



UNDERGROUND STORAGE TANKS



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WHAT IS AN UNDERGROUND STORAGE TANK (UST)?

An Underground Storage Tank (UST) system is comprised of one or more tanks, including connected piping, used to contain an accumulation of regulated substances – flammable or combustible liquids, the volume of which is 10% or more beneath the surface of the ground, including the volume of connected underground piping.

WILL CONTAMINATION FROM A UST AFFECT YOUR REAL ESTATE TRANSACTION?

It could. Some property owners use their UST or UST system for storing home heating oil, motor fuel or other petroleum products. Other owners of systems have stopped using their USTs and had them removed from the ground. Unfortunately, there is also a significant number of owners who have stopped using their UST systems but have failed to properly remove or close them. These systems can be a major concern for buyers and sellers in real estate transactions. Until these abandoned USTs are properly closed, it will not be known if they might be leaking petroleum. Discharges from leaking systems can result in contaminated soils and drinking water and can also present a fire hazard. The owners of leaking systems are responsible for investigation and cleanup costs, which can be extremely expensive. This brochure is limited to residential and farm UST systems storing heating oil for consumption on the premises and systems of 1,100 gallons capacity or less, used for storing motor fuel for noncommercial purposes.

HOW DOES THE PRESENCE OF AN ABANDONED UST AFFECT YOU AS A SELLER?

If there is an abandoned UST on your property, you should make sure that the tank associated with this system is registered with the Department of Agriculture, Trade & Consumer Protection (DATCP) Bureau of Weights and Measures. In addition, Wisconsin's seller disclosure law requires most sellers of residential real estate to provide prospective buyers with a completed Real Estate Condition Report form, which includes a provision on USTs (statement D6). If there is an abandoned UST, the buyer may ask you to have the tank properly closed as a condition of the offer to purchase. If you deliberately fail to disclose to the buyer that there is an abandoned UST on the property, you can be sued for cleanup costs incurred by the buyer.

HOW DOES THE PRESENCE OF AN ABANDONED UST AFFECT YOU AS A BUYER?

If the seller is aware of an abandoned UST on the property, this must be disclosed to you. Wisconsin's seller disclosure law requires most sellers of residential real estate to provide buyers with a completed Real Estate Condition Report form. This form includes a provision on USTs. If there is an abandoned UST and you are still interested in purchasing the property, you can ask the seller to properly close the UST as a condition of the offer to purchase, or you can purchase the property and then have the system closed. With the latter option, you are responsible for the cleanup costs for any contamination discovered when the tank is removed. You must register any change of UST ownership with the DATCP.

HOW IS AN ABANDONED UST DETECTED ON A PROPERTY?

If the seller has recently replaced the furnace or converted from oil to natural gas, a UST may have been abandoned when the change was made. Outside fuel dispensers, vent pipes or fuel pipes sticking out of the ground or protruding through a basement wall are physical signs of a UST.

MUST AN ABANDONED UST BE REMOVED BEFORE THE PROPERTY CAN BE SOLD?

Wisconsin law requires an abandoned UST to be properly closed. The failure to remove an abandoned UST does not prevent the sale of the property. As a result of the sale, the buyer becomes responsible for the UST. The buyer's lender, however, may refuse the buyer's loan unless the UST is first removed or otherwise brought into compliance with state law.

WHAT IS REQUIRED TO PROPERLY CLOSE AN ABANDONED UST?

If a UST is no longer in use, all components must either be removed from the ground or closed in place, which requires DATCP approval. Wisconsin law requires that an abandoned UST must be removed or closed by a certified tank system remover-cleaner. The certified remover will clean out and remove the tank, properly dispose of the removed waste material and tank, and complete the paperwork required by the DATCP Bureau of Weights and Measures. However, if removing the tank would cause structural damage to nearby buildings or cause other hardship, the certified tank professional may close the system in place by cleaning it out, filling it with inert material and leaving it in the ground.

For information about the closure of abandoned tanks, see datcp.wi.gov/Documents/AbandonedTanksFactSheet.pdf. A list of tank system removers and cleaners is available at www.wra.org/USTRemoverCleaner. For information regarding a specific storage tank certification, contact the DATCP at 608-224-4942 or datcpweightsandmeasures@wi.gov.

WHAT HAPPENS IF A UST IS LEAKING WHEN IT IS REMOVED?

Any petroleum leakage or spillage observed during the UST closure process or at any other time, and that is in need of an urgent response, must immediately be reported to the local fire department and to the Department of Natural Resources (DNR) at 1-800-943-0003.

To report nonurgent leaks or spills, submit the DNR form 4400-225, the Notification for Hazardous Substance Discharge form. The form and submission instructions are available at dnr.wi.gov/files/pdf/pubs/rr/rr560.pdf. The current UST owner will be required to work with the DNR to develop a plan to investigate and clean up the leak or spill and is responsible for the investigation and cleanup costs.

REGISTRATION OF USTS

Wisconsin law requires all USTs in Wisconsin that have stored or currently store petroleum or regulated substances – whether they are currently in use, properly closed or abandoned – to be registered with the DATCP. The DATCP's Bureau of Weights and Measures maintains an inventory of USTs in Wisconsin, regulates active USTs, and monitors the removal of abandoned systems. Registration forms are available on the DATCP's Hazardous Materials Storage Tank webpage. To access that webpage, visit datcp.wi.gov and type "storage tank forms" in the search bar. Completed forms should be returned to the DATCP's Bureau of Weights and Measures.

The DATCP's storage tank database is available online: visit datcp.wi.gov and type "storage tank database" in the search bar. For more information regarding UST registration, visit www.wra.org/USTregistration, call 608-224-4942 or email datcpweightsandmeasures@wi.gov.

WHAT HAPPENS IF A UST IS CURRENTLY IN USE?

The associated tank must be registered with the DATCP. Visit datcp.wi.gov/Documents2/ResidentialUSTFactSheet.pdf to see the requirements for use in residential USTs, including tightness testing and leak detection.

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