



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

DATE: September 17, 2026

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Randy Romanski, Secretary

SUBJECT: **ATCP 93: Flammable, combustible, and hazardous liquids (Hearing Draft Rule)**

PRESENTED BY: Joe Smith, Director, Bureau of Weights and Measures

REQUESTED ACTION:

At the Board meeting on September 17, 2026, the Department will request approval of the attached hearing draft rule, regarding Wis. Admin. Code ch. ATCP 93 relating to flammable, combustible, and hazardous liquids.

SUMMARY:

At the December 12, 2024 Board meeting, the DATCP Board approved the Department to hold a preliminary public hearing and comment period on the Statement of Scope for ATCP 93 (SS 111-24). The Department held this public hearing on January 7, 2025, and did not receive any comments. On January 30, 2025, the Board approved the scope statement, and the Department drafted rule revisions.

Under Wis. Stat. ch. 168, subch. II, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for regulating tanks for the storage, handling, or use of liquids that are flammable, combustible, or federally regulated hazardous substances. Wis. Stat. § 168.23 (1) directs DATCP to promulgate rules imposing standards for the construction, maintenance, and abandonment of such tanks, as well as standards for the property and facilities where such tanks are located, to protect the waters of this state from contamination. In compliance with that statutory directive, DATCP promulgated Wis. Admin. Code ch. ATCP 93.

NEXT STEPS:

If the Board authorizes the public hearing on this rule, DATCP will refer a copy of the rule to the Legislative Council Rules Clearinghouse for review and publish a hearing notice in the *Wisconsin Administrative Register*. DATCP will then hold public hearings in late October and early November at various locations in Wisconsin.

Following the public hearing and comment period, DATCP will prepare the final draft rule which will be presented for the Board's consideration. If the Board approves, DATCP will transmit the rule to the Governor for written approval.

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THE DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION'S
PROPOSED ORDER TO ADOPT PERMANENT RULES

PROPOSED ORDER

The Wisconsin department of agriculture, trade and consumer protection proposes the following rule ***to repeal*** ATCP 93.100 (1) (a) 5., (b) 1., 3., 9., and 10., (3) (a) 3. and 5. a., 93.110 (3) (e) and (Note), 93.140 (1) (b), (Note1), and (Note2), and (2) (c) 3., Table 200-2, Lines 11, 19, and 20, Table 200-5, Table 200-6, Line 4, Table 200-8, Table 200-9, Line 4e, Table 200-10, 93.230 (10) (b) 1. and 2., (12) (a) 2., 3., and 4. a. and b., and (15) and (Note), 93.240, 93.300 (1) (b), (Note1), and (Note2), (2) (a), (b), (c), (g), (h), (h) (Note), (5), (6), (7) (a) and (d), and (8), 93.305 (1), (2) and (Note), and (3) (a), 93.310 (3), 93.320, 93.335 (4), 93.340 (4) (Note), 93.350 (1) (b) 2., (11) (a) 3. (Note1), and (13) (Note), 93.400 (2) (d) and (11) (a) 10., 93.410 (6) (d), (7) to (11), and (13) (b) (Note3), 93.420 (1) (a), (b), and (c) and (4), 93.430 (1) (Note), 93.440 (3) (a) 2. c. and Notes 1 to 3, (c) 1., 2., and Notes 1, 2, and 3, 93.460 (1m), 93.500 (5) (c), (d), and (e), (6) (b) 1., (e) (Note2) and (Note3), (8) (b), and (9) (c) 3., 93.503 (1) (Note2) and (3) (b) (Note1), 93.505 (2) (b) 2. (Note), 93.510 (3) (d) and (4) (c), 93.515 (2) and (3) (a) 2. to 4., 93.517 (2) (c) 2. to 4., 93.520 (1) (a) 2. b. (Note) and (e), 93.545 (1) (j), 93.550 (1) (f), 93.560 (2) (b) (Note) and (e) 6., 93.575 (1) (a) and (b), 93.580 (1) (Note) and (3) (a) (Note3), 93.605 (5) (c) 2. b. (Note), 93.615 (5) (m) 1. and 2., (o) and (7) (c), and 93.630 (1) (c) 1. and 2. and (2) (d) 3., and 93.680 (4) (b) (Note 1) and (7) (a) (Note 1); ***to renumber*** ATCP 93.220 (1), (2), and (3) to 93.220 (1) (a), (b), and (c), 93.220 (2) (a), (b), (c), and (d) to 93.220 (1) (b) 1., 2., 3., and 4., 93.300 (1) (a) to 93.300 (1), 93.440 (3) (a) 2. a. to 93.440 (3) (a) 2., 93.500 (7) (i) to 93.500 (7) (i) 1., 93.560 (2) (d) (Note) to 93.560 (2) (dm) (Note), 93.630 (1) (c) 3. to 93.630 (1) (d) 4., and 93.630 (4) (a) 1., 2.,

3., and (b) to 93.630 (1) (c) 1., 2., and 3. and (d); **to renumber and amend** ATCP 93.220 (Intro) to ATCP 93.220 (1), 93.500 (1) (c) 2. to 93.500 (1) (c) 2. a., and 93.515 (3) (a) 1. to 93.515 (3) (a); **to amend** ATCP 93.020 (1), (2), and (3) and (8) (b) (Note), 93.050 (1), (4m), (5), (9m), (10) and (Note), (11), (21) (b), (29), (45), (46), (67), (73), (74), (85), (114) (q), (115), (117), (120), and (127), 93.100 (1) (a)1. and 4. and (Note), (2) (Title), (Intro), (c) 1., (d) 2. (Note), (q), and (r), (3) (a) 5.c., d. (Note1) and (Note2), (b), and (c)3., 93.110 (1) (a) and (b) (Note), (2) (a), (3) (d), and (4) (Note), 93.115 (2) (b) 3. a. and (3) (intro) and (a) 1., 3., and 6., 93.130 (Title), (1) (e), and (3) (a) 1. and 3., 93.140 (2) (b) and (Note), 93.145 (4) (c), 93.150 (2) and (2) (f) (Note), 93.1605 (Title), (1), (3), and (3) (c) (Note), 93.170 (6), 93.180, 93.190 (1) (a) and (b) 2. and 5. (Note), 93.210 (1), (5), and (5) (Note), 93.230 (2) (b), (10) (a), (12) (b) 2., and (14), 93.250 (2) (c) and (d), 93.310 (1) (a) and (2) (b) (Title) and (Note), 93.315 (3) (a) (Note), 93.340 (4) and (5), 93.350 (1) (a) 1. (Note2), (2) (a) and (b), (3) (k) 3. a., and (o), (4) (b) and (Note), (5) (a) 2. and 3.c., (11) (a) 3. and (Note3), 93.370 (2), 93.400 (2) (c), (3) (g), (4) (c) 2., (5) (a) 1. and (b) 2., (6) (c) and (Note), (8) (e), and (11), 93.410 (1) (a), (6) (a), and (13) (b), (Note1), and (Note2), 93.420 (1) (Intro), (2) (n), and (5), 93.430 (1), 93.440 (3) (c) and (4) (a) 3. and (b), 93.445 (Title) and (2) (c) 1., 93.450, 93.460 (1), 93.465 (1) (b) (Note), 93.500 (1) (a), (5) (a) 1., (6) (c) 3., (7) (c) (Intro), (d), and (k) 2., and (9) (c) (Intro) and 14., 93.505 (2) (a) 3. a., (b) 1. a., and (3) (b) 5., 93.510 (2) (a) 4. and (c) 2., Table 93.515, 93.515 (3) (b) 1., (4) (c), (5) (c), (6) (a) and (b), and (11) (a) 1., 93.520 (1) (a) (Intro) and (d), 93.530 (2) (e) 2. (Note2), 93.535 (5) (e), 93.545 (Title) and (1) (g) (Intro), 1. and 2., 93.550 (Title) and (1) (d), 93.560 (1) (a) and (2) (a), (am), (c), and (d), 93.565 (2) (Intro) and (b) 1., 93.575 (1) and (2) (a)1., 93.580 (2) (c), (3) (a) and (c) (Title) and 2., 93.585 (Title), (2) (a), and (3), 93.605 (5) (c) 1. and 2., 93.610 (1) (e) 15., 93.615 (7) (a), 93.630 (4) (d) 3., 93.640 (Title), (4) (c) and (e) 1. and 2., 93.680 (4) (b) and (Note2) and (c), (6) (c) 2., (7) (a)

and (Note2), and (b), 93.730 (2) (d), 93.830 (1) (c) 4. and (2) (d) and (e) 1. d., 93.850 (1), and 93.860 (2) (Title); ***to repeal and recreate*** ATCP 93.115 (2) (d), 93.175 (1), 93.445 (1), 93.465 (1) (a), 93.470, 93.503 (3) (a), 93.515 (7), 93.550 (1) (j), 560 (2) (f), 605 (5) (a), and 93.610 (1) (e) 7.; ***and to create*** ATCP 93.050 (60m), (73m), and (114) (qm), 93.100 (1) (a) 4. (Note2) and 8. c., 93.115 (3) (a) 9. and 10., 93.140 (3) (bm), 93.150 (5), Table 93.200-2m, Table 93.200-3m, Table 93.200-6m, Table 93.200-9, Line 4p, 93.220 (2), (3), and (3) (Note), 93.230 (10) (am) and (b) and (Note), and (12) (a) 4., 93.350 (3) (p), 93.400 (5) (em) 1. and 2., (8) (a) 1m. and (c) 4., 93.410 (1) (aj) and (ar), (6) (am), and (12) (d) and (Note), 93.420 (2) (g) (Note) and (2m), 93.460 (1j) and (1r), 93.465 (1) (a) (Note) and (3), 93.500 (1) (c) 2. b., (6) (a) 4. and (c) 1m. and 6., and (7) (c) 3., (i) 2. and (jm), 93.505 (2) (b) 1. c., 93.510 (1) (cj) and (cr) and (2) (a) 6., (am), and (bm), 93.515 (4) (e), 93.530 (1) (am), 93.535 (1) (c), 93.545 (1) (h) 3., (i), and (k), and (2) (cm), 93.560 (2) (dm), (e) 9., and (g), 93.565 (2) (b) 2. d., 93.575 (2) (a) 1m., Table 93.615-A (Note), 93.615 (5) (m), and subchapter IX. ***relating to*** storage of flammable, combustible, and hazardous liquids and affecting small businesses.

**Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection**

This rule implements Wis. Stat. ch. 168, subch. II, which is titled *Storage of Dangerous Substances*. That subchapter consists of Wis. Stat. §§ 168.21 to 168.28. DATCP is responsible for administering and enforcing that subchapter per Wis. Stat. § 168.21(2).

Statutes Interpreted

Statutes Interpreted: Wisconsin Stat. ch. 168, subch. II.

Statutory Authority

Wisconsin Stats. §§ 168.23 and 168.28 (2), as well as Wis. Stat. § 93.07 (1) and (2).

Explanation of Statutory Authority

The rule is authorized by Wis. Stats. §§ 168.23 and 168.28 (2). Subsection (1) of Wis. Stat. § 168.23 directs the department to “promulgate by rule construction, maintenance and abandonment standards applicable to tanks for the storage, handling or use of liquids that are flammable or combustible or federally regulated hazardous substances, and to the property and facilities where the tanks are located.” Subsection (3) of the statute provides that rules promulgated under subsection (1) “... may require the certification or registration of persons who install, remove, clean, line, perform tightness testing on and inspect tanks and persons who perform site assessments.” Subsection (4) of the statute directs the department to promulgate rules specifying fees for plan review and inspection of tanks and for certifications and registrations required under subsection (3). Wisconsin Stat. § 168.28 (2) directs the department to “develop uniform procedures for reporting the location of aboveground storage tanks and underground storage tanks.”

Moreover, Wis. Stat. § 93.07 (1) imposes a duty on the department “[t]o make and enforce such regulations, not inconsistent with law, as it may deem necessary for the exercise and discharge of all the powers and duties of the department.” In addition, Wis. Stat. § 93.07 (2) imposes a duty on the department “[t]o prescribe forms for all applications, notices and reports required to be made to the department or which are necessary in its work.”

Related Statutes and Rules

Wisconsin Admin. Code ch. ATPC 94 addresses petroleum and other liquid fuel products. Wisconsin Stat. § 168.21 defines various terms used in Wis. Admin. Code ch. ATPC 93. Wisconsin Stat. § 168.25 grants the Department the authority to enforce the statutes for storage of petroleum products and dangerous substances. Wisconsin Stat. § 168.28 (2) requires DATCP to undertake a program to inventory and determine the location of aboveground storage tanks and underground storage tanks. Wisconsin Admin. Code ch. SPS 314 (Fire Prevention) and requirements in Wis. Admin. Code chs. SPS 361 to 366 have an impact on aspects of this rule, and the proposed rule refers to those SPS rules when appropriate. The rule also refers to Wis. Admin. Code chs. NR 679, 811, and 812. Finally, Wis. Stat. § 227.29 (1) requires the Department to review the administrative rules promulgated or administered for rules that conflict with another rule, state statute, federal statute, or regulation.

Plain Language Analysis

Background

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for monitoring the accuracy and safety of devices used for measurement, storage, and commerce statewide. DATCP's Bureau of Weights and Measures is responsible for reviewing, registering and permitting, and inspecting storage and dispensing systems for petroleum and other hazardous liquids.

DATCP repealed and recreated ch. ATPC 93 in November 2019. In 2025, the department updated the rule to adopt the most recent versions of standards it incorporates into its rules by

reference and changed outdated and inaccurate provisions in regard to tank size and authority. DATCP did this in response to 2017 Wisconsin Act 108 obligations.

However, since ATP 93 regulates many different types of petroleum and hazardous liquid applications, from time to time, it is necessary for the agency to consider updating the standards for the construction, maintenance, and abandonment of tank systems for the storage, handling, or use of liquids that are flammable, combustible, or federally regulated substances to reflect technical developments and industry changes that have occurred during the past several years. DATCP needs to discuss these matters internally and with industry.

Rule Content

Under Wis. Stat. ch. 168, subch. II, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for regulating tanks for the storage, handling, or use of liquids that are flammable, combustible, or federally regulated hazardous substances.

Wisconsin Stat. § 168.23 (1) directs DATCP to promulgate rules imposing standards for the construction, maintenance, and abandonment of such tanks, as well as standards for the property and facilities where such tanks are located, to protect the waters of this state from contamination. In compliance with that statutory directive, DATCP promulgated Wis. Admin. Code ch. ATP 93.

Wisconsin Admin. Code ch. ATP 93 protects the waters of this state and provides "fire and life safety through the safe storage, display, installation, operation, use, maintenance and transportation of flammable, combustible and hazardous liquids and the equipment, facilities, buildings and premises that are used to store, transfer and dispense them." *See* Wis. Admin. Code § ATP 93.010. Those existing policies of protecting the waters of this state from contamination, reducing fire hazards, and protecting human life are proposed to be included in the revised rule.

The rule revision:

- Changes definitions.
- Clarifies cross references between aboveground storage tank systems (ASTs) and underground storage tank systems (USTs)
- Changes and clarifies spill and overfill prevention requirements.
- Adds and repeals standards incorporated by reference
- Revises storage tank credentialing and certification requirements.
- Clarifies requirements for temporarily out of service (TOS) tanks and abandoned tanks.
- Modifies the plan review process.
- Makes style changes to streamline the rule.

Definitions

In addition to numerous typographical changes in the definitions in Wis. Admin. Code § ATP 93.050, the rule changes the definition of closure (sub. 29) to make it clear that the entire system,

both tank and piping, is regulated. The definition also eliminates the word “permanently” since tank status can fluctuate. Similarly, the definition of “temporarily out of service” (sub. 120) has also been changed to make it match the department’s policy on closure of tanks and tank systems.

The definitions of “existing” (subs. 45 and 46) and “new” (sub. 74) now conform to the new promulgation date of the chapter. Throughout the rule, other dates, including the designation that only Milwaukee is a first-class city, also changed to the promulgation date of the rule.

Due to confusion in the rule as to what constitutes a tank system being in service, a new definition of “in use” (sub. 60m) has been created.

The rule revision also creates a definition of a “multi-stage project” (sub. 73m). The term has been used in the industry for years, but it had never been defined in ch. ATPC 93.

Finally, an additional type of tank, a vaulted tank, does not have a definition in the current rule. Therefore, the rule proposes a new paragraph (qm) in sub. (114).

Cross-References

A frequent criticism of ATPC 93 has been the number of cross-references to other areas of the rule. The department reviewed some of the more common examples and tried to reduce them by moving the relative material into the rule at that point. This is especially true in subchapter IV.

Among various examples:

- Section ATPC 93.420 (1) streamlined the references to eliminate the needs for paragraphs and notes.
- Section ATPC 93.420 (2) (n) now includes the cross-referenced language rather than only the cross-reference citation.
- Section ATPC 93.465 (1) has been made a standalone section by eliminating its reference to s. ATPC 93.580.
- Information in s. ATPC 93.500 (8) (b) that addressed secondary containment sumps was moved to s. ATPC 93.400 (8) (b) 1m. and also repealed.

Spill and Overfill Prevention

To respond to a lack of clarity, this rule revision now specifies requirements in a newly created ATPC 93.350 (3) (p). The new paragraph provides for both aboveground and underground storage tank systems by referring to the relevant sections of ss. ATPC 93.410 and ATPC 93.505.

The rule makes major changes to s. ATPC 93.410. In sub. (1) (a), the rule proposes to require alarms be both visual and audible or that the pump automatically shut down. Key elements in the current subs. (7) to (11) moved to other areas of the section. Therefore, subs. (7) to (11)

themselves could be repealed. An annual testing requirement would be required in a newly created sub. (12) (d).

The rule proposes to create s. ATCP 93.420 (2m), which would create a subsection to permit the use of a building as secondary containment. The language for this provision has been taken from the National Fire Protection Association standards.

Several changes have been proposed to s. ATCP 93.465, Tank-system Site Assessment. First, sub. (1) has been rewritten to avoid cross-references to Section 580. Also, to ease in understanding, language has been repeated from elsewhere in the rule to provide better clarity in a newly created sub. (3).

Similarly, language has been taken from elsewhere in the rule to create a rewritten Section 470 on responding to a leak, spill, overfill, or release.

A requirement for leak detection equipment has been created in s. ATCP 93.500 (7) (jm).

Other changes have been made in regard to leak detection. For instance, s. ATCP 93.503 (3) (a) has been proposed to provide more specificity by adding a loss or gain threshold of 150 gallons per month. Changes have also been proposed in regard to inventory control.

Standards Incorporated by Reference

While performing plan reviews, DATCP occasionally finds standards that conflict with other standards, with state statute, or with business practices. This has led to occasional confusion over which standard to use. DATCP also determined there were some standards that are either not in use or are used so infrequently that adoption of them is not helpful. In the interest of streamlining the rule, DATCP decided not to adopt those particular standards any longer.

The amended rule recognizes the merger of NACE International (National Association of Corrosion Engineers) and Society for Protective Coatings (SSPC) into the Association for Materials Protection and Performance (AMPP) in 2021. AMPP kept the NACE and SSPC designations in the labeling of the standards, but, since it is now a merged entity, DATCP repealed the two tables in s. ATCP 93.200 and created a new one for AMPP (Table ATCP 200-2m).

Since DATCP staff reviewed updated standards for the 2025 revision, in the interest of staff time, it elected not to update any of the current standards in this rule revision. Therefore, there are no updates to the most recent versions of currently adopted standards.

However, DATCP did identify a few standards that were not previously adopted that would now be of benefit and has chosen to propose them for adoption. SP 8310, *Field Inspection of Aboveground Chemical Bulk Storage Tanks*, adopted by the Fiberglass Reinforced Plastics Institute, appears in a newly created Table ATCP 200-3m. This standard has been approved as an alternative to the use of HIR FTV RP 2007 for inspections conducted under s. ATCP 93.350 (11). RP NLPA/KWA Standard 823, *Standard for Preventative Maintenance, Repair and In-situ*

Construction of Petroleum Sumps, adopted by the National Leak Prevention Association, appears in a newly created Table ATCP 200-6m.

DATCP also proposes to add to its secondary references in s. ATCP 93.210. A sub. (2), gas system setbacks, will refer to code from the Department of Safety and Professional Services, and a sub. (3) will refer to code from the Public Service Commission.

Tank Credentialing and Certification

To provide more flexibility for industry, DATCP proposes amending the rule to permit renewal of a credential after the expiration date. The rule currently requires credential holders that do not renew prior to the expiration to meet the requirements for initially receiving that certification or registration. For some credentials, this requirement forces credential holders to retake the certification exam. Industry has expressed frustration with this requirement and considers it to be overly burdensome. DATCP's proposed solution allows for renewal after expiration with the payment of a late fee.

Additionally, DATCP proposes amending the responsibilities under some certifications for clarity and consistency within the rule.

Temporarily Out of Service (TOS) and Abandoned Tanks

The amended language seeks clarification of when a tank is in service and when it is not in service, along with whether the closure is temporary or permanent. Numerous changes are proposed to the rule. First, in ATCP 93.050, sub. (60m) has been created to provide a definition of "in-use tank system" where it had not existed previously and sub. (120) changes the definition of "temporarily out of service" by eliminating the 24-month provision.

This rule also proposes to eliminate the term "seldom-used." The term would be removed from the section titles in Sec. 445 and Sec. 545.

Plan Review

Subchapter I, Administration and Enforcement, among other items, addresses the issue of plan review. The department elected to make numerous changes to Section 100, Plan Review. Among the changes are form use, clarification of plan review for tanks not in service, and how approval may be gained for multi-stage projects. The department also proposes to change s. ATCP 93.110 (1) (a) to permit municipalities the ability to decide its own processes which may or may not involve certain municipal officials. The department also proposes to require a copy of the current deed or other official proof of ownership during tank registration with the creation of s. ATCP 93.140 (3) (bm). This change would make initial registration requirements consistent with existing change of ownership requirements.

The new rule proposed to make some changes in s.115 in regard to the inspection of tank systems. These changes affect notification of the department prior to starting installations.

This rule change reflects some mild changes to the change of ownership section (s. 150). Required forms reflect how the process currently works, and the department would now require proof of a certified operator.

In reviewing the plan review process now that only tanks that have more than 5,000 gallons are regulated, changes have been made to repeal language in regard to smaller tanks to which the plan review process no longer applies.

Finally, some changes have been made to the enforcement sections (ss. 175 and 180). The changes in s. 175 clarify prohibited practices. The changes in s. 180 make the language regarding penalties under the chapter consistent with the penalty language in Wis. Stat. § 168.26.

While most Plan Review information appears in subchapter I, the new rule proposes changes to the qualified engineer statement at time of plan review. Those requirements appear in an amended 93.350 (2) (b).

Style Changes

The *Administrative Rules Procedures Manual*, jointly published by Legislative Council and the Legislative Reference Bureau, makes numerous editorial instructions. DATCP considered those instructions and attempted to apply them to make the rule less complicated and more standard with other rules in the state.

This rule revision repeals Section ATPC 93.240 and recreates it, with slight modification, as subchapter IX. Section 240, which addressed certifications, had become long, complicated, and not easily understood by stakeholders. It had 21 subsections, and it relied on the use of subdivision paragraphs. As a new subchapter IX, it has four sections (General, Continuing Education, Examinations, and Certification Types) with the section, Certification Types, being the longest at nine subsections. The requirements have also been reorganized to make it more useful for stakeholders to find training requirements in the rule. Throughout the rule, multiple cross-references to s. ATPC 93.240 existed. They have now been changed to reflect their new locations in the new subchapter IX. Additional changes include small changes in the examination process and responsibilities of TSSAs and the transfer of requirements in 93.520 (1) (e) to the new subchapter IX.

Some provisions of the rule have deadlines that have now passed. For instance, s. ATPC 93.517, Airport Hydrant System Requirements, had multiple deadlines. Now obsolete, this rule revision repeals those provisions and other deadlines that have passed and no longer have meaning in the implementation of the rule. The department has kept some unnecessary deadlines in the rule, however, as their repeal may serve more to confuse than to assist.

Until October 1, 2019, the department regulated aboveground storage tanks with a capacity of 110 gallons or more. In compliance with the department's obligations under 2017 Wisconsin Act 108, the department identified that it cannot regulate aboveground storage tanks with a capacity

of less than 5,000 gallons per Wis. Stat. § 168.22 (3). As such, the department engaged in a rule change that promulgated November 1, 2025, and removed much of that tank size language. This rule revision builds on those changes and further clarifies and removes that language. For instance, most tank systems that are regulated under Section 320, Fuel Storage for Stationary Combustion Engines and Gas Turbines, are no longer regulated. Therefore, the rule change proposes the repeal of that section.

This change to the program in 2019 effectively reduced the number of tank systems in Wisconsin subject to inspection. As a result, the department ended its contracts with local program operators (LPOs). Language governing LPOs, however, have been only slightly altered should a program become necessary in the future.

The rule also indicates changes made in form numbers during a streamline of that process. In a few cases, the term “tank system” has been changed to “tank, piping, or tank system” to clarify that all portions of the system are subject to inspection and must be in proper working order.

The new rule also removes or amends notes. While notes do not have the force of law, some of them were outdated or no longer helpful. In one case, the opposite was true. The information in the note in terms of the use of a standard and form rose to the level that portions of the note have been moved into the Administrative Code.

Summary of and Comparison with Existing or Proposed Federal Statutes and Regulations

The federal government relies on many of the industry standards that DATCP continues to adopt in the tables listed in Wis. Admin. Code § ATCP 93.200.

Federal regulations for both aboveground and underground storage tank systems address groundwater and surface water protection. The planned rule changes are not expected to conflict with these federal regulations.

Summary of Comments Received during the Public Hearing on Statement of Scope

The department received no comments to the scope either at the public hearing or in the comment period following.

Comparison with Rules in Adjacent States

Illinois

Illinois has a similar program reflected in administrative rules found in the Illinois Fire Protection code section (Title 41), particularly 41 Ill. Adm. Code 172 to 180.

Iowa

Iowa has a similar program as reflected in administrative rules found in code sections pertaining to the State Fire Marshal, particularly 661 Iowa Administrative Code sections 221 to 228. Other rules governing underground storage tanks appear in 567 Iowa Administrative Code sections 134 to 136, which pertain to the Iowa Department of Natural Resources.

Michigan

Michigan has a similar program as reflected in rules within the administrative code sections pertaining to the Michigan Department of Licensing and Regulatory Affairs, particularly Mich. Administrative Code R 29.2101 to 29.2174, R 29.5601 to R 29.5917, and R29.6101 to R 29.6156.

Minnesota

In Minnesota, administrative rules governing a similar program may be found in the Minnesota Pollution Control Agency section (Minnesota rules part 7105, Underground Storage Tanks; Training; part 7150, Underground Storage Tanks; Program; and part 7151, Aboveground Storage of Liquid Substances). To a limited degree, the State Fire Marshal, working out of the Minnesota Department of Public Safety, promulgates other rules dealing with the safety of storage tanks.

Summary of Factual Data and Analytical Methodologies

Throughout 2025, an internal committee considered changes to the rule based on enforcement issues and common industry complaints. In December 2025, DATCP informally shared some proposed changes with stakeholders. DATCP staff considered those changes and made modifications before sending the hearing draft rule a second time for informal review (in June 2026?). After the second round, DATCP sent the hearing draft rule to its Board to seek permission to send the rule to the Clearinghouse and to hold formal public hearings on the rule.

Analysis and Supporting Documents used to Determine Effect on Small Business in Preparation of an Economic Impact Analysis

After completing the hearing draft, DATCP staff went through the hearing draft rule thoroughly to determine what changes may affect small businesses in Wisconsin. This review included two meetings and a review of the draft analyses. Before DATCP requested its Board to approve the hearing draft rule for public hearing, the department shared the regulatory analysis with its stakeholders along with proposed revisions to the rule.

Fiscal Estimate and Economic Impact Analysis

The *Fiscal Estimate and Economic Impact Analysis* is attached.

Effect on Small Business

A complete *regulatory flexibility analysis* is attached. While it should not affect small business adversely, the department expects that changes in the rules may require changes in forms used by those businesses for the tank inspection program.

The department's Regulatory Review Coordinator may be contacted by:
Email at Bradford.Steinel@wisconsin.gov
Telephone at (608) 224-5024

Standards Incorporated by Reference

This rule does not update standards incorporated by reference to the most current standards. The rule does repeal many standards incorporated by reference and adds a few. Previously, 77 standards were adopted; the new rule reduces that number to 57. As required by Wis. Stat. § 227.21 (2) (b), consent will be received from the Attorney General to incorporate the new standards by reference after the public hearings and prior to seeking the Governor's assent to the final draft rule. A copy of these documents will be kept on file with the department and with the Legislative Reference Bureau.

Department Contact

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P.O. Box 8911
Madison, WI 53708-8911
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Where Comments May Be Submitted

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After the final hearing, the department will accept formal written comments for an additional two weeks.

RULE TEXT

1 **SECTION 1.** ATCP 93.020 (1), (2), (3), and (8) (b) (Note) are amended to read:

2 **(1) NEW FACILITIES AND STRUCTURES.** The provisions of this chapter apply to all new
3 facilities and structures and to new additions to facilities and structures that involve storage,
4 transfer or dispensing of flammable, combustible₂ or hazardous liquids.

5 **(2) ALTERATIONS TO FACILITIES AND STRUCTURES.** The provisions of this
6 chapter apply to new remodeling and alterations — for any flammable, combustible₂ or
7 hazardous liquid facility or structure — that are integral to storage, transfer₂ or dispensing of
8 flammable, combustible₂ or hazardous liquids, including remodeling and alterations which affect
9 fire hazard, release mitigation₂ or replacement of major equipment.

10 **(3) EXISTING FACILITIES AND STRUCTURES.** All elements, systems₂ or
11 components of an existing facility or structure that are integral to storage, transfer₂ or dispensing
12 of flammable, combustible₂ or hazardous liquids shall be maintained to conform with the
13 requirements of this chapter that applied when the facility, structure, element, system₂ or
14 component was constructed, unless specifically stated otherwise in this chapter.

15 **(8) (b)**

16 **Note:** ~~As of November 1, 2019~~ the effective date of this chapter . . . [LRB inserts date],
17 only the City of Milwaukee is a 1st class city.

18 **SECTION 2.** ATCP 93.050 (1), (4m), (5), (9m), (10) and (Note), (11), (21) (b), (29), (45),
19 and (46) are amended to read:

20 **(1)** “Aboveground storage tank” or “AST” means any vessel that has a liquid capacity of
21 5,000 gallons or more, is intended for fixed installation, is not solely used for processing₂ and
22 does not meet the definition of an underground storage tank.

23 **(4m)** “Airport hydrant system” means an underground storage tank system which fuels
24 aircraft and operates under high pressure with large diameter piping that typically terminates into

one or more hydrants (~~fill stands~~), also known as fillstands. The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

(5) “Alteration” means any modification to an installed tank system that involves cutting, drilling, or welding on the tank shell or associated piping.

(9m) “Authority having jurisdiction” means the department or an authorized agent responsible for approving equipment, installations, or procedures.

(10) “Authorized agent” means either a local program operator, ~~or~~ a 1st class city, or the authorized ~~representatives~~ representative of a 1st class city.

Note: See sub. (66) for a definition of local program operator. As of ~~November 1, 2019,~~ the effective date of this chapter . . . [LRB inserts date], only the City of Milwaukee is a 1st class city.

(11) “Automatic leak detection” means a release or leak detection or monitoring system that will provide continuous ~~24 hour~~ 24-hour monitoring for the detection of a release or leak of vapor or product and immediately communicate the detection of the release or leak to an electronic signaling device.

(21)

(b) A registered professional engineer who directly supervises an installation by being present during the activities specified in s. ~~ATCP 93.240 (16) and (17)~~ ATCP 93.930 (4) and (5), and who is competent in the engineering methods and requirements in Wisconsin for designing and installing storage tank systems for flammable, combustible, or hazardous liquids.

(29) “Closure” means the procedure by which a tank, piping, or tank system is evaluated and ~~permanently~~ rendered safe from contributing to human danger, fire, explosion, and environmental contamination at the facility where it is installed.

(45) “Existing” means installed or in place since before ~~November 1, 2019~~ the effective date of this chapter [LRB inserts date], unless context requires otherwise.

(46) “Existing tank system” means a tank system used to contain an accumulation of regulated substances, or for which installation commenced, prior to ~~November 1, 2019~~ the effective date of this chapter [LRB inserts date]. Installation is considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the tank system site or installation of the tank system, and a continuous on-site physical construction or installation program has begun.

SECTION 3. ATCP 93.050 (60m) is created to read:

(60m) “In-use tank system” means an aboveground or underground storage tank system that contains more than an inch of a regulated substance, has periodic fill and withdrawals, and is monitored for releases at least every 30 days.

SECTION 4. ATCP 93.050 (67) and (73) are amended to read:

(67) “Lowest floor, story, cellar, or basement” means the lowest space in which heavier-than-air vapors can accumulate.

(73) “Motor vehicle” means a self-propelled motor-driven vehicle that is used for moving people or products on land, water, or air, except this term does not include any vehicle which is operated exclusively on a rail. “Motor vehicle” in this definition is intended to apply to motorized equipment transporting people and goods for pleasure, construction, or commerce, rather than equipment dedicated to warehousing and yard operations, such as forklifts; or for

grounds and facility maintenance, such as lawnmowers; or for amusement facilities, such as go-carts.

SECTION 5. ATCP 93.050 (73m) is created to read:

(73m) “Multi-stage project” means a project that occurs in two or more stages with differing inspection timelines.

SECTION 6. ATCP 93.050 (74), (85), and (114) (q) are amended to read:

(74) “New” means installed or constructed on or after ~~November 1, 2019~~ the effective date of this chapter [LRB inserts date].

(85) “Pipe” or “piping” means a pressure-tight cylinder used to convey, transfer, or move a fluid, and is ordinarily designated “pipe” in applicable material specifications. Materials designated as tube or tubing in the specifications are considered pipe when intended for pressure service. This term includes pipe emanating from or feeding storage tanks; or transferring product to or from storage tanks.

(114) (q)

(q) “Storage tank” means a liquid-tight vessel that is intended for fixed use, or stationary use, or a tank that is used for fuel dispensing under subch. VI but is not used for any of the excepted purposes in s. ATCP 93.020 (6) and is not used for processing. ~~This term includes a vessel which has a liquid capacity of 110 gallons or more and which is assembled and used with an engine as a single unit of equipment.~~

SECTION 7. ATCP 93.050 (114) (qm) is created to read:

(qm) “Vaulted tank” means an enclosure consisting of four walls, a floor, and a top for the purpose of containing a liquid storage tank and not intended to be occupied by personnel

other than for inspection, repair, or maintenance of the vault, the storage tank, or related equipment.

SECTION 8. ATCP 93.050 (115), (117), (120), and (127) are amended to read:

(115) “Tank system” includes the primary tank and pipe, integral secondary containment, integral supports, leak detection, overfill prevention, spill containment, anti-siphon devices, any vapor-recovery system connected to the tank, and the necessary core components that allow the tank system to function as intended and in accordance with the installation requirements. Tank system configurations include onshore underground storage tanks, onshore aboveground storage tanks, and storage tanks over water that are integral with a stationary pier, floating vessel, or floating structure for the purpose of storage or vehicle fueling.

(117) “Tank-system site assessment” or “TSSA” means the process by which the department expects tank-system owners or operators to determine if a tank system or any component of that system has released petroleum products or other hazardous substances into the soil, groundwater, or surface waters. This process includes all of the following:

(a) Observation of field conditions, such as stained soils; odors; pitting, holes, or cracks in tank system components; observable leaks; and elevated in-field soil-gas readings.

(b) Collection of soil samples for laboratory analysis of petroleum products or other hazardous substances, as prescribed in the department’s *Tank System Assessment: A Guide to the Assessment and Reporting of Suspected or Obvious Releases ~~From~~ from Underground and Aboveground Storage Tank Systems*.

(c) Reporting of the field observations and sampling results in a format prescribed by the department.

Note: In general, TSSAs are to be performed at the time a storage tank system, or some component thereof, is to be permanently closed, upgraded, or repaired, or if a change in service is to take place.

Note: *Tank System Site Assessment: A Guide to the Assessment and Reporting of Suspected or Obvious Releases ~~From~~ from Underground and Aboveground Storage Tank Systems* is available from the department's Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

(120) "Temporarily out of service" or "TOS" means a storage tank system that is not in use and meets the requirements of s. ATCP 93.445 (1) or 93.545 (1) ~~and is intended to be placed back into use within 24 months.~~

(127) "Watercraft" or "marine craft" means a vehicle designed to operate on rivers, streams, or lakes for the transport of people or goods for recreation, business, or commerce purposes.

SECTION 9. ATCP 93.100 (1) (a) 1. and 4. and (Note) are amended to read:

1. Commencing any ~~construction of~~ new or additional tank or piping installation.

4. Where there is an installation, upgrade, addition, or modification to the leak detection system including any of the following:

a. A change in manufacturer.

b. A change in model number.

c. A change in methodology.

~~Adding leak detection or modifying leak detection as specified in s. ATCP 93.110 (3) (e) when performed in conjunction with other changes that require plan review.~~ A certified installer is not required to perform the modification of leak detection.

Note: Under sub. (3) (a) 5. c., the department's ~~leak detection~~ installation application form, ~~TR-WM-133~~ TR-WM-126, must be filled out and submitted anytime leak detection equipment is added or modified, ~~whether or not plan review is required~~. This form is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or from the Bureau's Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

SECTION 10. ATPC 93.100 (1) (a) 4. (Note 2) is created to read:

Note: Examples of changes in methodology include switching from a mechanical line leak detector to an electronic one, static tank leak detection to continuous statistical leak detection (CSLD) or changing from statistical inventory reconciliation to an automatic tank gauge (ATG) or vice versa.

SECTION 11. ATPC 93.100 (1) (a) 5. is repealed.

SECTION 12. ATPC 93.100 (1) (a) 8. c. is created to read:

c. Converting from the storage and dispensing of flammable to combustible or combustible to flammable liquids.

SECTION 13. ATPC 93.100 (1) (b) 1., 3., 9., and 10. are repealed.

SECTION 14. ATPC 93.100 (2) (Title) and (intro) are amended to read:

(2) PLANS, SPECIFICATIONS, AND INFORMATION. Plans, specifications, and information shall be submitted to the authorized agent or the department for review and approval. Multi-stage projects shall be submitted as separate plan reviews. Submittals shall contain all of the following:

SECTION 15. ATPC 93.100 (2) (c) 1. is amended to read:

1. A plot plan, drawn to a minimum scale of one inch equals 20 feet, indicating the location of the installation with respect to property lines; adjoining streets or alleys; fences, including those installed over or through any part of the system; and other buildings on the same property. The plot plan shall indicate the location of buildings; other tanks; loading and unloading points; utilities; sanitary or storm sewers; water mains; water service piping; community and private potable water wells or other potable water source on the subject property; any private potable water wells on adjacent property that are within 100 feet of the tank, piping or dispenser; and any offsite community wells that are within 1,200 feet of the tank, piping, or dispenser.

SECTION 16. ATCP 93.100 (2) (d) 2. (Note), (q), and (r) are amended to read:

Note: Flammability and combustibility classifications are established in NFPA 30 sections 4.3.1 and 4.3.2; and are expressed as a Roman numeral and a letter, such as IB or IIIA.

(q) Any ~~material approval~~ material approval numbers issued under s. ATCP 93.130. Material approvals must be current.

(r) Information and specifications, including manufacturer's model numbers on materials, equipment, and devices to be used in the project which do not have ~~material approval~~ material approval numbers issued under s. ATCP 93.130 and which have a direct impact on the regulated system.

SECTION 17. ATCP 93.100 (3) (a) 3. and 5. a. are repealed.

SECTION 18. ATCP 93.100 (3) (a) 5. c. is amended to read:

c. Where an ~~upgrade, exchange or conversion~~ upgrade, addition, or modification of ~~installed~~ leak detection methodology to another approved methodology, ~~or~~ manufacturer, or model is the only change at a facility, the department's ~~leak detection~~ installation application

form, ~~TR-WM-133~~, TR-WM-126, shall be completed and submitted to the department within 5 days of installation. This form shall also serve as the plan submittal application and the installation checklist.

SECTION 19. ATCP 93.100 (3) (a) 5. d. (Note 1) and (Note 2) are amended to read:

Note: Forms TR-WM-124 — Farm and Construction Aboveground Storage Tank Installation Notification, TR-WM-126 — Flammable/Combustible/Hazardous Liquid Tanks Installation Application, TR-WM-130 — Point-of-Sale Fueling Installation Notification, and TR-WM-132 — Storage Tank Alternative Fuel Installation/Conversion Application, ~~and TR-WM-133 — Storage Tank Leak Detection Installation or Upgrade Application~~ are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or from the Bureau's Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

Note: Within a 1st class city, the provisions in subdivision paragraphs c. and d. may be administered by that city instead of the department, as authorized in ss. ATCP 93.020 (8) (b) and 93.110 (3) and (4). As of ~~November 1, 2019~~, the effective date of this chapter . . . [LRB inserts date], only the City of Milwaukee is a 1st class city.

SECTION 20. ATCP 93.100 (3) (b) and (c) 3. are amended to read:

(b) *Review time.* The authorized agent or the department shall review and make a determination on an application for installation approval and plan review within ~~20 business~~ 30 calendar days of receiving all of the required information and fees. If an applicant does not respond to a request by the department for additional information within 6 months after the date of the request, the department shall make a determination on the application based upon the information on hand.

(c)

3. A conditional approval issued by the authorized agent or the department is not an assumption of any responsibility for the design, construction, or maintenance of the facility.

SECTION 21. ATCP 93.110 (1) (a) and (b) (Note), (2) (a), and (3) (d) are amended to read:

(a) ~~With the approval of the chief elected municipal official, the~~ The municipality shall ~~may~~ determine if ~~a~~ its own municipal department or other agent approved by the department will exercise jurisdiction over the provisions of this chapter as the local program operator.

Note: LPOs are under contract with the department. The contract specifies LPO qualifications and responsibilities, such as plan review, inspection, and consultation.

(2) (a) Plans in which all tanks for the storage, handling, or use of flammable or combustible liquids have an individual capacity of less than 5,000 gallons.

(d) Where there is initial installation, upgrade, or addition of leak detection to a tank system, regardless of tank size.

SECTION 22. ATCP 93.110 (3) (e) and (Note) are repealed.

SECTION 23. ATCP 93.110 (4) (Note) was amended to read:

Note: ~~As of November 1, 2019, the effective date of this chapter [LRB inserts date],~~
only the City of Milwaukee is a 1st class city.

SECTION 24. ATCP 93.115 (2) (b) 3. a. is amended to read:

a. The certified installer shall notify the authorized agent or the department to arrange for inspections, on form TR-WM-121, at least 5 business days before starting any of the following activities on a tank system: an installation, modification, upgrade, addition, or final inspection.
~~to arrange for inspections.~~

227 **SECTION 25.** ATCP 93.115 (2) (d) is repealed and recreated to read:

228 (d) *Written order.* When the tank system is inspected by a certified tank system inspector,
229 any violations of this chapter shall be specifically listed, along with an allotted time to correct the
230 violation.

231 1. When a certified tank system inspector issues a written order, any violations of this
232 chapter shall be specifically listed, along with an allotted time to correct the violation.

233 2. Written orders issued by certified tank system inspectors may be served by one or
234 more of the following methods:

235 a. Personal delivery to the owner, operator, or an individual employed by the owner or
236 operator.

237 b. Email to an address furnished to the department by the owner, operator, or an
238 individual employed by the owner or operator.

239 c. First-class or certified mail to the facility or an address furnished to the department or
240 the department of financial institutions by the owner, operator, or an individual employed by the
241 owner or operator.

242 **SECTION 26.** ATCP 93.115 (3) (intro) and (a) 1., 3., and 6. are amended to read:

243 (3) **SYSTEM SHUTDOWN.** Persons with enforcement authority under this chapter may
244 shut down any part of a tank system and require removal of stored product, using the
245 department-issued red-tag procedure, under any of the following conditions:

246 (a)

247 1. Tank systems or their components that pose an immediate danger to life, safety, or
248 health. Conditions that cause immediate danger to life, safety, or health include visual evidence
249 of leakage of a regulated substance, immediate human exposure to a regulated substance in the

environment, defective equipment resulting in release of a regulated substance, emergency electrical disconnect not functioning properly, overfill prevention that is not functioning properly, or inadequate tank venting.

3. Tank wagons and movable tanks that are located, used, or moved in a manner which presents an immediate environmental or safety hazard.

6. Tank systems used to store liquids that have been shown to be corrosive, reactive, or otherwise incompatible with materials used in the construction of the tank system.

SECTION 27. ATCP 93.115 (3) (a) 9. and 10. are created to read:

9. Tank systems that do not have the required permit to operate.

10. Failure to register a regulated tank system with the department.

SECTION 28. ATCP 93.130 (Title) is amended to read:

ATCP 93.130 **Specific approval of materials, equipment, concepts, technology, and devices.**

SECTION 29. ATCP 93.130 (1) (e) is amended to read:

(e) ~~Marine-craft~~ Marine craft tank vehicles.

SECTION 30. ATCP 93.130 (3) (a) 1. and 3. are amended to read:

1. Application for approval shall be made on the department's material approval application form, TR-WM-127, and shall include sufficient test results or other evidence from an independent 3rd party to prove that the material, equipment, concept, technology, or device meets the requirements or the intent of this chapter.

3. Upon receipt of a completed application, the fee specified in Table 93.130, and all information and documentation needed to complete the review, the department shall review and make a determination on the application within ~~60-business~~ 90 calendar days.

273 **SECTION 31.** ATCP 93.140 (1) (b), (Note 1), and (Note 2) are repealed.

274 **SECTION 32.** ATCP 93.140 (2) (b) and (Note) are amended to read:

275 (b) An owner of a registered tank who changes their name or mailing address, or an
276 owner of a registered tank at a facility that undergoes a name change, shall have the change
277 registered with the department on form TR-WM-118; or TR-WM-137, ~~or TR-WM-153~~, as
278 provided by the department, within 15 business days of the change.

279 **Note:** Form TR-WM-118— Aboveground Flammable/Combustible/Hazardous Liquid
280 Storage Tank Registration; and form TR-WM-137 — Underground
281 Flammable/Combustible/Hazardous Liquid Storage Tank Registration, ~~and form TR-WM-153~~
282 ~~—Change of Ownership, Flammable/Combustible/Hazardous Liquid Storage Tank Registration~~
283 are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-
284 8911, or at telephone (608) 224-4942. Forms TR-WM-118 and TR-WM-137 are also available
285 from the Bureau's Web site at
286 https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

287 **SECTION 33.** ATCP 93.140 (2) (c) 3. is repealed.

288 **SECTION 34.** ATCP 93.140 (3) (bm) is created to read:

289 (bm) *Current deed.* A copy of the recorded deed showing the owner or other official
290 documentation of ownership as approved by the department.

291 **SECTION 35.** ATCP 93.145 (4) (c) is amended to read:

292 (c) The department may decide ~~to~~ not to issue or ~~to not~~ renew an operating permit for a
293 tank if the department finds that there has been significant noncompliance with either this
294 chapter or orders issued pursuant to this chapter.

295 **SECTION 36.** ATCP 93.150 (2) (Intro) and (f) (Note) are amended to read:

(2) The ownership-change notification shall be on form ~~TR-WM-118, TR-WM-137, or~~
TR-WM-153, as provided by the department and shall include all of the following:

(f)

Note: ~~Form TR-WM-118—Aboveground Flammable/Combustible/Hazardous Liquid~~
~~Storage Tank Registration, form TR-WM-137—Underground~~
~~Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form~~ Form TR-WM-
153 — Change of Ownership, Flammable/Combustible/Hazardous Liquid Storage Tank
Registration ~~are~~ is available from the Bureau of Weights and Measures, PO Box 8911, Madison,
WI 53708-8911; or at telephone (608) 224-4942 ~~Forms TR-WM-118 and 137~~ are also available
from the Division's Web site at
https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

SECTION 37. ATPC 93.150 (5) is created to read:

(5) Proof of certified A/B operator.

SECTION 38. ATPC 93.1605 Title, (1), (3), and (3) (c) (Note) are amended to read:

**ATPC 93.1605 Fees relating to storage tanks for liquids that are flammable,
combustible, or federally regulated hazardous substances.**

(1) PLAN EXAMINATION AND INSPECTION FEES. Fees for the examination of
plans, site inspections, and reinspections for tanks used for the storage of liquids that are
flammable, combustible, or federally regulated hazardous substances shall be determined in
accordance with Table 93.1605.

(3) REINSPECTION FEE. The contractor, when performing activities covered under s.
~~ATPC 93.240 (16) to (19)~~ ATPC 93.930 (4) to (7), shall pay the reinspection fee to the

authorized agent or the department if a return trip is required due to any of the following or is required to reschedule a trip on less than 24 hours of notice for any of the following:

(c)

Note: Section ~~ATCP 93.240 (16)~~ ATCP 93.930 (4) covers aboveground tank system installation certification requirements. Section ~~ATCP 93.240 (17)~~ ATCP 93.930 (5) covers underground tank system installation certification requirements. Section ~~ATCP 93.240 (18)~~ ATCP 93.930 (6) covers tank system lining certification requirements. Section ~~ATCP 93.240 (19)~~ ATCP 93.930 (7) covers tank system removing and cleaning certification requirements.

SECTION 39. ATCP 93.170 (6) is amended to read:

(6) REVOCATION. The department may revoke any grant of a petition for variance where it is determined that the variance was obtained through inaccurate or incomplete information, where any circumstances on which the approval was based have changed, fraud or deceit or where the petitioner has violated any of the specific conditions on which the variance was approved.

SECTION 40. ATCP 93.175 (1) is repealed and recreated to read:

(1) Failing to complete any forms, records, or reports required under this chapter thoroughly and accurately.

SECTION 41. ATCP 93.180 is amended to read:

ATCP 93.180 **Penalties.** Penalties for violations of this chapter shall be assessed in accordance with s. 168.26, Stats., and shall apply separately to each tank system that is involved in a violation of this chapter. Each violation of this chapter or any order issued under this chapter constitutes a separate offense, and each day of continued violation is a separate offense.

SECTION 42. ATCP 93.190 (1) (a) and (b) 2. and 5. (Note) are amended to read:

(a) *General*. The owner or operator of a tank system may request a hearing with the department, as specified in ss. ATCP 1.03 (3) or 1.06, on any decision affecting that person's legal rights, including enforcement orders and any petition for variance, ~~material approval~~ material approval, or permit decision issued under the scope of this chapter.

2. All appeals of petitions for variance or ~~material approval~~ material approval or permit decisions issued under this chapter shall be in writing and shall be received by the department no later than 30 calendar days after the date of the decision being appealed.

5. For purposes of this section, appeals filed after 4:30 p.m. shall be considered received on the next business day.

Note: The appellant or an attorney representing the appellant may request an administrative hearing to review this action by delivering, mailing, emailing, or faxing a written request for a hearing to one of the following:

In-person delivery address:

Department of Agriculture, Trade and Consumer Protection

2811 Agriculture Drive

Madison, Wisconsin 53708

Mailing address:

Secretary of Department of Agriculture, Trade and Consumer Protection

PO Box 8911

Madison WI 53708-8911

SECTION 43. Table ATCP 93.200-2, Lines 11, 19, and 20 are repealed.

SECTION 44. Table ATCP 93.200-2m and Table 93.200-3m are created to read:

Table 93.200-2m

AMPP Association for Materials Protection and Performance 15385 Park Ten Place Houston, TX 77084-4906	
Standard Reference Number	Title
1. NACE SP0169-2013	Control of External Corrosion on Underground or Submerged Metallic Piping Systems
2. NACE SP0178-2007	Design, Fabrication, and Surface Finish Practices for Tanks and Vessels to Be Lined for Immersion Service
3. NACE SP0188-2006	Discontinuity (Holiday) Testing of New Protective Coatings on Conductive Substrates
4. NACE SP0193-2016	Application of Cathodic Protection to Control External Cathodic Protection of Carbon Steel On-Grade Storage Tank Bottoms
5. NACE SP0285-2011	External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection
6. NACE SP0286-2007	Electrical Isolation of Cathodically Protected Pipelines
6m. NACE TM0101-2012	Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank Systems
7. NACE TM0497-2012	Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems
8. SSPC VIS 2 (2001)	Standard Method of Evaluating Degree of Rusting on Painted Steel Surfaces

364 **Table 93.200-3m**

Fiberglass Reinforced Plastics Institute, Inc. 210 Park Avenue, #8 Worcester, MA 01609	
Standard Reference Number	Title
SP 8310	Field Inspection of Aboveground Chemical Bulk Storage Tanks

365 SECTION 45. Tables ATPC 93.200-5 and Table ATPC 93.200-6, Line 4 are repealed.

366 SECTION 46. Table ATPC 93.200-6m is created.

367 **Table 93.200-6m**

National Leak Prevention Association 75-4 Main Street, Suite 300 Plymouth, NH 03264	
Standard Reference Number	Title
NLPA/KWA Standard 823, 2 nd edition (2025)	Standard for Preventative Maintenance, Repair and In-situ Construction of Petroleum Sumps

SECTION 47. Table ATCP 93.200-8 and Table ATCP 93.200-9, Line 4e are repealed.

SECTION 48. Table ATCP 93.200-9, Line 4p is created.

4p. R912 (2022)	Installation Instructions for the Installation of Shop Fabricated Stationary Aboveground Storage Tanks for Flammable and Combustible Liquids
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SECTION 49. Table ATCP 93.200-10 is repealed.

SECTION 50. ATCP 93.210 (1), (5), and (5) (Note) are amended to read:

(1) All flammable, combustible, and hazardous liquids, and equipment and facilities that are used to store them shall be designed, constructed, installed, operated, inspected, tested, and maintained as specified in the standards adopted in s. ATCP 93.200, as those standards apply to the specific liquid, equipment, or facility; except as otherwise provided in this chapter.

(5) All fire detection, prevention, suppression, and isolation features that are installed, whether or not they are required by rule or standard, shall be inspected, tested, and maintained as required by the applicable standard adopted in s. ATCP 93.200 or by other rules of the department of safety and professional services.

Note: See also ch. SPS 314, ~~Wisconsin~~ *Fire Prevention Code*, for requirements on the inspection, testing, and maintenance of fixed and portable fire protection systems.

SECTION 51. ATCP 93.220 (intro) is renumbered ATCP 93.220 (1) and amended to read:

(1) GENERAL. For the purposes of this chapter, the department of safety and professional services shall enforce the applicable provisions of the following Wisconsin administrative codes in lieu of the indicated standards that are referenced in the NFPA standards adopted in s. ATCP 93.200:

SECTION 52. ATCP 93.220 (1), (2), and (3) are renumbered ATCP 93.220 (1) (a), (b), and (c).

SECTION 53. ATCP 93.220 (2) (a), (b), (c), and (d) are renumbered ATCP 93.220 (1) (b) 1., 2., 3. and 4.

SECTION 54. ATCP 93.220 (2), (3), and (3) (Note) are created to read:

(2) GAS SYSTEM SETBACKS. Chapter SPS 340 in lieu of the following NFPA standards:

(a) NFPA® 30A — Code for Motor Fuel Dispensing Facilities and Repair Garages

(b) NFPA® 52 — Vehicular Gaseous Fuel Systems Code

(c) ANSI Z223.1/NFPA® 54 — National Fuel Gas Code

(d) NFPA® 58 — Liquefied Petroleum Gas Code

(e) NFPA® 59A — Production, Storage, and Handling of Liquefied Natural Gas (LNG)

(3) PUBLIC UTILITY LOCATION. For the purposes of this chapter, the following sections of the public service commission of Wisconsin administrative code shall be followed:

(a) Overhead Power Line location — PSC 114.234

(b) Underground Power and Communication line location — PSC 114.353

Note: If the installation is near aboveground or underground public utility lines, the local utility should be contacted as their location requirements may be more restrictive.

SECTION 55. ATCP 93.230 (2) (b) and (10) (a) are amended to read:

(2) (b) Facilities shall have available personnel, keys, codes, or other items necessary to provide open access to sumps, dispensers, pumps, or areas that contain liquid system valves, controls, connections, and fittings for the purpose of inspecting for leaks, functionality of fire safety and leak prevention equipment, or verification of proper system operation.

(10) (a) All system equipment and components shall be maintained to function to the manufacturer's original specifications, or in the absence of manufacturer's specifications, the designer's or construction contractor's original specifications, and shall be ~~maintained to be leak-free~~ free of damage and maintained leak-free.

SECTION 56. ATPC 93.230 (10) (am) is created to read:

(am) If required by the manufacturer, repairs to tank system components shall be performed by the manufacturer-certified repair technician.

SECTION 57. ATPC 93.230 (10) (b) 1. and 2. are repealed.

SECTION 58. ATPC 93.230 (10) (b) and (Note) are created to read:

At least monthly, operators of new and existing storage tank systems shall conduct applicable routine and periodic inspection and maintenance in accordance with the requirements of this chapter. Inspections shall be recorded on the appropriate department form or equivalent and made available at the time of inspection.

Note: Forms TR-WM-xxx (UST) and TR-WM-xxx (AST) are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942. The form is also available from the Bureau's Web site at http://datcp.wi.gov/Consumer/Hazardous_Materials_Storage_Tanks/Hazardous_Materials_Storage_Tank_Forms/index.aspx.

SECTION 59. ATPC 93.230 (12) (a) 2., 3., and 4. a. and b. are repealed.

SECTION 60. ATCP 93.230 (12) (a) 4. is created to read:

4. Observation and monitoring wells shall be provided with a durable label warning against the introduction of petroleum products into the well.

SECTION 61. ATCP 93.230 (12) (b) 2. and (14) are amended to read:

2. At all facilities with more than one tank, the color coding applied to the fill cap or manhole cover shall extend at least ~~12~~ 3 inches beyond the edge of the cap or cover onto adjacent concrete or pavement.

(14) REMOVING WATER AND OTHER CONTAMINANTS FROM STORAGE TANKS. Water and other contaminants shall be removed from storage tanks in accordance with ~~STHR 111~~ ch. ATCP 94.

SECTION 62. ATCP 93.230 (15) and (Note) are repealed.

SECTION 63. ATCP 93.240 is repealed.

SECTION 64. ATCP 93.250 (2) (c) and (d) are amended to read:

(c) Tanks which are ~~custom-built~~ custom-built for a specific purpose and ~~which are~~ supported by a statement acceptable to the department, from a qualified engineer, as defined in s. ATCP 93.350 (2) (d), except the competency of the engineer shall relate to the purpose for the custom-built tank.

(d) Aboveground ~~used-oil~~ used oil tanks at a scrap recycling or auto recycling facility that are exempted from these requirements under s. ATCP 93.300 (9).

SECTION 65. ATCP 93.300 (1) (a) is renumbered ATCP 93.300 (1).

SECTION 66. ATCP 93.300 (1) (b), (Note 1), (Note 2), (2) (a), (b), (c), (g), (h), (h) (Note), (5), (6), (7) (a) and (d), and (8) are repealed.

SECTION 67. ATCP 93.305 (1), (2) and (Note), and (3) (a) are repealed.

SECTION 68. ATCP 93.310 (1) (a) and (2) (Title) and (b) (Note) are amended to read:

(a) The heating device is used for space heating, processing, or manufacturing.

(2) INSTALLATION, USE, AND MAINTENANCE.

(2) (b)

Note: Tanks installed at 1- or 2-family dwellings are not required to have plan review under s. ATCP 93.100, ~~and aboveground tanks that have a capacity of less than 1,100 gallons are not required to have registration under s. ATCP 93.140.~~

Note: Devices that burn used oil are regulated by the Commercial Building Code, chs. SPS 361 to 366, and ~~the Fire Prevention Code~~, ch. SPS 314. The tank that stores the oil is regulated by this chapter.

SECTION 69. ATCP 93.310 (3) is repealed.

SECTION 70. ATCP 93.315 (3) (a) (Note) is amended to read:

Note: A contractor must be certified in accordance with ~~s. ATCP 93.240~~ subch. IX to perform tank cleaning and tank removal at other than 1- and 2-family dwellings. Section ATCP 93.460 states that certification is not required for persons performing cleaning and removal of heating fuel tanks located aboveground or in basements at 1- and 2-family dwellings.

SECTION 71. ATCP 93.320 is repealed.

SECTION 72. ATCP 93.335 (4) is repealed.

SECTION 73. ATCP 93.340 (4) and (5) are amended to read:

(4) SECURITY AT BULK PLANTS AND TERMINAL STORAGE FACILITIES. Owners and operators shall be aware of regulations, standards, and operating practices that relate to facility security.

(5) TRANSFER OPERATIONS AT BULK PLANTS AND TERMINALS. In order to prevent a spill from moving beyond the loading or unloading area, any new or existing aboveground or underground storage tank which has a capacity of 5,000 gallons or more and which is drained or filled by pumping to or from a transport vehicle shall be provided with a catchment basin or treatment facility to contain the maximum capacity of the largest compartment of a tank car or tank vehicle loaded or unloaded at the facility. ~~Existing tanks shall comply with this subsection within 2 years after November 1, 2019.~~

SECTION 74. ATCP 93.340 (4) (Note) is repealed.

SECTION 75. ATCP 93.350 (1) (a) 1. (Note2) is amended to read:

Note: Other sections of this chapter regulate the storage and use of flammable and combustible liquids. Chapter SPS 314 — ~~the Wisconsin Fire Prevention Code~~, through the adoption of NFPA 1, *Fire Code*, also regulates the storage and use of liquids that have properties such as being flammable, combustible, toxic, water reactive, explosive, and corrosive.

SECTION 76. ATCP 93.350 (1) (b) 2. is repealed.

SECTION 77. ATCP 93.350 (2) (a) and (b) are amended to read:

(a) *General.* Design, construction, and maintenance of tank systems for the storage of federally regulated hazardous substances shall be in accordance with good engineering practices and this chapter and shall be under the supervision of a qualified engineer.

(b) *Notification.* The qualified engineer shall notify the department or authorized agent on form TR-WM-121 of an impending installation of a tank system under this section unless this notice is provided under s. ATCP 93.115 (2) (b) 3. A written statement shall be provided that the system has been designed and will have construction oversight by a qualified engineer. The statement of the qualified engineer shall include a scope of work, including a description of

major and specialized equipment or components. It shall also include a statement acknowledging the engineer understands the requirements of this section and any exceptions to the requirements of this section.

SECTION 78. ATCP 93.350 (3) (k) 3. a. and (o) are amended to read:

a. Installation of pumps and valves within a catchment basin, such as a drip pan, pad, or secondary containment system, that complies with subd. 3. b. and c.

(o) *Protection from freezing.* Tanks, piping, valves, and other ancillary equipment shall be protected from physical damage by freezing.

SECTION 79. ATCP 93.350 (3) (p) is created to read:

(p) *Spill and overfill protection.* 1. Aboveground tanks shall be provided with spill and overfill equipment in accordance with s. ATCP 93.410.

2. Underground tanks shall be provided with spill and overfill equipment in accordance with s. ATCP 93.505.

SECTION 80. ATCP 93.350 (4) (b) and (Note) and (5) (a) 2. and 3. c. are amended to read:

(b) *National standards.* Hazardous substance piping systems serving storage tanks shall be designed, constructed, and installed or certified by a qualified engineer in accordance with a standard, as recognized by the department, that is developed by a nationally recognized association or independent testing laboratory.

Note: Examples of recognized standards include ORD-C107.7 — Glass-Fiber Reinforced Plastic Pipe and Fittings for Flammable and Combustible Liquids; and ASTM ~~D-2996~~ D2996 — Standard Specification for Filament-Wound “Fiberglass” (Glass-Fiber-Reinforced Thermosetting Resin) Pipe.

2. Secondary containment systems shall be designed, constructed, and installed to prevent the release of regulated substances to the environment at any time during the operational life of a tank system by containing a leak or spill from the system until the leak or spill is detected and removed.

3.

c. The building drains and spillways are connected to a municipal wastewater treatment facility with agreement of the municipality on the specific materials stored; and drains and spillways are designed and maintained such that any leak or spill cannot drain elsewhere.

SECTION 81. ATCP 93.350 (11) (a) 3. is amended to read:

3. Existing and new aboveground fiberglass storage tanks shall have certified external tank inspections and certified tank integrity inspections in accordance with HIR FTV RP 2007 or FRPI 8310.

SECTION 82. ATCP 93.350 (11) (a) 3. (Note1) is repealed.

SECTION 83. ATCP 93.350 (11) (a) 3. (Note3) is amended to read:

Note: The department accepts use of either of the following ~~standard~~ standards for performing periodic inspections under this subdivision: HIR FTV RP 2007, In-Service Inspection of Aboveground Atmospheric Fiberglass Reinforced Plastic Tanks and Vessels, as published by HIR Technical Services. This standard is available by contacting FTPI at <http://www.storagetanks.info/FTVRP2007.html>. FRPI 8310, Field Inspection of Aboveground Chemical Bulk Storage Tanks, as published by Fiberglass Reinforced Plastic Institute. This standard is available at <https://frpi.org/standards/>.

SECTION 84. ATCP 93.350 (13) (Note) is repealed.

SECTION 85. ATCP 93.370 (2) is amended to read:

(2) The emergency electrical shutoff shall be tested annually. Annual testing for UST systems shall be documented on the functionality verification form, TR-WM-139. Annual testing for AST systems shall be documented on the department's STI SP001 annual inspection form, TR-WM-135.

SECTION 86. ATCP 93.400 (2) (c) is amended to read:

(c) *Underground piping.* All new and existing underground piping connected to an aboveground tank shall be protected from corrosion ~~using one of the methods in~~ accordance with s. ATCP 93.520 ~~(4)~~.

SECTION 87. ATCP 93.400 (2) (d) is repealed.

SECTION 88. ATCP 93.400 (3) (g), (4) (c) 2., and (5) (a) 1. and (b) 2. (Intro) and a., (6) (c) and (Note), (8) (c) 1., and (11) (a) 1. and 9. are amended to read:

(3)

(g) Secondary containment is not required for underground piping that is evaluated and maintained in accordance with API 570, by organizations that maintain or use an authorized inspection agency, a repair organization, and technically qualified piping engineers, inspectors, and examiners, all as defined in API 570.

(4) (c)

2. Leak detection for piping may consist of evaluations that are performed in accordance with API 570, by organizations that maintain or use an authorized inspection agency, a repair organization, and technically qualified piping engineers, inspectors, and examiners, all as defined in API 570.

(5)

(a)

1. The installation of shop-built tanks and associated piping shall be performed or supervised by a certified installer under ~~s. ATP 93.240 (16)~~ subch. IX.

(b)

2. All tank and pipe systems that are newly installed ~~on or after November 1, 2019,~~ including replacement systems, shall undergo ~~all of~~ the following before the tank and pipe systems are placed into service:

a. Pressure testing that shall assure that the tank, pipe, and all connections are tight in accordance with PEI RP200 ~~sections 6.6 and 9.6 and chapter 14~~ or NFPA 21.5.2.

SECTION 89. ATP 93.400 (5) (em) 1. and 2. are created to read:

1. Aboveground storage tank systems not located in a building and used to store fuel for stationary combustion engines and gas turbines shall comply with subch. IV and NFPA 20 and 37 chapter 6.

2. Storage tanks under this section that are within an enclosure which does not have enough non-mechanical, open-louver area in the lower portion of the walls or doors to prevent hazardous build-up of vapors shall have vents terminating outside of the enclosure. Any vent terminating through the roof of the enclosure shall extend high enough to prevent snow or ice build-up from impacting the operation of the vent.

SECTION 90. ATP 93.400 (6) (c) and (Note) are amended to read:

(6)

(c) If the tank is relocated to a property with a different street address, a revised tank registration, form TR-WM-118 ~~or TR-WM-153~~, and part A of a tank system service and closure assessment report, form TR-WM-140, shall be completed and submitted to the department for the former location.

Note: Form TR-WM-118 — Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration; and form TR-WM-140 — Tank System Service and Closure Assessment Report; ~~and form TR-WM-153 — Change of Ownership,~~ Flammable/Combustible/Hazardous Liquid Storage Tank Registration are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942. Forms TR-WM-118 and TR-WM-140 are also available from the Bureau's Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanksForms.aspx.

SECTION 91. ATCP 93.400 (8) (a) 1m. is created to read:

1m. Any secondary containment sump:

a. With a tear, crack, or hole shall be either repaired with department-approved methods to be liquid-tight or replaced with equipment meeting the criteria for new secondary containment.

b. That is repaired under subd. 1. and subsequently becomes no longer liquid-tight shall then be replaced with equipment meeting the criteria for new secondary containment.

Note: The one-time-repair limit in this section does not apply to connection boots or clamps. This section is directed instead at patches to the wall or floor of a sump, because these patches commonly have failed by delaminating.

c. That may have released product to the environment is repaired or replaced under subd. 1. or 2. or when an initial sump is installed for preexisting piping on or after the effective date of this chapter [LRB inserts date], an assessment shall be performed in accordance with s. ATCP 93.465.

SECTION 92: ATCP 93.400 (8) (c) 1. and 2. are amended to read:

(8)

(c) 1. ‘Interstitial space.’ Any repair that affects any portion of an interstitial space for an AST system shall include testing of the affected portion in accordance with methods prescribed in ~~s. ATP 93.500 (6) (b) and (c)~~ and PEI RP 200, or other methods approved by the department, to verify that the containment complies with this chapter before that portion is placed back into service.

2. ‘Secondary containment sumps.’ Repair of any secondary containment sumps that are addressed in s. ATP 93.400 (3) shall include testing in accordance with the methods prescribed in s. ATP 93.400 (3) (b) before placing the sumps back into service. A sump may only be repaired once.

SECTION 93. ATP 93.400 (8) (c) 4. is created to read:

4. ‘Underground piping.’ Piping that has leak detection provided by electronic or mechanical line leak detection shall have the leak detection system certified as operable by performing a functional leak test in accordance with s. ATP 93.515 (8) (e) before the piping is placed into service.

SECTION 94. ATP 93.400 (11) (a) 1. and 9. are amended to read:

(11) (a)

1. Documentation of any system repairs, alterations, or upgrades— including software and hardware upgrades — and any inspections or testing required under this chapter.

9. ~~One set of~~ All stamped, approved plans and specifications and a copy of the approval letter.

SECTION 95. ATP 93.400 (11) (a) 10. is repealed.

SECTION 96. ATP 93.400 (11) (c) 12. and 13. is amended to read:

12. ~~One set of~~ All stamped, approved plans and specifications and a copy of the approval letter — the operational life of the system.

13. Equipment or component compatibility ~~for~~ with fuel containing greater than 10 percent ethanol or 5 percent biodiesel blends under s. ATPC 93.680 (3) (c) 1. or (6) (c) 1. - the operational life of the equipment or component.

SECTION 97. ATPC 93.410 (1) (a) is amended to read:

(a) All aboveground storage tanks, ~~whether new or existing,~~ shall have a ~~means of~~ overfill prevention ~~which consists~~ consisting of the following components compliant with this chapter:

1. either a visual Visual gauge,
2. an-An audible or and visual alarm, or a pump shutdown that activates activated at 90 percent of the tank's capacity, and which complies with any other applicable requirements in this section. The audible and visual alarm shall be located outside and visible to the delivery driver.

SECTION 98. ATPC 93.410 (1) (aj) and (ar) are created to read:

(aj) Double-wall aboveground tanks shall be provided with overfill prevention equipment which automatically shuts off flow when the quantity of liquid in the tank reaches 95 percent of the tank's capacity.

(ar) Existing aboveground storage tank systems shall comply with the requirements of pars. (a) and (aj) within 24 months of the effective date of this chapter . . . [LRB inserts date].

SECTION 99. ATPC 93.410 (6) (a) is amended to read:

(a) All aboveground storage tanks, ~~whether new or existing,~~ with the fill point not located within a diked area shall be provided with a catch basin or similar containment, ~~except for tanks~~

~~exempted by par. (d) and tanks that are exempted from secondary containment by s. ATCP 93.420 (1) (a) to (e).~~

SECTION 100. ATCP 93.410 (6) (am) is created to read:

(am) The following tanks are exempt from par. (a):

1. Tanks provided with controls before February 1, 2009, that comply with this subsection.

Note: The “controls” referred to in this subdivision may be something other than a mechanical device. In other words, they are anything that will reliably prevent a loss of product at the fill point from reaching the environment.

2. Tanks filled with a handheld nozzle with a deadman control valve.

3. Tanks filled with a tight-connect with either a dry break connection or a manual shutoff valve on the hose-end connection.

SECTION 101. ATCP 93.410 (6) (d) and (7) through (11) are repealed.

SECTION 102. ATCP 93.410 (12) (d) and (Note) are created to read:

(d) Overfill prevention equipment shall be tested annually to ensure it is set to activate at the level specified in sub. (1) and that it will activate when the contained liquid reaches that level. This testing shall be performed in accordance with manufacturer’s instructions or an adopted standard. Annual overfill prevention equipment certification shall be made on the department’s AST Annual Inspection form, TR-WM-135 and shall be maintained onsite in accordance with s. ATCP 93.400 (11) (c).

Note: Form TR-WM-135, STI SP001 AST Annual Inspection is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or from the Bureau’s Web site at

https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx. See s. ATCP 93.165 for use of alternate forms approved by the department.

SECTION 103. ATCP 93.410 (13) (b), (Note 1), and (Note 2) are amended to read:
(13)

(b) Fuel-delivery persons shall utilize the procedures in PEI RP600 for preventing overfilling of new and existing shop-built aboveground tanks, and may not interfere with equipment that is intended to prevent overfilling.

Note: PEI RP600 does not mandate installation of equipment, but equipment but instead addresses how to effectively use the equipment that is provided, as required by other sections and referenced standards in this chapter.

Note: Under ss. ATCP 93.470 and ~~ATCP 93.585 (2) (b)~~, fuel-delivery persons must immediately inform the owner or operator of any spilling or overfilling which occurs during the delivery procedure and which may result in or be a release. Requirements for the owner or operator to report, investigate, and clean up any spills and overfills are contained in ss. ~~ATCP 93.575 to 93.585~~ s. ATCP 93.470.

SECTION 104. ATCP 93.410 (13) (b) (Note 3) is repealed.

SECTION 105. ATCP 93.420 (1) (intro) is amended to read:

(1) APPLICATION. Aboveground storage tanks using secondary containment as a method of spill control shall comply with the secondary containment requirements in NFPA 30 section 22.11 and this section, except this requirement does not apply to ~~any of the following~~ tanks: covered in ss. ATCP 93.610 (1) to (3) and 93.630.

SECTION 106. ATCP 93.420 (1) (a), (b), and (c) are repealed.

SECTION 107. ATCP 93.420 (2) (g) (Note) is created to read:

Note: ATCP 93.130 covers specific approval of materials, equipment, concepts, technology, and devices.

SECTION 108. ATCP 93.420 (2) (n) is amended to read:

(n) *Dike maintenance.* Dikes shall be maintained in accordance with API 2610 ~~and s. ATCP 93.400 (8) (e).~~ Tank yards and diked areas shall be kept free from weeds, high grass, rubbish, and combustible materials that are not essential to the operation and shall be kept clean and orderly.

SECTION 109. ATCP 93.420 (2m) is created to read:

(2m) BUILDING AS SECONDARY CONTAINMENT. A building may serve as secondary containment if at least one of the following requirements is met:

(a) The building is an enclosed structure resting on or above impermeable surfaces from which a discharge of the entire contents of the largest tank would not escape through any doorway, floor drain or other means.

(b) The building drains and spillways are connected to an onsite wastewater treatment facility and are designed and maintained such that any leak or spill cannot drain elsewhere.

(c) The building drains and spillways are connected to a municipal wastewater treatment facility with agreement of the municipality on the specific materials stored and drains and spillways are designed and maintained such that any leak or spill cannot drain elsewhere.

SECTION 110. ATCP 93.420 (4) is repealed.

SECTION 111. ATCP 93.420 (5) is amended to read:

(5) TRANSFER OPERATIONS. In order to prevent a spill from moving beyond the loading or unloading area, any tank ~~which has a capacity of 5,000 gallons or more and~~ which is involved in transfer operations for bulk loading and unloading of tank cars or tank vehicles at

facilities that refine, process, distribute, or manufacture liquids regulated under this code shall be provided with a catchment basin or treatment facility to contain the maximum capacity of the largest compartment of a tank car or tank vehicle loaded or unloaded at the facility.

SECTION 112. ATCP 93.430 (1) is amended to read:

(1) Permanent vehicle collision protection shall be provided for any new or existing tank or system component that could result in a release of product when damaged, in any area where impact due to speed, turning, or backing of any type of motorized or self-propelled vehicle is likely to occur, except for tanks covered in ss. ATCP 93.610 (1) to (3) ~~and 93.630.~~

SECTION 113. ATCP 93.430 (1) (Note) is repealed.

SECTION 114. ATCP 93.440 (3) (a) 2. a. is renumbered ATCP 93.440 (3) (a) 2.

SECTION 115. ATCP 93. 440 (3) (a) 2. c. and (Notes 1 to 3) are repealed.

SECTION 116. ATCP 93. 440 (3) (c) is amended to read:

(c) If product is found within a tank's interstitial space during an inspection under this subsection, delivery of product into the tank shall be immediately suspended, and a vacuum or pressure test shall be performed in accordance with the manufacturer's recommendations ~~either of the following actions shall be taken~~ within 10 business days.:

SECTION 117. ATCP 93.440 (3) (c) 1., 2. and (Notes 1 to 3) are repealed.

SECTION 118. ATCP 93. 440 (4) (a) 3. and (b) are amended to read:

3. 'Qualifications for inspection.' The monthly and annual inspections shall be done by owners, contractors, or operations personnel; who are knowledgeable of the facility operations, the tank construction and operation, and the characteristics of the product stored.

(b) HIR FTV RP 2007, In-service Inspection of *Aboveground Atmospheric Fiberglass Reinforced Plastic Tanks and Vessels*, or FPRI 8310, *Field Inspection of Aboveground Chemical*

Bulk Storage Tanks, may be used as an alternative to the sub. (4) (a) requirements for fiberglass reinforced plastic tanks.

SECTION 119. ATCP 93. 445 (title) is amended to read:

ATCP 93.445 ~~Seldom-used and temporarily~~ Temporarily out of service tank systems.

SECTION 120. ATCP 93. 445 (1) is repealed and recreated to read:

ATCP 93.445 Temporarily out of service tank systems.

(1) OPERATIONAL REQUIREMENTS. Owners or operators of aboveground temporarily out of service tanks shall comply with all of the following:

(a) Notify the department of the registration change in accordance with s. ATCP 93.140

(2) (d).

(b) Operation and maintenance of corrosion protection shall be continued.

(c)

1. The tank, piping, dispensing equipment, lines, pumps, manways, and other ancillary equipment shall be secured to prevent tampering, except as exempted in subd. 2.

2. Facilities that are in operation and secured against general public access are not required to have the additional security required in subd. 1. All vent lines shall be left open and functioning.

(d) For tanks containing product, all inspections, maintenance, and periodic testing shall be performed as if the tank were still in service.

(e) Product must be removed from tanks if they have been in TOS status for 12 months.

(f) A temporarily out of service tank shall be returned to service or permanently closed within 24 months of the date the tank was placed in temporarily out of service status.

SECTION 121. ATCP 93.445 (2) (c) 1. is amended to read:

(c)

1. Tank systems out of service for more than 365 days shall pass a tightness test of the tank ullage portion ~~in accordance with s. ATCP 93.515 (10)~~, to assure that tank connections are liquid- and vapor-tight before the tanks are placed back into service.

SECTION 122. ATCP 93.450 is amended to read:

ATCP 93.450 Change in service to store a regulated or non-regulated or a ~~regulated~~ substance. Owners or operators of aboveground tanks shall comply with ~~the change-in-service requirements of s. ATCP 93.550, except a revised registration for aboveground tanks, form TR-WM-118, shall be completed and submitted.~~ all of the following:

(1) When a tank system that held a regulated substance undergoes a change in service to store a non-regulated substance, the owner or operator shall comply with all of the following requirements:

(a) At least 5 business days before beginning a change in service, the owner or operator shall notify the authorized agent or the department of the intended change.

(b) Before a change in service, the owner or operator shall have the tank emptied and cleaned by removing all liquid and accumulated sludge in accordance with the procedures specified in API 2015.

(c) The owner or operator shall evaluate and confirm all suspected or obvious releases by conducting a precision tightness test.

(d) Cleaning of tanks and tank system site assessments shall be performed by persons and firms certified in accordance with s. ATCP 93.930 (2), (3), and (7).

(e) The owner shall have a revised tank registration, form TR-WM-118, and part A of the department's tank system service and closure assessment report, form TR-WM-140, completed and submitted to the department within 21 business days of changing a tank system to storage of a non-regulated substance.

Note: Form TR-WM-118 - Aboveground Flammable/Combustible/Hazardous Liquid Storage Tank Registration, and form TR-WM-140 – Tank System Service and Closure Assessment Report are available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or from the Bureau's Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

(2) When a tank system that held a non-regulated substance undergoes a change in service to store a regulated substance, all applicable requirements of this chapter apply upon placing the tank system into service. These requirements include precision tightness testing for the liquid-containing portion and tightness testing for the ullage portion.

SECTION 123. ATCP 93.460 (1) is amended to read:

(1) GENERAL. ~~Owners or operators~~ Closure of aboveground tanks shall comply with ~~the closure requirements of s. ATCP 93.560, except as provided in this section~~ all of the following requirements:

SECTION 124. ATCP 93.460 (1j) and (1r) are created to read:

(1j) NOTIFICATION.

(a) At least 5 business days before beginning permanent closure of a tank system, the owner or operator or designee shall notify the authorized agent or the department of the intended closure on form TR-WM-121, except a shorter notification period is permitted where unexpected

closure is commenced upon finding adverse conditions during a corrective action conducted under s. ATCP 93.470.

(b) Any date or time changes to the original submitted notification form, TR-WM-121, shall be requested at least one business day prior to the original date or time. The new date or time must be later than the original date or time.

Note: Form TR-WM-121 – ATCP 93 Notification Record is available from the Bureau of Weights and Measures, PO Box 8911, Madison, WI 53708-8911, or at telephone (608) 224-4942, or from the Bureau’s Web site at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

(1r) CLOSURE PROCEDURES.

(a) To close an aboveground tank system permanently, the owner or operator shall have the tank and piping emptied and cleaned, by removing all liquids and accumulated sludge, and disconnect piping from the tank.

(b) Tank cleaning processes shall comply with the appropriate national standard referenced in s. ATCP 93.200.

Note: For guidance in complying with the tank-cleaning requirements in API standard 2015, as listed on line 17 of Table 93.200-2, API publishes RP 2016, Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks, which is available from API at the address listed in the table.

SECTION 125. ATCP 93.460 (1m) is repealed.

SECTION 126. ATCP 93.465 (1) (a) is repealed and recreated to read:

When a tank-system site assessment is required by this chapter, or when directed by the department, the owner or operator shall have the site evaluated for the presence of a suspected or obvious release in accordance with sub. (3), except as provided in sub. (2).

SECTION 127. ATCP 93.465 (1) (a) (Note) is created to read:

Note: An “obvious release” means there is an indication of a release, and there is both environmental evidence, such as soil discoloration, observable free product, or odors — and a known source, such as a tank or piping with cracks, holes or rust plugs, or leaking joints. A “suspected release” means either of the following: (a) There is an indication that a tank system has leaked — such as inventory losses; observable free product or evidence of free product in secondary containment; petroleum odors; or leak detection alarm system activation — but there is no observable environmental evidence of a release; or (b) There is observable environmental evidence of a release, such as soil discoloration or free product, but the source is unknown.

SECTION 128. ATCP 93.465 (1) (b) (Note) is amended to read:

Note: For further information on sampling and reporting for these assessments, see the department’s Tank System Site Assessment: A Guide to the Assessment and Reporting of Suspected or Obvious Releases ~~From~~ from Underground and Aboveground Storage Tank Systems https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanksForms.aspx.

SECTION 129. ATCP 93.465 (3) is created to read:

(3) TANK-SYSTEM SITE ASSESSMENT PROCEDURES.

(a) *General.* When a tank-system site assessment is required, the owner or operator shall have a certified tank-system site assessor document field observations and sample for the presence of a release wherever contamination is identified or is most likely to be present at the tank site. If the assessor discovers obvious contamination, he or she shall complete the

appropriate assessment sampling, such as for the entire system; or for only the tank, or piping, or sumps, or dispensers, and complete the documentation and reporting in its entirety. All sampling, documentation, and reporting under this paragraph shall be in a format prescribed by the department.

Note: The sampling documentation and reporting prescribed by the department is contained in *Tank System Site Assessment: A Guide to the Assessment and Reporting of Suspected or Obvious Releases from Underground and Aboveground Storage Tank Systems* available from the department's Web site at <https://datcp.wi.gov/Documents/TSSA.pdf>.

Note: The format for the reporting is available at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

Note: Releases are required to be reported to the department of natural resources. Failure to notify the DNR of a release may have serious consequences – such as forfeitures under s. 168.26, Stats., of \$10 to \$5,000 for each violation. Each day of continued violation is a separate offense, and under s. ATP 93.180, each tank that is in violation is a separate offense.

(b) *Exception.* A person who is not a certified tank-system site assessor may perform assessments if directly supervised by a certified tank-system site assessor who is on the site during the entire assessment.

(c) *Filing.*

1. The documentation required in par. (a) shall be filed with the owner or operator no later than 21 business days after discovery of the conditions that resulted in the assessment.

2. For all releases that must be reported to the department of natural resources under s. ATP 93.470, the documentation required in par. (a) shall also be filed with the department of

natural resources no later than 21 business days after the tank or component removal or the discovery of the release.

Note: Send the documentation that must be filed with the department of natural resources under this section to the Environmental Program Associate in the applicable DNR regional office. Contact information for the Environmental Program Associates is available through the following DNR Web site: <http://dnr.wi.gov/topic/brownfields/contact.html>.

SECTION 130. ATPC 93.470 is repealed and recreated to read:

ATPC 93.470 Responding to a leak, spill, overfill, or release. Owners or operators, contractors, and fuel-delivery persons for aboveground tanks shall comply with the following requirements relating to the presence of a leak, spill, overfill, or release, and the assessment of, and response to a leak or release when any of the following conditions exist or when ordered to do so by the department.

(1) GENERAL.

(a) *Leaks*. Immediately upon discovery of any evidence of a leak from a tank system or dispensing system, the owner or operator or any contractor performing work under this chapter shall take all measures necessary to stop the leak and to prevent migration of any free product into the environment.

(b) *Releases*. Immediately upon confirming any suspected release or discovering any obvious release, the owner or operator shall investigate the extent of contamination and undertake corrective and mitigation actions in accordance with s. 292.11 (3), Stats.

(c) *Conditions indicating a release*.

1. Unusual operating conditions exist, such as erratic behavior of product dispensing equipment, loss of product from the tank system, an unexplained presence of water in the tank, or water or product in the interstitial space of a secondarily contained system.

Note: Significant damage to equipment would be considered to be an unusual operating condition that could result in needing to perform the assessments.

2. Results from a leak detection method, including an alarm, indicate that a release may have occurred.

3. Off-site impacts appear, such as the presence of contaminated soils or free product, dissolved phase product or vapors in soils, basements, sewer or utility lines, or nearby waters of the state.

(2) **TIMELINE.** The owner or operator shall assess all suspected or obvious releases in accordance with sub. (3) within 7 business days of discovery of any of the conditions described in subd. 1, unless any of the following conditions occur:

(a) System equipment or the monitoring device is found to be defective and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.

(3) **ASSESSMENT.** The owner or operator shall evaluate and confirm all suspected or obvious releases by taking one or all of the following actions and shall also do so in accordance with any corresponding directive of the department:

(a) *Tank-system integrity assessment.*

1. The owner or operator shall have a precision tightness test conducted to determine whether a leak exists in accordance with:

a. Requirements developed by the manufacturer if the manufacturer has developed testing requirements.

b. An approved standard developed by a nationally recognized association or independent testing laboratory.

c. Requirements determined by the department to be no less protective of human health and the environment than the requirements listed in this subdivision.

(b) *Tank-system site assessment.* The owner or operator shall have the site assessed for the presence of a release in accordance with s. ATCP 93.465.

(4) REPORTING A RELEASE.

(a) *Reporting to the department of natural resources.* The owner or operator or a person who causes the release shall immediately report any release of a regulated substance to the department of natural resources in accordance with s. 292.11 (2), Stats.

Note: Releases that must be reported to the department of natural resources under s. 292.11 (2), Stats., include the discovery of contaminated soils or free product; dissolved phase product or vapors, in soils, in basements, in sewer or utility lines, or in surface water or groundwater either at the tank site or in the surrounding area; and spills or overfills.

Note: Releases of substances defined in section 101 (14) of CERCLA that are not flammable or combustible liquids must also be reported to the department of natural resources in accordance with ch. 292, Stats.

Note: For more information about reporting releases to the department of natural resources, refer to the DNR Web site at <http://dnr.wi.gov/topic/Spills/Report.html>. That site includes a notice to use a 24-hour hotline number of 1-800-943-0003 for reporting spills.

Note: Failure to notify the DNR of a release may have serious consequences —such as forfeitures under s. 168.26, Stats., of \$10 to \$5000 for each violation. Each day of continued violation is a separate offense, and under s. ATCP 93.180, each tank that is in violation is a separate offense.

Note: Department staff and authorized agents periodically inspect storage facilities for petroleum products and other hazardous substances. These inspectors have authority to report any release encountered during these inspections that has not been reported to the DNR by the owner or operator — and these releases may become the subject of formal enforcement actions.

(b) *Reporting to the owner or operator.* Fuel-delivery persons shall immediately inform the owner or operator of any overfilling or spilling which occurs during the delivery procedure and which may result in or be a release.

(c) *Reporting under CERCLA.* The release of a regulated substance to the environment that equals or exceeds its reportable quantity under CERCLA shall be reported immediately to the EPA.

Note: The CERCLA List of Hazardous Substances and Reportable Quantities is contained in 40 CFR 302.4, Table 302.4.

(5) FIRE HAZARD RESPONSE. The owner or operator shall identify, mitigate, and monitor fire and explosion hazards, such as the presence of free product or vapors in structures.

(6) PREVENTION OF FURTHER RELEASE. The owner or operator shall take action to prevent further release of the regulated substance to the environment, including all of the following:

(a) Removing and safely storing as much of the regulated substance from the tank system as necessary to prevent further release to the environment.

(b) Taking steps to prevent migration of the substance, including managing any contaminated soils or water, in accordance with ch. 292, Stats.

(7) DEMONSTRATION OF ADEQUATE CORRECTIVE ACTION.

(a) No later than 21 business days after reporting a release under this section, the owner or operator shall submit documentation to the department of natural resources demonstrating compliance with subs. (1) (b) and (4), and demonstrating that the corrective and mitigation actions which were taken have accomplished or will accomplish all of the following:

1. Restoration of the environment to the extent practical.
2. Minimization of the harmful effects from the release to the air, lands, or waters of Wisconsin.

(b) Any repairs or changes to a tank system that are made because of a release reported under this section shall be reported to the department within 21 business days of completing the repair or change.

SECTION 131. ATCP 93.500 (1) (a) is amended to read:

(a) General. All new and replacement underground storage tanks and piping systems shall be provided with secondary containment and continuous electronic interstitial monitoring for the life of the system, except as provided in par. (b).

SECTION 132. ATCP 93.500 (1) (c) 2. is renumbered ATCP 93.500 (1) (c) 2. a. and amended to read:

a. Subdivision 1. does not apply to any standalone interstitial monitoring device for piping that automatically shuts down product flow when liquid is detected inside the ~~secondary containment~~ secondary containment space.

SECTION 133. ATCP 93.500 (1) (c) 2. b. is created to read:

b. Standalone interstitial monitoring devices that shut down product flow when liquid is detected inside the secondary containment space must maintain monthly monitoring logs and be available upon request.

SECTION 134. ATCP 93.500 (5) (a) 1. is amended to read:

1. When any underground product piping is installed as part of a new tank system or when 50 percent or more of a run is replaced, the piping shall be provided with approved secondary containment with non-discriminating electronic interstitial monitoring, except as specified in subd. 2., or sub. (1) (b)., ~~and s. ATCP 93.300 (7).~~

SECTION 135. ATCP 93.500 (5) (c), (d), and (e) are repealed.

SECTION 136. ATCP 93.500 (6) (a) 4. is created to read:

4. Material approvals under s. ATCP 93.130 must be current.

SECTION 137. ATCP 93.500 (6) (b) 1. is repealed.

SECTION 138. ATCP 93.500 (6) (c) 1m. is created to read:

1m. When tightness testing the interstitial space of a double wall pipe, a communication test shall be performed by pressurizing the pipeline at the beginning of the run and installing a pressure gauge at each termination point of the run. If the termination point shows no pressure the communication test fails, and the pipe must either be repaired or replaced. The tightness test and communication test can be performed simultaneously.

SECTION 139. ATCP 93.500 (6) (c) 3. is amended to read:

3. Piping that has leak detection provided by electronic or mechanical line leak detection shall have the leak detection system certified as operable by performing a functional leak test in accordance with s. ATCP 93.515 (8) (e) before the piping is placed into service.

SECTION 140. ATCP 93.500 (6) (c) 6. is created to read:

6. All underground piping shall be installed with a slope of 1/8 inch per foot.

SECTION 141. ATCP 93.500 (6) (e) (Note 2) and (Note3) are repealed.

SECTION 142. ATCP 93.500 (7) (c) (intro) is amended to read:

(c) Tank, pipe, containment, or fitting repair and replacement.

SECTION 143. ATCP 93.500 (7) (c) 3. is created to read:

3. In addition to the post repair testing of replaced or repaired piping that has leaked inside a containment sump, the containment sump must be verified as tight in accordance with ATCP 93.500 (7) (i).

SECTION 144. ATCP 93.500 (7) (d) is amended to read:

(d) Tank-system site assessment. When repairs are made to piping or fittings that have released product to the environment, an assessment of the piping run, to identify points of release, shall be performed in accordance with ss. ATCP 93.575 to 93.585.

SECTION 145. ATCP 93.500 (7) (i) is renumbered ATCP 93.500 (7) (i) 1.

SECTION 146. ATCP 93.500 (7) (i) 2. and (jm) are created to read:

2. Any secondary containment sump:

a. With a tear, crack, or hole shall be either repaired with department-approved methods to be liquid-tight or replaced with equipment meeting the criteria for new secondary containment.

b. That is repaired under subd. par. a. and subsequently becomes no longer liquid-tight shall then be replaced with equipment meeting the criteria for new secondary containment.

Note: The one-time-repair limit in this section does not apply to connection boots or clamps. This section is directed instead at patches to the wall or floor of a sump, because these patches commonly have failed by delaminating.

c. That may have released product to the environment is repaired or replaced under subds. pars. a. or b. or when an initial sump is installed for preexisting piping, an assessment shall be performed in accordance with ss. ATCP 93.580 to 93.585.

(jm) Leak detection equipment. Repaired or replaced leak detection equipment provided by electronic or mechanical line leak detection shall have the leak detection system certified as operable by performing a functional leak test in accordance with s. ATCP 93.515 (8) (e) before the piping is placed into service.

SECTION 147. ATCP 93.500 (7) (k) 2. is amended to read:

2. A copy of the completed TR-WM-136 form shall be provided to the tank system operator upon the completion of the repair.

SECTION 148. ATCP 93.500 (8) (b) is repealed.

SECTION 149. ATCP 93.500 (9) (c) (intro) is amended to read:

(c) *Maintenance of records*. Records shall be maintained for the following periods from the date of the most recent test, inspection, or upgrade:

SECTION 150. ATCP 93.500 (9) (c) 3. is repealed.

SECTION 151. ATCP 93.500 (9) (c) 14. is amended to read:

14. Product inventory verification in accordance with s. ATCP 93.503, ~~inventory control in accordance with s. ATCP 93.515 (2)~~, or statistical inventory reconciliation in accordance with s. ATCP 93.515 (6) — 10 years.

SECTION 152. ATCP 93.503 (1) (Note 2) is repealed.

SECTION 153. ATCP 93.503 (3) (a) is repealed and recreated to read:

(a) An overall product loss or gain of 150 gallons or more per month as indicated by an overall product loss for 2 consecutive months of at least 0.5 percent of the monthly throughput

for the tank system. Tank systems that exceed the losses allowed for 2 consecutive months shall follow the requirements in ss. ATCP 93.575 to 93.585 for assessing and responding to a release.

SECTION 154. ATCP 93.503 (3) (b) (Note 1) is repealed.

SECTION 155. ATCP 93.505 (2) (a) 3. a. and (b) 1. a. are amended to read:

a. The basin shall be tested for leaks hydrostatically at installation in accordance with ~~any~~ manufacturer's instructions, and the adopted standard PEI RP 1200, except as provided in subd. 3. b.

a. Alert the transfer operator when the tank is no more than 90 percent full by triggering an audible and visual high-level alarm that is located outside and visible to the delivery driver.

SECTION 156. ATCP 93.505 (2) (b) 1. c. is created to read:

c. A vent restriction shall not be used. If such a device is installed, it must be removed along with any associated equipment.

SECTION 157. ATCP 93.505 (2) (b) 2. (Note) is repealed.

SECTION 158. ATCP 93.505 (3) (b) 5. is amended to read:

5. When a spill-containment basin replaced under subd. 2. has an obvious or suspected release or when an initial basin is installed on a preexisting tank ~~on or after November 1, 2019,~~ an assessment shall be performed in accordance with ss. ATCP 93.580 to 93.585.

SECTION 159. ATCP 93.510 (1) (cj) and (cr) are created to read:

(cj) A tightness test shall be performed on the monitored tank or piping prior to the installation of new or replacement leak detection equipment.

(cr) Remote monitoring of leak detection alarms is allowed if either of the following methods are present:

1. Email notification to current facility A or B operator. Response shall be initiated within 30 minutes of alarm.

2. Alarm notification to remote monitoring station that is manned 24 hours a day, 7 days a week. Response shall be initiated within 30 minutes of alarm.

SECTION 160. ATCP 93.510 (2) (a) 4. is amended to read:

4. Sensors used to detect leaks in tanks, lines, or sumps.

SECTION 161. ATCP 93.510 (2) (a) 6., (am) and (bm) are created to read:

6. Remote monitoring notification system.

(am) The electronic leak detection equipment shall be replaced within the next 12-month annual functionality verification cycle if the electronic leak detection equipment is no longer manufactured and any of the following conditions exist:

1. a qualified person as defined in sub. (2) does not exist

2. the department determines the equipment cannot be tested by a different manufacturers qualified person

3. a manufacturer developed equipment verification method does not exist

4. there is no department accepted manufacturer developed equipment verification method.

(bm) Functionality testing shall be performed by a qualified person with no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

SECTION 162. ATCP 93.510 (2) (c) 2. is amended to read:

2. If all deficiencies found during the equipment verification have not been corrected, the first page of the complete TR-WM-139 form shall be sent to the department email address on the form within 5 business days of the completion of the verification.

SECTION 163. ATCP 93.510 (3) (d) and (4) (c) are repealed.

SECTION 164. ATCP Table 93.515 is amended to read:

Table 93.515

Test Duration and Standards			
Nominal Tank Capacity	Minimum Test Duration	Weekly Standard (One Test)	Monthly Standard (Average of 4 Tests)
550 gallons or less	36 hours	10 gallons	5 gallons
551-1000 gallons, tank diameter of 48 inches	58 hours	12 gallons	6 gallons
551-1000 gallons, tank diameter of 64 inches	44 hours	9 gallons	4 gallons
551-1,000 gallons and using precision tightness testing every 5 years	36 hours	13 gallons	7 gallons
1001-2000 gallons[†]	36 hours	26 gallons	13 gallons

[†]~~Requires precision tightness testing every 5 years. This method is only allowed until the tank is 10 years old.~~

SECTION 165. ATCP 93.515 (2) is repealed.

SECTION 166. ATCP 93.515 (3) (a) 1. is renumbered ATCP 93.515 (3) (a) and amended to read:

(a) Where allowed. Manual tank gauging may be used as the sole method of leak detection for tanks that have a capacity of 1,000 gallons or less for the life of the tank.

SECTION 167. ATCP 93.515 (3) (a) 2. through 4. are repealed.

SECTION 168. ATCP 93.515 (3) (b) 1. and (4) (c) are amended to read:

1. Liquid level measurements shall be taken weekly with a gauge stick that is marked to measure the liquid to the nearest one-eighth of an inch over the full range of the tank's height.

(4) (c) Precision tightness testing of double-wall underground tanks and product piping shall include testing of both the inner and outer wall.

SECTION 169. ATCP 93.515 (4) (e) is created to read:

(e) Precision tightness testing cannot be used as the registered monthly leak detection method.

SECTION 170. ATCP 93.515 (5) (c) is amended to read:

(c) Automatic tank gauges shall be programmed to provide an audible and visual alarm in the event of a tank or line test failure, a periodic monthly tank or line test not performed within a 30-day interval, or a tank or line interstitial sensor actuation. ~~Manual operator action shall be needed to silence the alarm.~~ The operator shall respond to the alarm within 30 minutes.

SECTION 171. ATCP 93.515 (6) (a) and (b) are amended to read:

(6) STATISTICAL INVENTORY RECONCILIATION.

(a) Leak detection methods based on the application of statistical principles to inventory data shall meet the requirements of 40 CFR § 280.43 (h) including:

1. Report a quantitative result with a calculated leak rate;
2. Be capable of detecting a leak rate of 0.2 gallon per hour or a release of 150 gallons within 30 days; ~~and~~

1139 3. Use a pass-fail threshold that does not exceed ~~one-half the minimum detectable leak~~
1140 ~~rate~~ 0.1 gallon per hour.

1141 (b) Tank systems or portions of tank systems using statistical inventory reconciliation as the
1142 ~~primary~~ registered method of leak detection shall be monitored and evaluated for leaks at least every 30
1143 days with a conclusive result of pass or fail within the 30-day monitoring period.

1144 SECTION 172. ATCP 93.515 (7) is repealed and recreated to read:

1145 7) INTERSTITIAL MONITORING.

1146 (a) *Interstitial monitoring*. Interstitial monitoring between an underground tank system
1147 and a secondary barrier immediately around it may be used only if the system is installed and
1148 maintained to detect a leak from any portion of the tank that could contain product and alert the
1149 operator of the leak. The system shall meet pars. (b) and (c) and one of the requirements in
1150 subds. 1. through 3.:

1151 1. ‘Double-walled systems’. For double-walled systems, the sampling or testing method
1152 shall be capable of detecting a leak through the inner or outer wall in any portion of the tank or
1153 piping that routinely contains product.

1154 2. ‘Systems with internally fitted liners’.

1155 a. For tank systems with an internally fitted liner, a monitoring system shall be installed
1156 that is capable of detecting a leak between the inner wall of the tank and the liner.

1157 b. The liner shall be chemically compatible with the substance stored.

1158 3. ‘Systems with a barrier in the excavation zone’. Systems with a secondary barrier
1159 within the excavation zone shall meet all of the following requirements:

1160 a. The testing method shall be capable of detecting a leak between the system and the
1161 secondary barrier.

b. The secondary barrier around the system shall consist of manufactured material which is impermeable to at least 10^{-6} cm/sec for the regulated substance stored, and which will direct a leak to the monitoring point, to be detected.

c. The liner shall be chemically compatible with the substance stored.

d. For cathodically protected tanks, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system.

e. The test method shall be designed, installed, and maintained so groundwater, soil moisture, and rainfall do not render the method inoperative, so that a leak could go undetected.

f. The site shall be investigated to ensure that the secondary barrier is always above groundwater and not in a 25-year flood plain unless the barrier and monitoring designs are for use under such conditions.

g. Monitoring wells shall be clearly marked and secured to avoid unauthorized access and tampering.

(b) *Interstitial monitoring sensors.* 1. Interstitial monitoring sensors shall be capable of providing an audible or visual alarm in the event of a tank or line interstitial sensor actuation. Manual operator action shall be needed to silence the alarm.

2. Standalone sensors used for monthly monitoring require a manual log be kept with no more than 30 days between recorded dates. The records shall be made available to the department upon request. Failure to maintain records will result in further investigation in precision tightness testing.

(c) *System testing.* Post-installation testing shall be performed on the interstitial monitoring system to verify that the system operates in accordance with the manufacturer's specifications.

SECTION 173. ATCP 93.515 (1) (a) 1. is amended to read:

1. The operator has a history of failing to perform monthly leak detection for a total of 6 months or more during a ~~24-month~~ 24-month period; or for 3 consecutive months.

SECTION 174. ATCP 93.517 (2) (c) 2. through 4. are repealed.

SECTION 175. ATCP 93.520 (1) (a) (intro) is amended to read:

(a) *Where required.* Vent lines, vapor lines, and any portion of a single or double-wall tank system, whether new or existing, that ~~routinely contains product and is~~ are in contact with the ground or with water, shall be protected from corrosion by one of the following methods:

SECTION 176. ATCP 93.520 (1) (a) 2. b. (Note) is repealed.

SECTION 177. ATCP 93.520 (1) (d) 1. b. (Note) and bm. (Note) are amended to read:

Note: This requirement is from NACE ~~standard~~ Standard TM-0101.

Note: This requirement is from NACE ~~standard~~ Standard TM-0101.

SECTION 178. ATCP 93.520 (1) (d) is amended to read:

d. For impressed current systems, the annual test shall include instant-off potentials, rectifier readings, and, if necessary, 100 mV polarization shift readings.

SECTION 179. ATCP 93.520 (1) (e) is repealed.

SECTION 180. ATCP 93.530 (1) (am) is created to read:

(am) Lining of new tanks is only allowed for compatibility purposes, not corrosion protection. Single-wall tanks cannot be newly lined for compatibility or for corrosion.

SECTION 181. ATCP 93.530 (2) (e) 2. (Note 2) is amended to read:

Note: See ~~s. ATCP 93.240~~ subch. IX, Certifications and Enforcement, for requirements that certified tank system liners perform or supervise specific lining-related activities involving underground storage tanks.

1208 SECTION 182. ATCP 93.535 (5) (e) is amended to read:
1209 (e) Inspection and repairs of lined tanks shall be conducted by or under the direct
1210 supervision of an underground tank system liner in accordance with s. ATCP ~~93.240~~ 93.900 (1)
1211 (b).

1212 SECTION 183. ATCP 93.545 (Title) is amended to read:

1213 **~~Seldom-used and temporarily~~ Temporarily out of service tank systems.**

1214 SECTION 184. ATCP 93.545 (1) (g) (intro), 1., and 2. are amended to read:

1215 (g) Requirements for tanks and piping with product:

1216 1. Product must be removed from tanks and piping if they have been in TOS status for 12
1217 months.

1218 2. Product must be tested and meet ASTM standards prior to bringing the ~~tank~~ tanks and
1219 piping back into service.

1220 SECTION 185. ATCP 93.545 (1) (h) 3. and (i) are created to read:

1221 3. Empty tank systems do not need to maintain leak detection monitoring.

1222 (i) A temporarily out of service tank shall be returned to service or permanently closed
1223 within 24 months of the date the tank was placed in temporarily out of service status.

1224 SECTION 186. ATCP 93.545 (1) (j) is repealed.

1225 SECTION 187. ATCP 93.545 (1) (k) is created to read:

1226 (k) Temporarily out of service single-walled tanks or piping:

1227 1. May be returned to service if less than 30 years old.

1228 2. Shall be permanently closed if 30 years old or older.

1229 SECTION 188. ATCP 93.545 (2) (cm) is created to read:

(cm) Double wall tanks that have not maintained interstitial monitoring shall have an interstitial tightness test performed before returning to service.

SECTION 189. ATCP 93.550 (Title) is amended to read:

ATCP 93.550 Change in service to store a ~~non-regulated or a regulated or non-regulated~~ substance.

SECTION 190. ATCP 93.550 (1) (j) is repealed and recreated to read:

(j) Temporarily out of service single-walled tanks or piping:

1. May be returned to service if less than 30 years old.
2. Shall be permanently closed if 30 years old or older.

SECTION 191. ATCP 93.550 (1) (d) is amended to read:

(d) Cleaning of tanks and tank system site assessments shall be performed by persons and firms certified in accordance with ss. ~~ATCP 93.240 (14) to (21)~~ ATCP 930 (2), (3), or (7).

SECTION 192. ATCP 93.550 (1) (f) is repealed.

SECTION 193. ATCP 93.560 (1) (a) and (2) (a) and (am) are amended to read:

(1) (a) At least 5 business days before beginning ~~permanent~~ closure of a tank, piping, or tank system, the ~~owner or operator or designee~~ contractor or person performing the work shall notify the authorized agent or the department of the intended closure on form TR-WM-121, except a shorter notification period is permitted where unexpected closure is commenced upon finding adverse conditions during a corrective action conducted under s. ATCP 93.585.

(2)

(a) To ~~permanently~~ close an underground tank, piping, or tank system, the ~~owner or operator~~ contractor or person performing the work shall have the tank and piping emptied and cleaned, by removing all liquids and accumulated sludge, and shall remove the tank and piping

from the site unless allowed otherwise under par. (e). Tanks that are removed shall be scrapped unless reused in accordance with s. ATCP 93.350 (3) (i) or 93.500 (3) (c).

(am) ~~Tank~~ Any tank basin ~~and~~ or piping trench excavation shall be left open until the inspector approves backfilling, and tank and piping must remain onsite until the inspector approves removal.

SECTION 194. ATCP 93.560 (2) (b) (Note) is repealed.

SECTION 195. ATCP 93.560 (2) (c) and (d) are amended to read:

(c) Individuals cleaning tanks or removing tank systems or portions of tank systems shall be certified in accordance with ~~s. ATCP 93.240 (14) to (21)~~ s. ATCP 93.930 (2) to (9).

(d) When an underground tank system is closed, or when a previously closed tank system is removed under sub. (4), the owner shall ~~have~~ provide a revised completed and signed tank registration form, form TR-WM-137 and part A of the department's tank system service and closure assessment report, form TR-WM-140, completed and submitted to the department within 21 business days of closure or removal, at the time of closure.

SECTION 196. ATCP 93.560 (2) (d) (Note) is renumbered ATCP 93.560 (2) (dm) (Note).

SECTION 197. ATCP 93.560 (2) (dm) is created to read:

(dm) At the time of closure, the contractor shall provide the department with part A of the Tank System Service and Closure Assessment Report form, TR-WM-140, completed by the certified remover.

SECTION 198. ATCP 93.560 (2) (e) 6. is repealed.

SECTION 199. ATCP 93.560 (2) (e) 9. is created to read:

9. If the department determines that the closure in place meets the regulatory oversight of this chapter.

SECTION 200. ATCP 93.560 (2) (f) is repealed and recreated to read:

Where closure in-place of an underground tank system is requested, form TR-WM-XXX shall be completed and submitted by the owner or operator to the department for approval.

SECTION 201. ATCP 93.560 (2) (g) is created to read:

(g) When the condition that allowed the tank to be closed in place no longer exists, the tank system that was closed in place shall be removed.

SECTION 202. ATCP 93.565 (2) (intro) and (b) 1. are amended to read:

(2) EXCEPTIONS. Abandoned tank systems that are less than 30 years old or of double-wall construction may be returned to service if they meet all of the following conditions:

(b) 1. The integrity of a fiberglass tank shall be assessed and certified by the manufacturer or a qualified professional engineer. The assessment shall include an internal inspection and certification that the tank is suitable for continued service. The certification and report of the assessment shall be completed within 60 days of the application for permits to operate in accordance with s. ATCP 93.145.

SECTION 203. ATCP 93.565 (2) (b) 2. d. is created to read:

d. The certification and report of the assessment shall be completed within 60 days of the application for permits to operate in accordance with s. ATCP 93.145.

SECTION 204. ATCP 93.575 (1) is amended to read:

(1) GENERAL. The owner or operator shall assess all suspected or obvious releases in accordance with sub. (2) within 7 business days of discovery of any of the conditions described in s. ATCP 93.570, unless ~~any of the following conditions occur:~~ system equipment or the

monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced,
and additional monitoring does not confirm the initial result.

SECTION 205. ATCP 93.575 (1) (a) and (b) are repealed.

SECTION 206. ATCP 93.575 (2) (a) 1. is amended to read:

1. The owner or operator shall have a precision tightness test conducted in accordance
with ~~s. ATCP 93.515 (4)~~ s. ATCP 93.515 (4) (a) 1. to determine whether a leak exists.

SECTION 207. ATCP 93.575 (2) (a) 1m. is created to read:

1m. Prior to performing a precision test on a single wall tank, the tank must be emptied of
product and cleaned.

SECTION 208. ATCP 93.580 (1) (Note) is repealed.

SECTION 209. ATCP 93.580 (2) (c) and (3) (a) are amended to read:

(2) (c) The closure of double-wall pipe when modification or upgrading is conducted on a
system that will remain in operation, unless the piping is to be closed in-place.

(3) (a) *General.* When a tank-system site assessment is required, the owner or operator
shall have a certified tank-system site assessor document field observations and sample for the
presence of a release wherever contamination is identified or is most likely to be present at the
tank site. If the assessor discovers obvious contamination, he or she shall complete the
appropriate assessment sampling, such as for the entire system; or for only the tank, or piping, or
sumps, or dispensers, and complete the documentation and reporting in its entirety in accordance
with par. (c). All sampling, documentation, and reporting under this paragraph shall be in a
format prescribed by the department and performed in accordance with the *Tank System Site*
Assessment: A Guide to the Assessment and Reporting of Suspected or Obvious Releases from
Underground and Aboveground Storage Tank Systems.

SECTION 210. ATCP 93.580 (3) (a) (Note 3) is repealed.

SECTION 211. ATCP 93.580 (3) (c) (Title) and 2. are amended to read:

(c) ~~Filing~~ Documentation and reporting.

2. For all tank or piping ~~removals~~ closures, any replacement of single-wall spill containment under s. ATCP 93.505 (2) (a), and for all releases that must be reported to the department of natural resources under s. ATCP 93.585 (2), the documentation required in par. (a) shall also be filed with the department of natural resources no later than 21 business days after the tank or component ~~removal~~ closure or the discovery of the release.

SECTION 212. ATCP 93.585 (Title) and (2) (a) are amended to read:

ATCP 93.585 Responding to a leak, spill, overfill, or release.

(2) (a) *Reporting to the department of natural resources.* The owner, ~~or~~ operator, any contractor performing work under this chapter who observes a release, or a person who causes it shall immediately report any release of a regulated substance to the department of natural resources ~~in accordance with s. 292.11 (2), Stats..~~ The owner, operator, contractor performing the work who observes a release, and any person who causes the release are jointly and severally responsible for reporting.

SECTION 213. ATCP 93.585 (3) is amended to read:

(3) FIRE HAZARD RESPONSE. The owner or operator shall identify, mitigate, and monitor fire and explosion hazards, such as the presence of free product or vapors in structures.

SECTION 214. ATCP 93.605 (5) (a) is repealed and recreated to read:

(a) All attended fuel facilities shall meet the requirements in NFPA 30A section 9.4 for attended fuel facilities.

SECTION 215. ATCP 93.605 (5) (c) 1. and 2. are amended to read:

1345 1. All new fueling facilities that are not attended ~~as specified in par. (a)~~ shall have
1346 pipeline catastrophic leak detection, and sump monitors if so equipped, that will automatically
1347 shut down either the submersible pump or the dispenser operation upon detection of a system
1348 leak.

1349 2. All existing fueling facilities that are not attended ~~as specified in par. (a)~~ shall have
1350 pipeline catastrophic leak detection, and sump monitors if so equipped, that will do either of the
1351 following upon detection of a system leak:

1352 SECTION 216. ATCP 93.605 (5) (c) 2. b. (Note) is repealed.

1353 SECTION 217. ATCP 93.610 (1) (e) 7. is repealed and recreated to read:

1354 7. The vents shall be sized for normal and emergency venting conditions with a
1355 termination height for the normal vent piping a minimum of 4 feet above the ordinary snow line.

1356 SECTION 218. ATCP 93.610 (1) (e) 15. is amended to read:

1357 15. Nozzles may not have a latch-open device; unless the tank is equipped with a tight-
1358 connect coupling and has overfill protection in accordance with ATCP 93.410 (1).

1359 SECTION 219. ATCP 93.610 (2) (e) 2. is amended to read:

1360 2. Nozzles may not have a latch open device; unless the tank is equipped with a tight-
1361 connect coupling and has overfill protection in accordance with ATCP 93.410 (1).

1362 SECTION 220. ATCP Table 93.615-A (Note) is created to read:

1363 **Note:** Tanks below 5,000 gallons in size may be inspected by a local jurisdiction.

1364 SECTION 221. ATCP 93.615 (5) (m) 1. and 2. are repealed.

1365 SECTION 222. ATCP 93.615 (5) (m) is created to read:

1366 Overfill prevention shall be provided in accordance with s. ATCP 93.410.

1367 SECTION 223. ATCP 93.615 (5) (o) is repealed.

SECTION 224. ATCP 93.615 (7) (a) is amended to read:

(a) The area around an aboveground motor vehicle fuel tank and its secondary containment shall be secured by a 6-foot high noncombustible building or by a 6-foot high noncombustible fence with a gate, except where exempted under par. (b) ~~or (c)~~.

SECTION 225. ATCP 93.615 (7) (c) is repealed.

SECTION 226. ATCP 93.630 (1) (c) 1. and 2. are repealed.

SECTION 227. ATCP 93.630 (1) (c) 3. is renumbered ATCP 93.630 (1) (d) 4.

SECTION 228. ATCP 93.630 (2) (d) 3. is repealed.

SECTION 229. ATCP 93.630 (4) (a) 1., 2., and 3. and (b) are renumbered ATCP 93.630 (1) (c) 1., 2., and 3. and (d).

SECTION 230. ATCP 93.630 (4) (d) 3. is amended to read:

3. Tanks under this paragraph are exempt from the enclosure requirement in s. ATCP ~~93.615 (5) (e)~~ 93.615 (7).

SECTION 231. ATCP 93.640 (Title) is amended to read:

ATCP 93.640 Watercraft, snowmobile, and ATV fueling.

SECTION X. ATCP 93.640 (4) (c) and (e) 1. and 2. are amended to read:

(c) Tanks shall be listed ~~and may not exceed 600 gallons in aggregate capacity.~~

(e)

1. The tank shall be located outdoors, on land, at least 25 feet from the dwelling, public roadway, or property line, and other important buildings, and at least 10 feet from the ordinary ~~high-water~~ high-water mark of a navigable waterway, ~~public roadway, or property line.~~

2. All setbacks shall be measured from the inside of the dike wall or outside of a double-wall tank to the dwelling, important building, ordinary ~~high-water~~ high-water mark, public roadway, or property line.

SECTION 232. ATCP 93.680 (4) (b) is amended to read:

(4) NOTIFICATION PROCEDURES FOR ETHANOL BLENDS. (b) At least 30 days prior to commencing conversion to an ethanol blended fuel at retail dispensing fueling facilities, a certified installer or professional engineer shall complete part I of the department's alternative fuel installation/conversion application form, TR-WM-132, and submit it to the department as part of the plan review submittal.

SECTION 233. ATCP 93.680 (4) (b) (Note 1) is repealed.

SECTION 234. ATCP 93.680 (4) (b) (Note 2) is amended to read:

Note: Within a 1st class city, the provisions in par. (b) may be administered by that city instead of the department, as authorized in ss. ATCP 93.020 (8) and 93.110 (3) and (4). As of ~~November 1, 2019~~, the effective date of this chapter . . . [LRB inserts date], only the City of Milwaukee is a 1st class city.

SECTION 235. ATCP 93.680 (4) (c) is amended to read:

(c) At least 15 days prior to commencing normal fueling operations at retail dispensing fueling facilities using ethanol-blended fuel, the operator shall complete part II of the department's alternative fuel installation/conversion application form, TR-WM-132 Alternative Fuel Storage Tank System and/or Dispenser Installation/Conversion Application, and provide the completed form to the certified tank system inspector performing the pre-operational inspection.

SECTION 236. ATCP 93.680 (6) (c) 2., (7) (a), (7) (a) (Note 2), and (7) (b) are amended to read:

2. 'Dispenser nozzles and hoses.' Dispensers that are installed on or after ~~November 1, 2019~~, the effective date of this chapter . . . [LRB inserts date] shall use a separate fueling nozzle and hose for dispensing fuel consisting of more than five percent biodiesel by volume.

(7) NOTIFICATION PROCEDURES FOR BIODIESEL BLENDS.

(a) At least 30 days prior to commencing conversion to biodiesel blends at retail dispensing fueling facilities, a certified installer or professional engineer shall complete part I of the department's alternative fuel installation/conversion application form, TR-WM-132 Alternative Fuel Storage Tank System and/or Dispenser Installation/Conversion Application, and submit it to the department as part of the plan review submittal.

Note: Within a 1st class city, the provisions in par. (b) may be administered by that city instead of the department, as authorized in ss. ATCP 93.020 (8) and 93.110 (3) and (4). As of ~~November 1, 2019~~, the effective date of this chapter . . . [LRB inserts date], only the city of Milwaukee is a 1st class city.

(b) At least 15 days prior to commencing normal fueling operations at retail dispensing fueling facilities using fuel consisting of more than five percent biodiesel by volume, the operator shall complete part II of the department's alternative fuel installation/conversion application form, TR-WM-132 Alternative Fuel Storage Tank System and/or Dispenser Installation/Conversion Application, and provide the completed form to the certified tank system inspector performing the preoperational inspection.

SECTION 237. ATCP 93.680 (7) (a) (Note 1) is repealed.

SECTION 238. ATCP 93.730 (2) (d) is amended to read:

(2)

(d) Debt service consisting of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. For purposes of this test, debt service includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and ~~interest-bearing~~ interest-bearing warrants. For purposes of this test, debt service excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.

SECTION 239. ATCP 93.830 (1) (c) 4., (2) (d), and (2) (e) 1. d. is amended to read:

4. Properly respond to emergencies or alarms relating to spills, leaks, or releases from the underground storage tank system.

(d) Appropriate individuals are trained to properly respond to emergencies or alarms relating to spills, leaks, or releases from the underground storage tank system.

d. Reporting of leaks, spills, and releases.

SECTION 240. ATCP 93.850 (1) is amended to read:

(1) Operator training shall include evaluation and accreditation of the operator's knowledge of the applicable requirements in ss. ATCP 93.840 to 93.842. ~~Thirty days after November 1, 2019:~~

SECTION 241. ATCP 93.860 (2) (Title) is amended to read:

(2) EXISTING, COMPLIANT FACILITIES.

SECTION 242. ATCP 93, Subchapter IX is created to read:

SUBCHAPTER IX CERTIFICATIONS

ATCP 93.900 General.

1457 **(1) CERTIFICATIONS.** Persons and firms providing or supervising any of the following
1458 services shall be credentialed by the department in accordance with this chapter:

1459 **(a)** Tank-system site assessment as referenced in s. ATCP 93.465 for aboveground tanks
1460 and s. ATCP 93.580 for underground tanks.

1461 **(b)** Underground tank system lining under ss. ATCP 93.530 and 93.535.

1462 **(c)** The cleaning and removal of underground storage tank systems and stationary shop-
1463 built aboveground storage tank systems.

1464 **(d)** Storage tank system precision tightness testing using equipment that is not
1465 permanently installed on the tank system.

1466 **Note:** All methods of precision tightness testing are required to be approved by the
1467 department in accordance with s. ATCP 93.130.

1468 **(e)** Corrosion protection services as required in s. ATCP 93.520.

1469 **(f)** Installation of underground storage tank systems, underground piping, and shop-built
1470 aboveground storage tank systems, except this requirement does not apply to any of the
1471 following tank systems:

1472 **1.** Aboveground heating oil tanks at 1- or 2-family dwellings.

1473 **2.** Tanks or piping that are installed or constructed under the direct supervision of a
1474 registered professional engineer does not require a tank installation certification but does require
1475 a tank specialty firm registration.

1476 **Note:** “Under the direct supervision of a registered professional engineer” means the
1477 registered professional engineer must be on the site during, and responsible for, the key
1478 installation and test activities described in s. ATCP 93.930 (4) (e) or (5) (e).

1479 **(2) APPLICATION.**

1480 **(a)** Application for a certification or registration or a certification or registration
1481 examination covered under this section shall be submitted on a form prescribed by the
1482 department.

1483 **Note:** Applications and related forms for certifications or registrations are available
1484 online at <https://mydatcp.wi.gov>, from the Department of Agriculture, Trade and Consumer
1485 Protection Bureau of Weights and Measures at PO Box 8911, Madison, WI 53708-8911; or at
1486 the department's Web site
1487 at https://datcp.wi.gov/Pages/Programs_Services/PetroleumHazStorageTanks.aspx.

1488 **(b)** An application for a certification or registration which either requires or recognizes
1489 the attendance at or completion of educational courses as a qualification for the certification or
1490 registration shall be accompanied by such evidence, including but not limited to transcripts, that
1491 verifies fulfillment of the prerequisite.

1492 **(c)** Applicants for any certification or registration under this chapter shall include the
1493 applicant's social security number, or, in the case of a certification or registration for a business,
1494 the applicant shall include the federal employer identification number. The department shall
1495 consider the failure by the applicant to provide a social security number or a federal employer
1496 identification number as an incomplete application and may not process the application further
1497 until the appropriate number is provided.

1498 **(d)** A business having multiple locations covered under one federal employer
1499 identification number applying for a tank specialty firm registration need not obtain a separate
1500 registration for each location.

1501 **(3) FEES.**

(a) Fees required for the various certifications or registrations and their processing under

this section shall be determined in accordance with Table ATCP 93.900.

(b) Fees required under this section are not refundable.

(c) Certification or registration fees may not be prorated.

Table 93.900 – Fees

Certification or Registration Category	Type	Examination Fee	Certification or Registration Fee
Tank System Inspector	Certification	NA	NA
Tank Specialty Firm	Registration	NA	\$50
Tank System Site Assessor	Certification	\$50	\$50
Aboveground Tank System Installer	Certification	\$50	\$50
Underground Tank System Installer	Certification	\$50	\$50
Tank System Liner	Certification	\$50	\$50
Tank System Remover- Cleaner	Certification	\$50	\$50
Tank System Tightness Tester	Certification	NA	\$50
Cathodic Protection Tester	Certification	NA	\$50
Corrosion Expert	Certification	NA	\$50

(4) PROCESSING TIMES. An application for a certification or registration covered under

this chapter shall be granted or denied by the department within 21 calendar days after the

department receives all of the application materials necessary to obtain the certification or

registration. If the certification or registration application information is insufficient, the

department shall request additional information within 21 calendar days of receipt of the

application. If an applicant does not respond to a request by the department for additional

information within 3 months after the date of the request, the department shall make a determination on the application based upon the information on hand.

(5) SERVICE.

(a) The department may serve all orders, notices, and other papers on a certification or registration holder by 1st class mail at the address on file with the department or electronically at the email address on file with the department.

(b) A certification or registration holder shall notify the department of any change in mailing address or email address within 15 days of change

(6) TERMS.

(a) All certifications or registrations issued under this subchapter shall be valid for a period of 2 years.

(b) All certifications or registrations issued under this subchapter shall expire at 11:59 p.m. on the date of expiration. Certifications and registrations expire on the two-year anniversary of the original date of issuance.

(7) RENEWAL.

(a)

1. A notice of renewal shall be mailed or emailed by the department to a certification or registration holder at least 30 calendar days prior to the expiration of the certification or registration.

2. Failure to receive a notice for renewal of a certification or registration may not be considered as an excuse or good cause for failure to renew a certification or registration prior to the expiration of the certification or registration.

(b)

1. A person who files for renewal after the expiration date of a certification or registration shall comply with this chapter's requirements for initially receiving that certification or registration.

2. A person who files for renewal of a certification or registration issued under s. ATCP 93.930 (1), (4), or (5), and who has not obtained all continuing education credit required for renewal shall comply with this chapter's requirements for initially receiving that certification or registration.

3. For a certification or registration issued under s. ATCP 93.930 (1), (4), or (5), the time period for obtaining continuing education credits shall extend from the beginning date to the expiration date of that certification or registration.

(8) RESPONSIBILITIES.

(a) A person who holds a certification under this chapter shall carry on person the certification issued by the department while performing or conducting the activity or activities permitted under the certification.

(b) A person who holds a certification under this chapter shall present the certification for identification upon request of the department or its representative.

(c) The requirements of this subsection apply to certifications or registrations issued to an individual and not to a business.

93. 910 Continuing education.

(1) PROGRAM SPECIFICATIONS.

(a) Only courses, programs, and seminars approved in writing by the department shall be used for credit to fulfill continuing education requirements.

(b)

1560 **1.** Requests for a course, program or seminar to be recognized for approval shall be
1561 submitted in writing to the department.

1562 **2.** Requests for approval shall include sufficient information to determine if the course,
1563 program or seminar complies with this subsection.

1564 **3.** The department shall review and make a determination on a request for approval
1565 within 21 calendar days of receipt of the request and information necessary to complete the
1566 review.

1567 **(c) 1.** Thirty minutes of attendance in an approved course, program or seminar shall be
1568 deemed equal to 0.5 hours of acceptable continuing education.

1569 **2.** Continuing education credit for attendance in approved continuing education courses,
1570 programs or seminars in other than 30-minute increments shall be rounded down to the next half
1571 hour.

1572 **3.** Courses, programs, and seminars to be considered for approval towards continuing
1573 education credit shall relate to the skills and knowledge of one or more certification categories.

1574 **(d)**

1575 **1.** The department may limit credit approval to specific certification categories when
1576 approving a course, program, or seminar for continuing education credit.

1577 **2.** Approval of courses, programs or seminars for continuing education credit may be
1578 renewed. Renewal shall be in accordance with par. (b).

1579 **3.** An approval of a course, program, or seminar for continuing education credit under s.
1580 ATPC 93.930 shall expire either 3 years after the date of approval or as otherwise specified in
1581 the approval.

1582 **(e)** The department may revoke the approval of a course, program, or seminar for
1583 continuing education credit for any false statements, misrepresentation of facts or violation of the
1584 conditions on which the approval was based. The department may not revoke the approval of a
1585 course, program, or seminar less than 30 calendar days prior to the course, program or seminar
1586 being held.

1587 **(f)**

1588 **1.** The individual or organization which had obtained the course, program or seminar
1589 approval shall maintain an attendance record of those individuals who have attended and
1590 completed the course, program, or seminar for at least 3 years from the date of the course,
1591 program, or seminar.

1592 **2.** The attendance record shall include all of the following: the course name, the course
1593 identification number assigned by the department, the date or dates the course was held or
1594 completed, the name of each attendee, the name of each certification held by the attendee for
1595 which the course applies, and the certification number assigned by the department of each
1596 attendee.

1597 **3.** A copy of the attendance record shall be forwarded by the person or organization
1598 which had obtained the course, program, or seminar approval to the department within 14
1599 calendar days after completion of the course or program.

1600 **(g)** Any individual or organization that obtains a course, program, or seminar approval
1601 for continuing education credit under s. ATCP 93.930 shall notify the department of any material
1602 changes to the information submitted for that approval.

1603 **(h)** Any individual or organization that obtains a course, program, or seminar approval
1604 for continuing education credit under s. ATCP 93.930 shall notify the department if the course,
1605 program, or seminar is discontinued before the end of its approval period.

1606 **(2) EVIDENCE OF COMPLIANCE.** Each certification holder shall retain evidence of
1607 compliance with continuing education requirements throughout the certification period for which
1608 continuing education credit was required for renewal of the certification.

1609 **(a)** The department shall accept as evidence of compliance original or copies of
1610 documents, certified by the individual or organization providing the course, program or seminar,
1611 indicating attendance and completion of the continuing education credit.

1612 **(b)** The department may require a certification holder to submit evidence of compliance
1613 for the continuing education credit which was required to renew the certification.

1614 **(3) CONTINUING EDUCATION CYCLE.** For those certification categories which require
1615 continuing educational credit for renewal, the certification holder shall obtain the necessary
1616 amount of continuing educational credit prior to the expiration date of the certification.

1617 **ATCP 93.920 Examinations.**

1618 **(1) EXAMINATIONS ADMINISTERED BY THE DEPARTMENT.**

1619 **(a)** Upon verification of the application and the required qualifications, the department
1620 shall notify an applicant in writing of the date, time, and place of the examination.

1621 **(b)**

1622 **1.** An applicant for certification examination shall provide a photo identification or other
1623 appropriate evidence to gain admittance to an examination.

1624 **2.**

a. An applicant shall bring to a certification examination all necessary materials as specified by the department and only materials specified by the department.

b. Examinations of applicants found to be in possession of or utilizing unauthorized materials during an examination shall be void and the application shall be ineligible to take certification examinations required by this chapter for 5 years from the date of the exam.

3.

a. Except as provided in subd. 3. b., an applicant who fails to appear at a scheduled certification examination without giving notice to the department at least 24 hours before the examination shall be considered to have failed the examination and shall be required to submit a reexamination application and examination fee.

b. The department may waive the 24-hour notification requirement of subd. 3. a. due to inclement weather if the applicant notifies the department the day of the examination.

(c) The examination for a certification shall be based on a job analysis of the knowledge, skills and abilities associated with the certification. The examination shall include all of the following subject matter:

1. Regulations and standards governing the work or activities required or permitted under the certification.

2. Theories, principles, and practices associated with the activities required or permitted under the certification.

(d) A grade of 70 percent or greater in each part of a certification or registration examination shall be considered a passing grade.

(e)

1647 **1.** The department shall inform an applicant of the results of an examination in writing
1648 within 21 calendar days from the examination date.

1649 **2.** Upon notification of failing a certification examination, an applicant may request
1650 another examination in accordance with this section.

1651 **3.** An applicant who has successfully passed a certification examination may submit an
1652 application and the certification fee as specified under Table 93.900 for the appropriate
1653 certification within 12 months after the date of the examination.

1654 **4.** Failure to apply for a certification in accordance with subd. 3. shall necessitate the
1655 applicant to apply, retake, and pass another certification examination in order to obtain the
1656 certification.

1657 **(f)**

1658 **1.** An applicant may request and make an appointment with the department to review the
1659 applicant's examination.

1660 **2.** An applicant who has failed an applicant's examination may not review the
1661 examination less than 7 calendar days before the applicant is scheduled to retake the
1662 examination.

1663 **3.** The department shall retain certification examinations at least 12 months after the date
1664 of the examination.

1665 **(2) EXAMINATIONS ADMINISTERED BY AGENTS OF THE DEPARTMENT**

1666 **(a)** Agents of the department shall administer department-approved certification
1667 examinations which are the same as the certification examinations administered by
1668 the department.

1669 **(b)** Agents of the department may set examination fees that differ from the fees specified
1670 in Table ATCP 93.900.

1671 **(c)**

1672 **1.** ‘Photo identification’. An applicant for certification examination shall provide a photo
1673 identification or other appropriate evidence to gain admittance to an examination.

1674 **2.** ‘Examination materials’.

1675 a. An applicant shall bring to a certification examination all necessary materials as
1676 specified by the department and only materials specified by the department.

1677 b. Examinations of applicants found to be in possession of or utilizing unauthorized
1678 materials during an examination shall be void and the applicant shall be ineligible to take
1679 certification examinations required under this chapter for 5 years from the date of the exam.

1680 **(3)** ENFORCEMENT ACTIONS.

1681 **(a)** The department may take actions to ensure compliance with the provisions of this
1682 chapter, including denying, revoking, or suspending credentials.

1683 **(b)** The department may require attendance at a specified education class.

1684 **(4)** DENIAL, SUSPENSION, AND REVOCATION.

1685 **(a)** *Reasons.* The department may deny, suspend, or revoke a certification or registration
1686 under this chapter if the department determines that an applicant or holder of the certification or
1687 registration is responsible for any of the following:

1688 **1.** Fails to meet the qualifications for the certification or registration.

1689 **2.** Has obtained the certification or registration through fraud or deceit.

1690 **3.** Has demonstrated negligence or incompetence in fulfilling the responsibilities or
1691 obligations of the certification or registration.

1692 **4.** Has a conflict of interest in fulfilling the responsibilities or obligations under the
1693 certification or registration.

1694 **5.** Has demonstrated misconduct in fulfilling the responsibilities or obligations under the
1695 certification or registration.

1696 **6.** Has been arrested or convicted for a crime substantially related to the certification or
1697 registration.

1698 **7.** Has a physical or mental impairment which prevents the applicant or holder from
1699 fulfilling the responsibilities or obligations under the certification or registration.

1700 **8.** Has violated state, federal, or local laws or regulations relating to the conduct of the
1701 activities under the certification or registration.

1702 **9.** Has attempted to defraud, including but not limited to falsifying test reports.

1703 **10.** If registered or certified under this section, has performed any of the following:

1704 **a.** Failed to maintain required records.

1705 **b.** Denied the department access to requested records.

1706 **c.** Failed to submit a required notice or report to the department within the required time
1707 period.

1708 **d.** Submitted false reports to the department or other persons.

1709 **e.** Exhibited a pattern of submitting substantially inadequate reports.

1710 **(b)** *Notice of denial, suspension, or revocation.* A notice of denial, suspension, or
1711 revocation shall be sent to the applicant or the certification or registration holder. The notice
1712 shall include all of the following:

1713 **1.** The basis for the denial, suspension, or revocation, including the facts relied on by the
1714 department to make its decision and a citation of applicable statutes and administrative rules
1715 establishing the legal basis for the decision.

1716 **2.** A statement that the applicant or the certification or registration holder may file a
1717 request for a hearing with the department as specified in s. ATCP 1.06.

1718 **(c) *Summary suspension.*** Under s. 227.51 (3), Stats., the department may summarily
1719 suspend any certification or registration if the department finds that immediate action is
1720 necessary for public health, safety, or welfare. The summary suspension of a certification or
1721 registration shall remain in effect until after a final decision is issued following a hearing.

1722 **(d) *Hearing.*** The request for an administrative hearing shall be received by the office of
1723 legal counsel of the department no later than 30 days following the date of mailing of the notice
1724 under par. (b). Otherwise, the request for hearing shall be denied by the department.

1725 **(e) *Surrender of certification or registration.*** A person whose certification or registration
1726 has been suspended or revoked shall surrender the certification or registration to the department
1727 upon request.

1728 **(f) *Reinstatement.***

1729 **1.** ‘Suspension.’

1730 **a.** A person whose certification or registration has been suspended may apply to have the
1731 certification or registration reissued only after the time set for suspension by the department or
1732 hearing examiner has passed and by complying with the conditions set forth in the suspension
1733 order.

1734 **b.** The request to the department to have a suspended certification or registration reissued
1735 shall be made in writing.

c. The department may require a person whose certification or registration has been suspended to apply for the certification or registration by complying with all of the requirements for a new applicant, including paying the application fees and successfully passing an examination.

d. The department may impose conditions on the reissued certification or registration to assure compliance with this chapter.

2. 'Revocation.' A person whose certification or registration has been revoked may not apply to ever receive such a certification or registration.

ATCP 93.930 Certification types.

(1) TANK SYSTEM INSPECTORS.

(a) *General.* No person may conduct a regulatory inspection of a tank system that is regulated under this chapter, to administer and enforce this chapter, unless the person holds a certification issued by the department as a certified tank system inspector.

(b) *Application for examination.* A person applying to take a tank system inspector certification examination shall submit an application in accordance with this section.

(c) *Examination.* A person seeking to obtain a tank system inspector certification shall take and pass an examination in accordance with s. ATCP 93.920 (1).

(d) *Application for certification.* Upon notification of successfully passing the examination for a tank system inspector certification, a person may obtain the certification by submitting an application in accordance with s. ATCP 93.900 (2) and s. ATCP 93.920 (1) (f) 3.

(e) *Responsibilities.* A person who inspects tank systems as a certified tank system inspector shall:

1. Perform regulatory enforcement of related code requirements in this chapter.

1759 **2.** Issue non-compliance or violation-correction orders and conduct follow-up inspections
1760 as necessary to verify correction.

1761 **Note:** Inspectors with authority granted by the local municipality may utilize the
1762 respective enforcement procedures as granted by the respective authority.

1763 **3.** Pursue failure to comply with correction orders through local or department
1764 enforcement referral procedures.

1765 **4.** Maintain a record of the inspections made including the dates and the findings of the
1766 inspections.

1767 **5.** Provide a copy of the inspection report to the owner of the tank system or the owner's
1768 agent.

1769 **6.** Make available to the department tank system inspection records upon request.

1770 **Note:** Section 19.32 (2), Stats., considers a record to be material containing written or
1771 electromagnetic information. The department will consider computer records to be equivalent to
1772 written reports.

1773 **(f) *Renewal.***

1774 **1.**

1775 **a.** A person may renew a certification as a tank system inspector.

1776 **b.** A tank system inspector certification shall be renewed in accordance with s. ATCP
1777 93.900 (7).

1778 **2.**

1779 **a.** The renewal of a certification as a certified tank system inspector shall be contingent
1780 upon the inspector obtaining at least 12 hours of acceptable continuing education prior to the 2-
1781 year expiration date of the certification, except as provided in subd. 2. b.

b. A person who holds a certification as a certified tank system inspector may apply to the department for waiver of the continuing education requirements under subd. 2. a. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(2) TANK SPECIALTY FIRMS.

(a) General. A corporation, limited liability company, partnership, sole proprietor, independent contractor, or person that provides or offers to provide installation, removal, testing, lining, cleaning, or assessments for a tank system which is regulated under this chapter shall hold both of the following:

1. A registration issued by the department as a registered tank specialty firm.

2. Insurance liability coverage, including pollution impairment liability, of no less than \$1,000,000 per claim and \$1,000,000 annual aggregate and with a deductible of no more than \$100,000 per claim.

(b) Application for registration. An entity applying for a tank specialty firm registration shall submit all of the following:

1. An application in accordance with s. ATCP 93.900 (2).

2. An application fee and a registration fee in accordance with s. ATCP Table 93.900.

3. Proof of the liability coverage specified in par. (a) 2.

4. A list of technicians certified under subs. (3) to (9) including the areas of certification for each technician.

(c) Qualifications for registration. The person applying for a tank specialty firm registration shall be the owner of the business, a partner in the business applying on behalf of a

partnership, or the chairman of the board or chief executive officer applying on behalf of the corporation.

(d) Responsibilities. An entity that provides storage tank system installation, removal, testing, lining, cleaning, or site assessments as a registered tank specialty firm shall utilize the appropriate credentialed persons to install, remove, test, line, or clean storage tanks; to design or install a cathodic protection system for a tank system; or to provide tank-system site assessments.

(e) Renewal.

1. A person may renew a registration as a tank specialty firm.

2. A tank specialty firm registration shall be renewed in accordance with s. ATCP 93.900 (7).

3. An application for a renewal under this paragraph shall include proof of the liability coverage specified in par. (a) 2.

4. A list of technicians certified under subs. (3) to (9) including the areas of certification for each technician.

(3) TANK SYSTEM SITE ASSESSORS.

(a) General.

1. No person may conduct a tank-system site assessment required under this chapter unless the person holds a certification issued by the department as a certified tank-system site assessor.

2. Each tank-system site assessment shall be performed by a person who has no personal or monetary interest in the facility and whose employer has no personal or monetary interest in the facility.

1826 **(b) Application for examination.** A person applying to take a tank-system site assessor
1827 certification examination shall submit all of the following:

1828 **1.** An application in accordance with s. ATCP 93.900 (2).

1829 **2.** An application fee and examination fee in accordance with Table 93.900.

1830 **(c) Examination.** A person seeking to obtain a tank-system site assessor certification shall
1831 take and pass an examination in accordance with s. ATCP 93.920 (1).

1832 **(d) Application for certification.** Upon notification of successfully passing the
1833 examination for a tank-system site assessor certification, a person may obtain the certification by
1834 submitting an application and the certification fee in accordance with s. ATCP 93.900 (2) and s.
1835 ATCP 93.920 (1) (f) 3.

1836 **(e) Responsibilities.** A person who conducts tank-system sites assessments as a certified
1837 tank system site assessor shall:

1838 **1.** Perform regulatory enforcement of related code requirements in this chapter.

1839 **2.** Issue non-compliance or violation-correction orders and conduct follow-up inspections
1840 as necessary to verify correction.

1841 **(f) Renewal.**

1842 **1.** A person may renew a certification as a tank-system site assessor.

1843 **2.** A tank-system site assessor certification shall be renewed in accordance with s. ATCP
1844 93.900 (7).

1845 **(4) ABOVEGROUND TANK SYSTEM INSTALLERS.**

1846 **(a) General.** Except as provided in par. (g), no person may install or modify an
1847 aboveground tank system that is regulated under this chapter unless the person complies with one
1848 of the following:

1849 **1.** The person holds a certification issued by the department as a certified aboveground
1850 tank system installer.

1851 **2.** The person holds a Wisconsin registration as a professional engineer and is competent
1852 in the engineering methods and requirements in Wisconsin for designing and installing storage
1853 tank systems for flammable, combustible, or hazardous liquids.

1854 **3.** The person is under the direct supervision of another person who holds a certification
1855 or registration under subd. 1. or 2. and who is responsible for the installation.

1856 **(b) *Application for examination.*** A person applying to take an aboveground tank system
1857 installer certification examination shall submit all of the following:

1858 **1.** An application in accordance with s. ATCP 93.900 (2)

1859 **2.** An application fee and examination fee in accordance with Table 93.900.

1860 **(c) *Examination.*** A person seeking to obtain an aboveground tank system installer
1861 certification shall take and pass an examination in accordance with s. ATCP 93.920 (1).

1862 **(d) *Application for certification.*** Upon notification of successfully passing the
1863 examination for an aboveground tank system installer certification, a person may obtain the
1864 certification by submitting an application and the certification fee in accordance with s. ATCP
1865 93.900 (2) and (3).

1866 **(e) *Responsibilities.*** A person who installs, modifies, or supervises the installation of any
1867 portion of a tank system as a certified aboveground tank system installer shall be present at the
1868 job site for at least all of the following activities:

1869 **1.** Preinstallation tank system testing.

1870 **2.** Inspection and repair of coatings.

1871 **3.** Placement of tanks.

1872 **4.** Installation and testing of all connections and tank-related piping including vapor
1873 recovery, vents, and supply pipes.

1874 **5.** Installation of monitoring or leak detection devices.

1875 **6.** Installation of pumps.

1876 **7.** Installation of any underground piping.

1877 **(f)** *Renewal.*

1878 **1.**

1879 **a.** A person may renew a certification as an aboveground tank system installer.

1880 **b.** An aboveground tank system installer certification shall be renewed in accordance
1881 with s. ATCP 93.900 (7).

1882 **2.**

1883 **a.** The renewal of a certification as an aboveground tank system installer shall be
1884 contingent upon the installer obtaining at least 12 hours of acceptable continuing education prior
1885 to the expiration date of the certification as specified in s. ATCP 93.910 and Table 93.900,
1886 except as provided in subd. 2. b.

1887 **b.** A person who holds a certification as an aboveground tank system installer may apply
1888 to the department for waiver of the continuing education requirements under subd. 2. a. on the
1889 grounds of prolonged illness or disability or similar circumstances. Each application for waiver
1890 shall be considered individually on its merits by the department.

1891 **(g)** *Exclusion.* This subsection does not apply to field-constructed aboveground tanks.

1892 **(5)** UNDERGROUND TANK SYSTEM INSTALLERS.

1893 **(a)** *General.* No person may install or modify an underground tank system that is
1894 regulated under this chapter unless the person complies with one of the following:

1895 **1.** The person holds a certification issued by the department as a certified underground
1896 tank system installer.

1897 **2.** The person holds a registration as a Wisconsin professional engineer and is competent
1898 in the engineering methods and requirements in Wisconsin for designing and installing storage
1899 tank systems for flammable, combustible, or hazardous liquids.

1900 **3.** The person is under the direct supervision of another person who holds a certification
1901 or registration under subd. 1. or 2. and who is responsible for the installation.

1902 **(b) *Application for examination.*** A person applying to take an underground tank system
1903 installer certification examination shall submit all of the following:

1904 **1.** An application in accordance with s. ATCP 93.900 (2).

1905 **2.** An application fee and examination fee in accordance with s. ATCP 93.900
1906 (2) and (3) and Table 93.900.

1907 **(c) *Examination.*** A person seeking to obtain an underground tank system installer
1908 certification shall take and pass an examination in accordance with s. ATCP 93.920 (1).

1909 **(d) *Application for certification.*** Upon notification of successfully passing the
1910 examination for an underground tank system installer certification, a person may obtain the
1911 certification by submitting an application and the certification fee in accordance with s. ATCP
1912 93.900 (2) and (3).

1913 **(e) *Responsibilities.*** A person who installs, modifies, or supervises the installation of a
1914 tank system as a certified underground tank system installer shall be present at the job site for at
1915 least all of the following activities:

1916 **1.** Preinstallation tank system testing.

1917 **2.** Inspection and repair of coatings.

- 1918 **3.** Placing of bedding material and the setting and bedding of tanks.
- 1919 **4.** Backfilling operations and compacting of backfill around tanks and piping.
- 1920 **5.** Installation or activation of department-accepted, factory-supplied cathodic protection
- 1921 systems.

1922 **Note:** The department of agriculture, trade and consumer protection has accepted factory-

1923 supplied cathodic protection systems that comply with the sti-P3® specifications from the Steel

1924 Tank Institute and may accept other systems of this type.

- 1925 **6.** Installation and testing of all connections and tank-related piping including vapor
- 1926 recovery, vents, and supply pipes.

- 1927 **7.** Installation of leak detection devices and any monitoring wells.

- 1928 **8.** Testing of tanks, sumps, and piping both prior to and after backfilling.

- 1929 **9.** Installation of pumps.

1930 **(f) *Renewal.***

1931 **1.**

- 1932 **a.** A person may renew a certification as an underground tank system installer.

- 1933 **b.** An underground tank system installer certification shall be renewed in accordance with
- 1934 s. ATCP 93.900 (7).

1935 **2.**

- 1936 **a.** The renewal of a certification as an underground tank system installer shall be
- 1937 contingent upon the installer obtaining at least 12 hours of acceptable continuing education prior
- 1938 to the expiration date of the certification as specified in s. ATCP 93.910 except as provided in
- 1939 subd. 2. b.

1940 **b.** A person who holds a certification as an underground tank system installer may apply
1941 to the department for waiver of the continuing education requirements under subd. 2. a. on the
1942 grounds of prolonged illness or disability or similar circumstances. Each application for waiver
1943 shall be considered individually on its merits by the department.

1944 **(6) UNDERGROUND TANK SYSTEM LINERS.**

1945 **(a) General.** No person may line, reline, or perform the lining inspection of an
1946 underground tank system that has held or will hold flammable or combustible liquids which are
1947 regulated under this chapter unless the person complies with one of the following:

1948 **1.** The person holds a certification issued by the department as a certified tank system
1949 liner.

1950 **2.** The person is under the direct supervision of another person who holds a certification
1951 issued by the department as a certified tank system liner.

1952 **(b) Application for examination.** A person applying to take a tank system liner
1953 certification examination shall submit all of the following:

1954 **1.** An application in accordance with s. ATCP 93.900 (2).

1955 **2.** An application fee and examination fee in accordance with Table 93.900.

1956 **(c) Examination.** A person seeking to obtain a tank system liner certification shall take
1957 and pass an examination in accordance with s. ATCP 93.920 (1).

1958 **(d) Application for certification.** Upon notification of successfully passing the
1959 examination for a tank system liner certification, a person may obtain the certification by
1960 submitting an application and the certification fee in accordance with s. ATCP 93.900 (2) and
1961 (3).

(e) *Responsibilities.* A person who lines or supervises the lining of underground tanks as a certified tank system liner shall be present at the job site for at least all of the following activities:

1. Removal of product from the tanks and making the atmosphere of the tanks inert or vapor-free.

2. Cutting of openings in tanks.

3. Removal and handling of sludge and other wastes from tanks.

4. Sand blasting of the tank interior.

5. Inspection for holes and wall thickness.

6. Notifying the owner if an internal tank assessment determines that a tank system assessment under this chapter is required.

7. Repair of holes.

8. Notifying and arranging for a certified tank system inspector to visit the site and authorize the lining, prior to applying the lining to the tank.

9. Coating of tanks.

10. Testing for holidays.

11. Testing for coating hardness.

12. Resealing of tanks.

13. Completing an API 1631 inspection form B and submitting it to the owner, authorized agent, and the department.

(f) *Renewal.*

1. A person may renew a certification as a tank system liner.

1984 **2.** A tank system liner certification shall be renewed in accordance with s. ATCP
1985 93.900 (7).

1986 **(7) TANK SYSTEM REMOVERS AND CLEANERS.**

1987 **(a) General.** Except as provided in par. (g), no person may remove or clean a tank system
1988 that is regulated under this chapter unless the person complies with one of the following:

1989 **1.** The person holds a certification issued by the department as a certified tank system
1990 remover-cleaner.

1991 **2.** The person is under the direct supervision of another person who holds a certification
1992 issued by the department as a certified tank system remover-cleaner.

1993 **(b) Application for examination.** A person applying to take a tank system remover-
1994 cleaner certification examination shall submit all of the following:

1995 **1.** An application in accordance with s. ATCP 93.900 (2).

1996 **2.** An application fee and examination fee in accordance with Table 93.900.

1997 **(c) Examination.** A person seeking to obtain a tank system remover-cleaner certification
1998 shall take and pass an examination in accordance with s. ATCP 93.920 (1).

1999 **(d) Application for certification.** Upon notification of successfully passing the
2000 examination for a tank system remover-cleaner certification, a person may obtain the
2001 certification by submitting an application and the certification fee in accordance with s. ATCP
2002 93.900 (2) and ATCP 93.920 (1) (f).

2003 **(e) Responsibilities.** A person who removes or cleans or supervises the removing or
2004 cleaning of tanks as a certified tank system remover-cleaner shall be present at the job site for at
2005 least all of the following activities:

2006 **1.** Disconnecting and draining of piping.

2007 **2.** Capping of piping.

2008 **3.** Vapor freeing or inerting of tanks.

2009 **4.** Cleaning of tanks and handling of sludge and other wastes.

2010 **5.** Removal of tank systems from the ground and loading them for transport or filling the

2011 tank systems with an inert material.

2012 **6.** Visual inspection of the soils around the excavation or tank system location.

2013 **(f)** *Renewal.*

2014 **1.** A person may renew a certification as a tank system remover-cleaner.

2015 **2.** A tank system remover-cleaner certification shall be renewed in accordance with s.

2016 ATCP 93.900 (7).

2017 **3.** An application for a renewal under this section shall include proof of the liability

2018 coverage specified in sub. (2) (a) 2.

2019 **(g)** *Exclusions.* This section does not apply to any of the following:

2020 **1.** Field-constructed aboveground tanks.

2021 **2.** Heating fuel tanks located aboveground or in basements of 1- or 2-family dwellings.

2022 **(8)** TANK SYSTEM TIGHTNESS TESTERS.

2023 **(a)** *General.*

2024 **1.** No person may conduct the tightness testing specified in this chapter for a tank system

2025 unless the person holds a certification issued by the department as a certified tank system

2026 tightness tester.

2027 **2.** Tank system tightness testing shall be performed by a person with no personal or

2028 monetary interest in the facility and whose employer has no personal or monetary interest in the

2029 facility.

2030 **(b) *Application for certification.*** A person applying for a tank system tightness tester
2031 certification shall submit all of the following:

2032 **1.** An application in accordance with s. ATCP 93.900 (2).

2033 **2.** An application fee and a certification fee in accordance with Table 93.900.

2034 **(c) *Qualifications for certification.***

2035 **1.** A person applying for a tank system tightness tester certification shall have completed
2036 training in one or more tightness test methods that have been approved under this chapter, within
2037 the 2 years immediately preceding the application.

2038 **2.** The test methodology training qualifying for certification shall have been provided by
2039 the person or entity that obtained the approval under this chapter for the methodology.

2040 **(d) *Responsibilities.*** A person who conducts tightness tests for tank systems as a certified
2041 tank system tightness tester shall do all of the following:

2042 **1.** Conduct tightness tests in accordance with the material approval under this chapter and
2043 any additional manufacturer's instructions.

2044 **2.** Employ only those test methodologies for which training has been obtained.

2045 **(e) *Renewal.***

2046 **1.** A person may renew a certification as a tank system tightness tester.

2047 **2.** A tank system tightness tester certification shall be renewed in accordance with s.
2048 ATCP 93.900 (7).

2049 **(9) CATHODIC PROTECTION SPECIALTIES.**

2050 **(a) *General.***

2051 **1.** ‘Cathodic protection tester.’ No person may conduct cathodic protection testing of a
2052 tank system that is regulated under this chapter unless the person holds a certification issued by
2053 the department as a certified cathodic protection tester or corrosion expert.

2054 **2.** ‘Corrosion expert.’

2055 **a.** No person may design or install a cathodic protection system for a tank system that is
2056 regulated under this chapter unless the person holds a certification issued by the department as a
2057 certified corrosion expert.

2058 **b.** This paragraph does not apply to department-accepted, factory-supplied cathodic
2059 protection systems.

2060 **Note:** The department of agriculture, trade and consumer protection has accepted factory-
2061 supplied cathodic protection systems that comply with the sti-P3® specifications from the Steel
2062 Tank Institute and may accept other systems of this type.

2063 **3.** ‘Independence.’ Cathodic protection activities covered under this section shall be
2064 performed by a person with no personal or monetary interest in the facility and whose employer
2065 has no personal or monetary interest in the facility.

2066 **(b)** *Application for certification.* A person applying for certification as a cathodic
2067 protection tester or a corrosion expert shall submit all of the following:

2068 **1.** An application in accordance with s. ATCP 93.900 (2).

2069 **2.** An application fee and certification fee in accordance with s. Table 93.900.

2070 **3.** Documentation showing formal education relating to soil resistivity, stray current,
2071 structure-to-soil potential, component electrical isolation measurements of buried metal piping
2072 and tank systems, and corrosion control.

2073 **4.** Documentation from a cathodic protection certification entity recognized by the
2074 department, showing the applicant has successfully completed a certification examination that
2075 corresponds to the cathodic protection specialty addressed in the application.

2076 **Note:** The department of agriculture, trade and consumer protection will accept the
2077 following certifications as demonstrating compliance with subds. 3. and 4. for a cathodic
2078 protection tester:

- 2079 - AMPP certification as a CP 1 tester.
- 2080 - AMPP certification as a CP 2 technician.
- 2081 - AMPP certification as a CP 3 cathodic protection technologist.
- 2082 - AMPP certification as a senior corrosion technologist.
- 2083 - AMPP certification as a corrosion technologist.
- 2084 - AMPP certification as a corrosion technician.
- 2085 - STI/SPFA certification in UST system cathodic protection monitoring.

2086 **Note:** The department of agriculture, trade and consumer protection will accept the
2087 following certifications as demonstrating compliance with subds. 3. and 4. for a corrosion expert:

- 2088 - AMPP certification as a corrosion specialist.
- 2089 - AMPP certification as a CP 4 cathodic protection specialist.

2090 **Note:** AMPP, the Association for Materials Protection and Performance, can be
2091 contacted at AMPP, 15835 Park Ten Place, Houston, TX 77084. STI/SPFA can be contacted at
2092 STI/SPFA, 944 Donata Court, Lake Zurich, IL 60047.

2093 **(c) Responsibilities.** A person who conducts cathodic protection tests or who designs or
2094 installs cathodic protection systems shall do all of the following:

2095 1. Conduct all cathodic protection tests in accordance with this chapter and any
2096 manufacturer's instructions.

2097 2. Employ only those methodologies for which training has been obtained and
2098 documented.

2099 **Note:** Although several different levels of expertise may qualify for the same
2100 certification, this section is intended to prohibit performing cathodic protection activities unless
2101 the specific expertise for that activity has been attained and documented.

2102 **(d) *Renewal.***

2103 1. A person may renew a certification as a cathodic protection tester or corrosion expert.

2104 2. A certification for a cathodic protection tester or corrosion expert shall be renewed in
2105 accordance with s. ATCP 93.900 (7).

2106 **SECTION 243. EFFECTIVE DATE:** This rule takes effect on the first day of the month
2107 following publication.

(END OF RULE TEXT)

Dated this 11 day of September, 2026.

WISCONSIN DEPARTMENT OF
AGRICULTURE, TRADE AND CONSUMER
PROTECTION

By: Randy Romanski

Randy Romanski
Secretary

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis ☒ Original ☐ Updated ☐ Corrected	2. Date August 17, 2026
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ATCP 93; no assigned CR	
4. Subject Flammable, Combustible, and Hazardous Liquids	
5. Fund Sources Affected ☒ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule ☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs ☐ Decrease Costs ☐ Indeterminate ☐ Decrease Existing Revenues ☒ Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) ☐ State's Economy ☒ Specific Businesses/Sectors ☐ Local Government Units ☐ Public Utility Rate Payers ☐ Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$unknown but small	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? ☐ Yes ☒ No	
11. Policy Problem Addressed by the Rule ATCP 93 regulates many different types of petroleum and hazardous liquid applications, from time to time, it is necessary for the agency to consider updating the rule. Chapter ATCP 93 addresses standards for the construction, maintenance, and closure of tank systems for the storage, handling, or use of liquids that are flammable, combustible, or federally regulated substances. Rule changes reflect technical developments and industry changes that have occurred during the past several years. DATCP needs to review these matters internally and with industry and does so during the rule revision.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. Many of the businesses affected by this rule are "small businesses." DATCP shared details of the proposed ATCP 93 with stakeholders twice before seeking the DATCP Board's approval to hold hearings on the hearing draft rule. Many stakeholders are represented through organizations such as the Wisconsin Fuel and Retail Association, the Cooperative Network and industry leaders. Stakeholders who signed up for the mailing list received proposed revisions.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed ch. ATCP 93 incorporates standards by reference established by recognized technical societies, as indicated in tables listed in s. 200. Many standards have been repealed in this revision, but a few new standards have been recommended. Depending upon the nature of the entity, a business may need to encumber the cost of purchasing the copyrighted document in which a given standard is published. However, businesses will only need to purchase those publications applicable to their particular needs. The department recognizes purchase decisions as individual choices	

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

made at stakeholder discretion.

The proposed rule changes also change certain aspects of plan review that may have negligible financial effects. As tank systems age, the new rule proposes certain changes for existing tank systems or new systems if and when replacement is necessary. There may also be some financial effects as businesses transition to new provisions in closing tank systems. These will depend on the age of the tank systems.

Proposed rule changes to aboveground tank overfill and spill prevention may have financial effects for older tank systems and equipment installed

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

While the 2019 repeal and recreate of the entire rule helped in understanding, the rule still has confusing aspects that should be clarified. Without these clarifications and updates, the rule could still confuse and will not reflect the current nature of the tanks inspection program.

16. Long Range Implications of Implementing the Rule

Implementing this rule benefits business and the general public. The new rule simplifies the rules businesses must follow and develops a more uniform standard. In addition, the rule modifications create consistency between this rule and other existing DATCP rules. ATCP 93 also incorporates known changes that will become necessary over the coming years.

17. Compare With Approaches Being Used by Federal Government

Federal regulations for both aboveground and underground storage tank systems address groundwater and surface water protection. The planned rule changes are not expected to conflict with these federal regulations.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois

Illinois has a similar program reflected in administrative rules found in the Illinois Fire Protection code section (Title 41), particularly 41 Ill. Adm. Code 172 to 180.

Iowa

Iowa has a similar program as reflected in administrative rules found in code sections pertaining to the State Fire Marshal, particularly 661 Iowa Administrative Code sections 221 to 228. Other rules governing underground storage tanks appear in 567 Iowa Administrative Code sections 134 to 136, which pertain to the Iowa Department of Natural Resources.

Michigan

Michigan has a similar program as reflected in rules within the administrative code sections pertaining to the Michigan Department of Licensing and Regulatory Affairs, particularly Mich. Administrative Code R 29.2101 to 29.2174, R 29.5601 to R 29.5917, and R29.6101 to R 29.6156.

Minnesota

In Minnesota, administrative rules governing a similar program may be found in the Minnesota Pollution Control Agency section (Minnesota rules part 7105, Underground Storage Tanks; Training; part 7150, Underground Storage Tanks; Program; and part 7151, Aboveground Storage of Liquid Substances). To a limited degree, the State Fire Marshal, working out of the Minnesota Department of Public Safety, promulgates other rules dealing with the safety of storage tanks.

19. Contact Name

Michelle Reinen

20. Contact Phone Number

608-224-5160

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

<i>Rule Subject:</i>	Flammable, Combustible, and Hazardous Liquids
<i>Adm. Code Reference:</i>	ATCP 93
<i>Rules Clearinghouse No.:</i>	
<i>DATCP Docket No.:</i>	24-R-06

Rule Summary

Under Wis. Stat. ch. 168, subch. II, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for regulating tanks for the storage, handling, or use of liquids that are flammable, combustible, or federally regulated hazardous substances.

Wisconsin Stat. § 168.23 (1) directs DATCP to promulgate rules imposing standards for the construction, maintenance, and abandonment of such tanks, as well as standards for the property and facilities where such tanks are located, to protect the waters of this state from contamination. In compliance with that statutory directive, DATCP promulgated Wis. Admin. Code ch. ATCP 93.

Wisconsin Admin. Code ch. ATCP 93 protects the waters of this state and provides "... fire and life safety through the safe storage, display, installation, operation, use, maintenance and transportation of flammable, combustible, and hazardous liquids and the equipment, facilities, buildings, and premises that are used to store, transfer and dispense them." See Wis. Admin. Code § ATCP 93.010. Those existing policies of protecting the waters of this state from contamination, reducing fire hazards, and protecting human life are proposed to be included in the revised rule.

The rule revision:

- Changes definitions.
- Clarifies cross references between aboveground storage tank systems (ASTs) and underground storage tank systems (USTs)
- Changes and clarifies spill and overfill prevention requirements.
- Adds and repeals standards incorporated by reference
- Revises storage tank credentialing and certification requirements.
- Clarifies requirements for temporarily out of service (TOS) tanks and abandoned tanks.
- Modifies the plan review process.
- Makes style changes to streamline the rule.

Small Businesses Affected

This rule is anticipated to have a minimal impact on small businesses within the state. The majority of proposed modifications serve mainly to update and reorganize provisions in the current rule. There are a few modifications of note:

- The definition of “closure” under s. ATCP 93.050 (29) has been proposed to change. The change would permit capping and leaving in place. This could have a minimal effect and perhaps a positive one.
- The term “multi-stage project” will now be defined in s. ATCP 93.050 (73m). Due to the time and size of these projects, inspectors perform multiple inspections including multiple final inspections. There will be increased visits to ensure safety.
- The definition of “temporarily out of service” in s. ATCP 93.050 (120m) has been amended to eliminate the 24-month provision. This could have a minimal effect and perhaps a positive one.
- As a result of some clarifications of phrasing and requirements, the needs for using certain DATCP forms have been eliminated. This should assist small businesses.
- Under an amended s. ATCP 93.115 (3), DATCP proposes to have the ability to have stored product removed in the event of a shutdown.
- DATCP proposes that industry include a copy of a deed with its plan review under a new s. ATCP 93.140 (3) (bm). There may be a cost if an owner does not have a copy of the deed.
- The tables in s. ATCP 93.200 have been restructured. Some standards have been repealed, and a few new standards have been proposed. Depending upon the nature of the entity, a business may need to bear the cost of purchasing the copyrighted document in which a given standard is published. However, businesses will only need to purchase those publications applicable to their needs. Therefore, business costs will depend on purchasing decisions.
- DATCP proposes to eliminate the requirements in s. ATCP 93.230 that operators conduct inspections required by PEI RP 500 and 900. Instead, operators should use DATCP forms. The department expects cost savings for owners and operators who will not need to purchase those two standards any longer.
- Altered and clarified requirements in s. ATCP 93.410 (1) may have an impact since the requirements on alarms and gauges have been proposed for change. There may be additional challenges for older systems depending on the type of tank and equipment installed.
- In s. ATCP 93.510 (2) (am), DATCP would now require some replacements due to the 12-month annual functionality verification cycle if equipment is no longer manufactured. This could affect older systems.

Reporting, Bookkeeping, and Other Procedures

Like the current rule, the proposed rule continues to require certain types of reporting and record keeping that are associated with the testing of tanks and tank systems.

As previously mentioned, many small businesses or business organizations will decide to purchase some of the standards-related publications that are indicated in the tables in Section 200.

Professional Skills Required

The proposed rule does not change any professional requirements. The proposed rule reorganizes Section 240 and creates subchapter IX. Many small businesses found Section 240 confusing; subchapter IX reorganizes the important information and should clarify credentialing. This change should reduce administrative burden by making requirements easier to find in the updated rule.

Accommodation for Small Business

Many of the businesses affected by this rule are “small businesses.” DATCP shared details of the proposed ATPC 93 with stakeholders twice before seeking its Board’s approval to hold hearings on the hearing draft rule. Many stakeholders are represented through organizations such as the Wisconsin Fuel and Retail Association and the Cooperative Network and industry leaders.

Because of the inevitable complexity of the tanks inspection program, DATCP expects to undertake an extensive training and informational program for the benefit of Department staff and industry personnel. DATCP also expects to receive ongoing inquiries concerning the interpretation and enforcement of the rule and will devote resources to fielding those inquiries.

Conclusion

This proposed rule will likely benefit businesses, including small businesses, since an effort has been made by the Department to clarify and simplify the rule. Negative impacts, if any, will be few and limited. Accordingly, the proposed rule is not subject to the delayed small business effective date provided in Wis. Stat. § 227.22 (2) (e).

Dated this 17th day of August, 2026.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 

Michelle Reinen, Administrator
Division of Trade and Consumer Protection

**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD

The Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a permanent rule relating to Wis. Admin. Code. ch. ATCP 93, relating to flammable, combustible, and hazardous liquids.

Hearing Information

Date: Tuesday, October 20, 2026

Time: 2:30 P.M.

In Person Access:

Prairie Oaks State Office Building, Room 172, 2811 Agriculture Dr., Madison,
Wisconsin 53708

Internet Access:

Register with your name and email at the following web address, and you will receive an email with a link to the meeting:

<https://events.gcc.teams.microsoft.com/event/379dff75-f922-4f93-ad39-c88545b1a85d@f4e2d11c-fae4-453b-b6c0-2964663779aa>

Phone Access:

Dial 1-608-571-2209, Phone Conference ID 737 295 472#

Date: Wednesday, October 21, 2026

Time: 11:00 A.M.

In Person Access:

Green Bay State Office Building, Room 130, 200 North Jefferson Street, Green Bay,
Wisconsin 54301

Date: Tuesday, October 27, 2026

Time: 11:00 A.M.

In Person Access:

Eau Claire State Office Building, Room 131, 718 Clairemont Avenue, Eau Claire,
Wisconsin 54701

Date: Wednesday, November 4, 2026

Time: 11:00 A.M.

In Person Access:

Stratford Branch Library, Stratford Meeting Room, 213201 Scholar Street, Stratford,
Wisconsin 54484

Appearances at the Hearing and Submittal of Written Comments

The rule may be reviewed and comments made at <https://docs.legis.wisconsin.gov/code/chr/comment> or by contacting Michelle Reinen at Michelle.Reinen@wisconsin.gov no later than November 6, 2026. Comments may be submitted to Michelle Reinen by email to Michelle.Reinen@wisconsin.gov or by mail to Michelle Reinen, Department of Agriculture, Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911. Comments must be received by November 6, 2026, to be included in the record of the rule-making proceedings.

Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please contact Michelle Reinen by phone at (608) 224-5160 or by email at Michelle.Reinen@wisconsin.gov with specific information on your request at least 10 days before the date of the scheduled hearing.

Initial Regulatory Flexibility Analysis

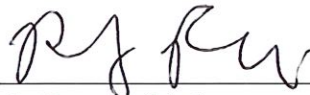
The proposed rule will have an effect on small businesses, as defined under s. 227.114 (1), Wis. Stats. The Initial Regulatory Flexibility Analysis is attached.

Agency Small Business Regulatory Coordinator

Bradford Steine, Bradford.Steine1@wisconsin.gov, (608) 224-5024

Dated this 11 day of September, 2026

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By 
Randy Romanski, Secretary