

A Petroleum Product Storage Tank Guide For Real Estate Agents for 1 or 2 Family Dwellings

Wisconsin Administrative Code Comm 10 - Flammable and Combustible Liquids Code regulates all flammable and combustible liquids and also used motor oil. This guide is intended to provide general petroleum storage tank guidance for real estate licensees dealing with *1 or 2 family residential property*. The Department of Commerce has developed a free computer database accessible 24 hours a day for realtors with PC modems and Internet communication capability. The Internet database and other tank program information are accessible via the Bureau's web site, which is: www.commerce.state.wi.us/ER-BSTR Home Page.html.

Note: Local municipal ordinances may be more restrictive than the state code.

Underground Tanks

All underground storage tanks (USTs) greater than 60 gallon capacity must be registered with the Department of Commerce. The Department maintains a database that is an inventory of active, abandoned, and closed tanks. The term "closed" or "closure" refers to tanks that are properly deactivated by removal, or in special cases authorized to be filled in place with a solid inert material. The department has published guidance brochures ERS-9881-P Permanent Closure of Underground Petroleum Storage Tanks and ERS-9880-P Temporary Closure of Underground Storage Tanks that describe the requirements for tank closure. Tank closure information is available on the bureau's web site at www.commerce.state.wi.us/ER/ER-BST-Closure.html.

Heating oil tanks installed after December 22, 1988 are required to be installed under the current COMM 10 technical requirements. Comm 10 adopts NFPA 31 which is the national standard for the installation of oil-burning equipment and the respective fuel supply tank.

Underground home heating fuel tanks of 4,000 gallons or less capacity that are currently in use must comply with the following:

- a) No later than May 1, 2001 and every two years thereafter conduct a tightness test of the system (by an approved methodology) or implement an approved monthly release detection program. (COMM 10.773 (2)), or
- b) No later than May 1, 2006 upgrade the system by adding corrosion protection on the tank and piping, and installing spill and overfill protection.
- c) Excluded from a) and b) are underground residential heating fuel tanks that were installed before October 29, 1999 and have a capacity of less than 1,100 gallons.

May 1, 2001 becomes an important date in the life of a residential heating fuel UST that is 1,100 gallon capacity or larger. If an owner elects not to conduct the tightness test or implement the release detection program, they have until May 1, 2006 to permanently close the system, completely upgrade the system, or replace with a new system. This means that the code allows the owner to be in noncompliance with the groundwater protection provisions for five years, from May 1, 2001 to April 30, 2006.

Heating fuel tanks at other residential (multi-family units, CBRF, motels, etc.) and commercial occupancies have similar requirements. The exception being heating fuel tanks greater than 4,000 gallons capacity, which must currently have in place pursuant to Comm 10.731(1):

- Functioning monthly leak detection.
and by May 1, 2001 (Comm 10.771(1)):
 1. Upgrade with corrosion protection.
 2. Addition of spill and overfill protection.

Heating fuel tanks greater than 4,000 gallons capacity are not given a five-year window to be brought into compliance. Few residential heating fuel storage tanks are greater than 4,000 gallons capacity. However, the department has experienced homes with very large tanks, including one home which had a buried 10,000 gallon railroad tank car for the storage of heating fuel.

Do not assume that a buried tank with the vent and fill pipe cut off below the surface will be forgotten. Real estate licensees can lose their license for knowingly accepting Addendum A, which does not represent the presence of an underground tank.

The most frequent UST inquiries are regarding "Is there a tank at a specific location?" and "Does a UST not in use have to be registered?" Use of the Commerce Internet Storage Tank Database (<http://www.commerce.state.wi.us/ER-EN-tanks-info.html#Search Tips>) will provide you with information if the tank has been registered. If there is a tank at the specific location, but it has never been registered neither the database or Commerce staff will have any information. The database will also provide you with the current registration status of the tank indicating if the tank is "in use, abandoned, closed," etc. USTs in use, not in use, or closed must be registered. There are no fees associated with tank registration. The Department must also be notified of a change in ownership within 10 days of ownership transfer. Tank Inventory (registration) forms can be printed from the web site.

Aboveground Tanks and Tanks in Basements

Aboveground tanks are tanks that are located: above ground, in vaults void of earth, or in buildings. Typically, an aboveground heating fuel storage tank at a residence is a 275 gallon oval shaped tank. Aboveground tanks at 1 or 2 family dwellings must be installed under the code's technical requirements. However, they are excluded from plan review and certified installer requirements. All *aboveground* heating fuel storage tanks that are connected directly to a heating device are excluded from registration.

The most frequent inquiry that we deal with relates to the heating oil storage tank located in a basement. The Comm 10 code language is written with a focus on larger aboveground storage tanks located outside. However, the fire safety spirit of the code applies to all tanks. The code requires that aboveground tanks that are not in use be closed by cleaning and rendered vapor free. A tank that is not in use or has been closed for 12 months must be permanently closed. Presently, the code does not require that the closed tank be removed from the site. The closure of aboveground heating fuel tanks located at a 1 or 2 family residence does not have to be performed by an Comm 10 certified remover/cleaner (Comm 10.36 (3)(a) 2). It is important that the vent and fill pipes from a basement tank be removed from the structure when the tank is removed. If a tank is no longer in use, but is not being removed from the basement, the fill pipe must be removed and the tank inlet plugged.

Propane - LPG Tanks

Tanks used to store Liquid Petroleum Gas (LP or LPG), commonly referred to as propane, are *not* regulated by the Comm 10 code as are tanks storing *liquid* petroleum products such as gasoline or heating oil. Presently, neither aboveground nor underground LP tanks, are required to be registered or permitted by the Department. However, local ordinances may be more restrictive.

The Wisconsin Administrative Code Comm. 10 - Flammable and Combustible Liquids can be purchased, by contacting DOA Document Sales at 608-266-3358, for approximately \$15 plus applicable taxes.

The reference brochures may be ordered singly or in packs of 25 by faxing a request to the Bureau of Storage Tank Regulation at 608-261-7725, by writing to us at the address shown on the reverse side, or e-mail to lhahn@commerce.state.wi.us. Quantities are subject to availability.

Deaf, hearing or speech impaired callers may reach us through the Wisconsin Telecommunication Relay System (WI TRS).