of Trade and Consumer Protection



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GUIDANCE DOCUMENT

## Regulation of Aboveground Storage Tanks Less Than 5,000 Gallons

*This guidance document is based on Wis. Stat. ch. 168 and 227 and chapter(s) ATCP 93 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.*

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Click or tap here to enter text.

September 17, 2019

Lara Sutherlin - Administrator, Choose an item.

DATE

Contributors:



# Regulation of Aboveground Storage Tanks Less Than 5,000 Gallons

## BUREAU OF WEIGHTS & MEASURES

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[datcp.wi.gov](http://datcp.wi.gov)

## RESOURCES

### Wis. Stat. Ch. 227:

<https://docs.legis.wisconsin.gov/statutes/statutes/227>

### Wis. Stat. Ch. 168:

<http://docs.legis.wisconsin.gov/statutes/statutes/168>

### Wis. Admin. Code ATCP 93:

[http://docs.legis.wisconsin.gov/code/admin\\_code/atcp/090/93](http://docs.legis.wisconsin.gov/code/admin_code/atcp/090/93)

### Storage Tanks Website:

[https://datcp.wi.gov/Pages/Programs\\_Services/PetroleumHazStorageTanks.aspx](https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx)

On March 29, 2019, DATCP submitted its Biennial Report Reviewing Administrative Rules to the Joint Committee for Review of Administrative Rules, as required under Wisconsin Statute § 227.29 (1). DATCP reported that certain portions of Wisconsin Administrative Code Chapter ATCP 93 conflict with Wis. Stat. § 168.22 (3). In the report, the Department recommended a statutory change to align the statute's 5,000-gallon threshold with the administrative code's 110-gallon threshold.

To date, no statutory change has occurred. As a result, effective October 1, 2019, DATCP will no longer enforce portions of ATCP 93 that conflict with Chapter 168. DATCP has developed this list of frequently asked questions to assist in understanding how these changes affect the program.

### How will this change affect tank owners?

- Tank owners are no longer required to register aboveground storage tanks (AST) less than 5,000 gallons.
  - If a currently registered tank is removed, it is strongly encouraged that tank owners notify DATCP so the removal is reflected in DATCP's database.
- DATCP no longer conducts plan review of ASTs less than 5,000 gallons.
- DATCP no longer routinely inspects ASTs less than 5,000 gallons.

### How will this change affect service companies?

- Technician and company credentials are no longer required for any work on ASTs less than 5,000 gallons including installation and removal.
- Credentials are still required for work on ASTs 5,000 gallons and larger.

### How can I ensure my tank is compliant with remaining requirements?

- DATCP strongly encourages owners to continue to work with credentialed companies to ensure that the tanks meet the requirements of the fire code, local regulations, and federal laws as well as to ensure public safety and protect the environment.
- DATCP will conduct inspections, upon request, where staff and resources are available to do so.

### What is not affected by this change?

- Underground storage tank regulations.
- Fuel sold must meet the requirements of Wisconsin Administrative Code ATCP 94.
- Dispensing equipment connected to these tanks must meet the weights and measures requirements of Wisconsin Statute Chapter 98 and the applicable administrative codes.
- Requirements of local regulations, fire codes, and federal regulations are unaffected by this change.