



REMOVING UNDERGROUND STORAGE TANKS

Local Government Unit Responsibilities

RR-627

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Background

The Agriculture, Trade and Consumer Protection (DATCP) has the responsibility in Wisconsin to implement the federal and state regulations pertaining to the installation and removal of underground storage tanks (USTs). In instances where local governments acquire a property, they are required to comply with state and federal law regarding the removal of underground tanks.

A Local Governmental Unit (LGU) is defined as any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewage district, certain types of redevelopment authorities, certain types of public bodies designated by a municipality, or a housing authority.

A Phase I Environmental Assessment is conducted to identify areas of known or potential environmental contamination. This assessment should include, but not be limited to, reviewing records, interviewing persons, and conducting physical inspections of the property in question.

Some local government units expressed confusion about their responsibility to remove USTs at properties that they have acquired through tax delinquency, condemnation, blight elimination, slum clearance and other such “involuntary means.”

In 1994, the Wisconsin State Legislature created an exemption under the Spill Law, s. 292.11, Wis. Stats., that allows certain local government units to acquire property through tax foreclosure, eminent domain and other means specified in s. 292.11(9)(e), Stats., and not be subject to the legal requirements to investigate and cleanup the property.

Many local governments mistakenly thought that the Spill Law exemption relieved them of the responsibility to properly remove the USTs. This is not the case. The LGU should be prepared to assume the responsibility for properly removing any USTs on one of their existing properties or any property that they intend to acquire, if regulations or code require such removal actions.

Guidance

The following are some steps LGUs should consider before acquiring a property with known or suspected UST(s) in order to coordinate necessary budget expenses, removal time frames and possible extensions for removal of the USTs.

Be proactive! Before acquiring a property, find out if there are any registered, or unregistered, storage tanks located there. You



can obtain this information in different ways, as follows:

- Go DATCP's [Tank Registry](#) to search the state database of registered tanks;
- Contact a [DATCP storage tank coordinator](#) and ask them to look through the registered tank database for you. This is helpful even if you have already searched the database; to make sure you did not miss anything.
- To determine if there are any unregistered/unidentified storage tanks on a property, you can ask a DATCP storage tank coordinator for suggestions on how to proceed. You may also want to hire an environmental consultant to conduct a Phase I Environmental Assessment of the property and/or use a ground penetrating radar system, or something similar, to search for underground tanks.

All DATCP information about hazardous liquids storage tanks can be accessed on the [Petroleum/Hazardous Liquids Storage Tanks Overview](#).

To learn more about hiring an environmental consultant, see [DNR publication RR-502, titled "Selecting an Environmental Consultant."](#)

Plan! If you have one or more tanks on your property in need of removal, make sure you budget funds to cover the cost of tank removal. In addition, develop a written plan with a timetable for tank removal and send it to the LPO as soon as possible. If the LPO receives a plan up front, a formal non-compliance order to remove the tank may not be issued. If an order to remove is issued, you may still be able to receive an extension if you have a plan for removal.

The plan should address the following:

- length of extension requested along with justification (budget constraints, formal bid process, etc.); note any seasonal constraints; extensions can be granted if

the tank removal cannot take place due to environmental conditions which make excavation difficult;

- provisions to remove any existing product (gasoline, oil, etc.) from the tank and clean the tank;
- action the LGU is taking to restrict access to, or secure the property in order to minimize costs or damages that may result from unauthorized persons entering the property; and
- whether a Phase I is completed and available or any LGU action toward having a Phase I environmental assessment conducted; this shows a good faith effort to assess contamination and additional time extensions may be approved before removal has to take place.

Local Government Exemption to Cleanup

For more information about the LGU liability exemption please see the DNR Fact Sheet RR-579, ["State and Federal Liability Protections for Local Government Units"](#).

This document may contain some information about certain state statutes and rules but does not necessarily include all of the details found in the statutes/rules. Readers should consult the actual language of the statutes/rules to answer specific questions.

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