

Regulatory Analysis

Notice of Intended Action to be published: 661—Chapters 221 and 224
“Flammable or Combustible Liquids; Aboveground Flammable
or Combustible Liquid Storage Tanks”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 101.1(1) and 10A.511.

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 101 and 17A and Executive Order 10 (January 10, 2023)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 28, 2025
10 a.m.

Ledges Conference Room
6200 Park Avenue
Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing’s website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed rulemaking rescinds Chapters 221 and 224 and repromulgates pertinent rules in a new streamlined and combined Chapter 221. This proposed rulemaking implements Iowa Code sections 10A.511 and 101.1, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 10A.511 provides that the Director shall promulgate fire safety rules in consultation with the State Fire Marshal. Iowa Code section 101.1 provides that the Director is empowered to formulate and adopt or revise reasonable rules for the safe transportation, storage, handling, and use of flammable and combustible liquids. The rules shall be adopted pursuant to Iowa Code chapter 17A.

This rulemaking implements the aforementioned Iowa Code sections by adopting a more recent edition of the International Code Council (ICC) International Fire Code (IFC), National Fire Protection Association (NFPA) 30 and 30A. The proposed rulemaking explains the process and requirements for plan review, inspections, registration requirements and fees, violations, civil penalties, and appeals.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The costs of this rulemaking will be borne by the industry by operating in compliance with the rules. There are no costs for the purchase of the digital or printed code standards from ICC and NFPA. Free versions are available at iccsafe.org and nfpa.org. Businesses will be responsible for the costs for plan reviews and registrations and may incur costs related to civil penalties or court costs related to code violations or costs for the retention of records as required by the code standards.

- **Classes of persons that will benefit from the proposed rulemaking:**

Uniformity in permitting and inspections, achieved through consistent processes and adoption of the codes benefit both the general public and members of the regulated industry. The public will benefit from the proposed rulemaking protecting safety, health, and property. The members of the industry will benefit by having clear standards, consistent with other jurisdictions, within which to work.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Members of the industry will bear the costs of complying with the safety standards established by the rulemaking. Stakeholders will have to pay the fees for plan reviews, including a fee of \$100 plus \$25 for each new or replacement tank included in the plan. The cost for review of the initial construction plans for a refinery is \$500 if the projected construction costs are \$100,000,000 or less and \$1,000 if the projected construction costs are greater than \$100,000,000. The fees for aboveground storage tanks are set forth in Iowa Code section 101.22. This proposed rulemaking proposes no substantive changes to the fee structure already in place. These costs and fees are statutorily mandated.

Persons may incur costs related to civil penalties or court costs related to code violations or costs for the retention of records as required by the code standard. The civil penalties are established in Iowa Code section 101.26.

- **Qualitative description of impact:**

The industry of transporting, storing, handling, or the use of flammable and combustible liquids is by nature dangerous. There is the potential for fire and explosion. These liquids have the ability to produce flammable vapors that can readily ignite when mixed with air. Implementing the requirements of Iowa Code chapter 101 ensures the safety of persons engaged in the transport, storage, handling, or use of flammable and combustible liquids. When this rulemaking is implemented, stakeholders, the public, and first responders are safer.

The economic costs associated with unsafe practices in this industry include the costs from accidents like fires and explosions, cleanup costs from spills, increased insurance premiums, production disruptions, potential lawsuits from accidents, and potential environmental damage costs. Iowa is a farming state, and spills, fires, and explosions would negatively impact farmland affected by those accidents.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Costs to the Department include staff time needed to ensure compliance with the requirements of Iowa Code chapter 101 and these rules. The Department has 2.0 full-time equivalent (FTE) positions who, among other duties, are responsible for the inspection of aboveground storage tanks containing flammable and combustible liquids. These FTE positions ensure compliance with the IFC and NFPA 30 and 30A code standards.

- **Anticipated effect on state revenues:**

Pursuant to Iowa Code chapter 101, fees collected for plan reviews and registrations are retained by the Department and appropriated for the use of the Director. These fees help to defray the costs of this rulemaking.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There are no specific financial costs to implement or enforce this rulemaking outside of any costs associated with the Department's statutory duties identified. The costs of this rulemaking are directly associated with the Department's general functions. This rulemaking does not add to the costs of the Department or public in excess of general functions. The benefits include clear and consistent implementation of applicable Iowa Code provisions.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

There are no less costly methods or less intrusive methods since the rules implement requirements in Iowa Code chapter 101. A number of states have implemented fees for plan reviews and inspections. Nebraska charges \$2.50 per \$10,000 of the project, not to exceed \$500. Minnesota charges \$100 for plan review. Kentucky charges \$100 for the first tank and \$50 for each additional tank. Wisconsin charges \$35 for the first tank and \$10 for each additional tank and \$150 for 11 or more tanks. Illinois seems to charge \$200 for permitted projects. Iowa's fees are clear and help to recoup the cost to review plans to ensure that the plans meet the requirements of Iowa Code chapter 101 and these rules.

6. Alternative methods considered by the agency:

• **Description of any alternative methods that were seriously considered by the agency:**

Response in section "5," above.

• **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Response in section "5," above.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

• Establish less stringent compliance or reporting requirements in the rulemaking for small business.

• Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

• Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

• Establish performance standards to replace design or operational standards in the rulemaking for small business.

• Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The chapter is meant to ensure public safety and the appropriate transportation, storage, handling, and use of liquefied petroleum gases, much of which may affect those operating small businesses. To exempt a small business from adhering to this chapter would jeopardize any member of the public who sought services from that business, as well as the employees of the business. The risk to the public is greater than the potential harm or cost to the small business. Additionally, if a small business identified a rule that is overly burdensome and the goals of which could be achieved in a manner that would reduce the impact on the small business, the business could utilize the established waiver process set forth by the Department.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 221 and adopt the following **new** chapter in lieu thereof:

CHAPTER 221
FLAMMABLE OR COMBUSTIBLE LIQUIDS

661—221.1(101) Scope and definitions.

221.1(1) This chapter provides the rules of the department for safe transportation, storage, handling, and use of flammable or combustible liquids. The flammable or combustible liquids program is part of the aboveground flammable or combustible liquid storage tanks program and may be contacted as provided in 481—Chapter 1 and on the department’s website: dial.iowa.gov.

221.1(2) The definitions set forth in Iowa Code chapter 101 are incorporated by reference herein. The following definitions also apply to this chapter. These definitions are adopted in addition to those that appear in the International Fire Code, 2024 edition; NFPA 30, Flammable and Combustible Liquids Code, 2024 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2024 edition. If a definition adopted in this rule conflicts with a definition included in a code or standard adopted by reference in this chapter, the definition found in this rule will apply.

“*Approved by the department*” means a laboratory has requested and received recognition by the department to test equipment whose use or installation is required by rules of the department. A laboratory that seeks approval of the department will contact the department and provide information required by the department. Approval or disapproval will be granted only by a letter from the department to the laboratory making the request, although advance notice of the decision of the department regarding whether approval is to be granted may be provided by electronic mail.

“*Department*” means the department of inspections, appeals, and licensing.

“*Diesel fuel*” means a liquid, other than gasoline, that is suitable for use as a fuel in a diesel fuel-powered engine and that meets the applicable standards established in Iowa Code section 214A.2. A blend of “diesel fuel” that meets these standards and contains 6 percent biodiesel or more is “biodiesel fuel.” Diesel fuel blends that meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

“*ICC*” means the International Code Council, 200 Massachusetts Avenue, NW, Suite 250, Washington, D.C., 20001; website iccsafe.org.

“*IFC*” means the International Fire Code, published by the ICC. “IFC” will be followed by a year (e.g., IFC, 2006), which indicates the specific edition of the IFC to which reference is made.

“*Independent testing laboratory*” means a laboratory recognized by the federal Occupational Safety and Health Administration as a nationally recognized testing laboratory or a laboratory approved by the department.

“*Listed*” means listed or approved by an independent testing laboratory for a specific use. A product is considered to be listed if it is of a model that has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

“*Mobile air-conditioning system*” means mechanical vapor compression equipment that is used to cool the driver or passenger compartment of any motor vehicle.

“*NFPA*” means the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471; website nfpa.org. References to the form “NFPA xx,” where “xx” is a number, refer to the NFPA standard or pamphlet of the corresponding number.

“*SPCC plan*” means a spill prevention, control, and countermeasure plan, as defined in 40 CFR 112, published July 22, 2024.

“*Under dispenser containment*” or “*UDC*” means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater.

661—221.3(101) Compliance. Any tank subject to the provisions of this chapter shall comply with this chapter and Iowa Code chapter 101 at all times.

661—221.4(101) Flammable or combustible liquids. The IFC, 2024 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2024 edition, and references contained therein, subject to amendments that follow, are adopted by reference as the rules for transportation, storage, handling, and use of flammable or combustible liquids. In any case in which a provision of the IFC conflicts with a provision of NFPA 30, the NFPA provision controls. Any refinery shall comply with the provisions of this rule.

221.4(1) Amendments to the IFC, 2024 edition, are as follows:

- a. The category of combustible liquids does not include compressed gases or cryogenic fluids.
- b. Delete the definition of refinery and insert in lieu thereof the following:

REFINERY. A plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline or other sources.

- c. Add the following new sections:

5703.6.12 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve that is located as close as practical to the shell of the tank as well as an emergency internal check valve at each pipe connection to any tank opening below normal liquid level effectively located inside the tank shell and operable both manually and by an effective heat-activated device that, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipelines from the tank are broken.

5703.6.13 Any device dispensing Class I or Class II flammable liquids shall not be constructed or installed less than 100 feet from any existing dwelling unit.

- d. Delete section 5704.2.9.2.2.1, introductory paragraph, and insert in lieu thereof the following:

5704.2.9.2.2.1 Foam fire protection shall:

- a. If required, be provided in accordance with NFPA 11, 2024 edition, and be of a type or types and amount appropriate to suppress fires involving types and amounts of flammable or combustible liquids found on the premises.

- b. Where the flammable or combustible liquid contains more than 10 percent alcohol, be alcohol-resistant and stored separately from any area in which flammable or combustible liquids are stored and, in an area, or areas that will be readily accessible to fire fighters responding to a fire at the facility.

- e. Amend the exception to section 5704.2.9.2.2.1 by adding the following new numbered paragraphs:

6. The premises are not a refinery.

7. The premises do not include bulk storage of flammable or combustible liquids.

8. The premises do not contain total storage capacity to store one million gallons or more of flammable or combustible liquids.

- f. Delete section 5704.3.1.1 and insert in lieu thereof the following:

5704.3.1.1 Approved containers. Only approved containers and portable tanks shall be used, and no flammable or combustible liquid be placed into, stored in, or carried in any container other than one which is metal or hard plastic or be placed into, stored in, or carried in any temporary or disposable container.

221.4(2) Amend NFPA 30, section 22.11.4, by adding the following new paragraphs:

(11) Each secondary containment tank shall have top-only openings and be either a steel double-walled tank or a steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards, such as those codified by the American Petroleum Institute, the Steel Tank Institute and the American Concrete Institute. Each tank will be listed by an independent testing laboratory.

(12) Each fill opening in a secondary containment tank shall be provided with a spill container that will hold at least 5 gallons.

(13) For any secondary containment tank, interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water. An automatic detection system may be either electronically or mechanically operated.

661—221.5(101) Motor fuel dispensing facilities and repair garages. The IFC, 2024 edition, published by the ICC, and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2024 edition and references contained therein, are adopted by reference as the rules for motor fuel dispensing facilities and repair garages. If any provision of the IFC adopted herein is in conflict with any provision of NFPA 30A, the IFC provision will apply. The IFC, 2024 edition, Chapter 23, is adopted with the following amendments:

221.5(1) Amend Table 2306.2.3 so that:

Each tank with a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems and storing a Class I liquid, or with a capacity of not more than 12,000 gallons and storing a Class II or Class III liquid, that is located at a commercial, industrial, governmental, or manufacturing establishment, and that is intended for fueling vehicles used in connection with the establishment, is required to be located at least:

a. 40 feet away from the nearest important building on the same property;

Exception: Tanks may be located closer than 40 feet to a building of noncombustible construction.

b. 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

Exception: No minimum separation will be required for any tank that complies with NFPA 30A, section 4.3.2.6.

c. 100 feet away from any residence or place of assembly.

221.5(2) Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

“*B-blend*” means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including between 6 and 20 percent biodiesel, as defined in Iowa Code section 214A.1.

Note: For purposes of the rules contained in this chapter and other chapters of rules of the department, diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.20(214A,208A), which adopts by reference standards for the content of motor fuels established by ASTM International (formerly known as the American Society for Testing and Materials).

“*E-10*” means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*E-blend*” means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

“*Existing E-blend dispenser*” means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

2206.7.1.1.2 E-blend may be dispensed only if the dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), (4), or (5) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection and located on the premises of the owner or operator and made available to the department of natural resources or the department upon request. If a leak is detected, the department of natural resources will be notified pursuant to Iowa Code section 455B.386.

(3) The dispenser’s manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

(5) The owner or operator of the dispenser has in force insurance for environmental liability in a minimum amount of \$500,000, which would cover damage resulting from the operation of the dispenser and the owner or operator is able to produce documentation of the insurance coverage upon request from the department or the department of natural resources.

Note: If option (2), (4), or (5) is used, under-dispenser containment will be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

This subrule is intended to implement Iowa Code sections 101.1 and 455G.31.

221.5(3) Add the following new section:

2206.7.10 Under dispenser containment (UDC). When installing a new motor fuel dispenser or replacing a motor fuel dispenser, UDC shall be installed whenever any of the following occurs:

(1) UDC is required by a rule adopted by the environmental protection commission.

Note: See 567—subrule 135.3(9);

(2) A motor fuel dispenser is installed at a location where there previously was no dispenser; or

(3) An existing motor fuel dispenser is removed and replaced with another dispenser. UDC is not required when only the emergency shutoff, shear valves or check valves are replaced.

UDC shall:

- Be intact and liquid tight on its sides and bottom and at any penetrations;
- Be compatible with the substance conveyed by the piping; and
- Allow for visual inspection and monitoring and access to the components in the containment system.

Exception: UDC will not be required for a dispenser which sits directly upon a solid concrete apron.

661—221.6(101) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or the IFC or NFPA 30A as adopted by reference herein, aboveground flammable or combustible liquid storage tanks may be used to store flammable or combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

221.6(1) The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the department and has been approved for storage of flammable or combustible liquids in compliance with this subrule.

221.6(2) The facility has suffered damage that has rendered the storage tanks normally used by the facility for flammable or combustible liquids inoperable. Storage of flammable or combustible liquids in compliance with this subrule may continue only for as long as the normal storage tanks are inoperable and for more than 90 days.

Exception: In extraordinary circumstances, storage of flammable or combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the department for such storage.

221.6(3) The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable or combustible liquids in compliance with this subrule is occurring.

221.6(4) Any aboveground flammable or combustible liquid storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable or combustible liquids.

221.6(5) Any aboveground flammable or combustible liquid storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

Exception: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the department for its use. In reviewing such a request, the department will consider but is not limited to considering the following factors:

- a. Volume of throughput of the facility.

b. Ability to meet setback requirements appropriate to the size of the tanks used.

221.6(6) All electrical service proximate to the storage area will comply with applicable provisions of NFPA 70, National Electrical Code, as adopted in 661—Chapter 550. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility and be clearly marked “Emergency Shutoff.”

221.6(7) A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

221.6(8) Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying, “NO SMOKING” and “NO OPEN FLAME.”

221.6(9) Aboveground flammable or combustible liquid storage tanks used pursuant to this subrule will be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing will be allowed at the facility.

221.6(10) Any aboveground flammable or combustible liquid storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those that are frequently occupied by humans.

661—221.7(101) Aircraft fueling. The IFC, 2024 edition, published by the ICC, sections 2006 through 2006.21.1 and references contained therein, and NFPA 407, Standard for Aircraft Fuel Servicing, 2022 edition and references contained therein, are adopted by reference as the rules for aircraft fueling facilities. If any provision of the IFC adopted herein conflicts with any provision of NFPA 407, 2022 edition, the NFPA provision controls.

661—221.8(101) Helicopter fueling. The IFC, 2024 edition, published by the ICC, sections 2007 through 2007.8 and references contained therein, is adopted by reference as the rules for helicopter fueling facilities.

661—221.9(101) Fuel-fired appliances. The IFC, 2024 edition, published by the ICC, sections 605 through 605.8 and references contained therein, is adopted by reference as the rules for fuel-fired appliances, except for LP-gas fired appliances, which are subject to the provisions of 661—Chapter 226.

661—221.10(101) Stationary combustion engines and gas turbines. The IFC, 2024 edition, Chapter 6 and references contained therein, and NFPA 37, “Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines,” 2024 edition, are adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines. If any provision of the IFC, 2024 edition, Chapter 6, adopted herein is in conflict with any provision of NFPA 37, 2024 edition, the IFC provision controls.

661—221.11(101) Plans and plan review fees.

221.11(1) The owner of any premises on which flammable or combustible liquids are or will be stored or used is required to submit construction plans to the department, online or by mail, prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility that includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans will be sealed by a licensed professional engineer if the facility at which the construction will occur is or will be a refinery or if preparation of the plans by a licensed professional engineer is required by another provision of Iowa law. Construction for which plans are required to be submitted for review will not commence until approval of the plan has been received from the department.

Exception 1: Submission of construction plans is not required if the total flammable or combustible liquid storage capacity on the premises is or will be 1,100 gallons or less.

Exception 2: If an SPCC plan has been prepared pursuant to 40 CFR 112 for a facility other than a refinery, a copy of the SPCC plan may be submitted to the department in lieu of submission of separate construction plans, provided that the SPCC plan includes all of the elements required to be included in construction plans for the specific facility in this subrule. If the department agrees, copies of portions of the SPCC plan may be submitted in lieu of a copy of the complete plan provided that all elements of construction plans that are required by this subrule for the specific facility are included. If an SPCC plan or portions thereof are submitted to the department, the person making the submission will provide any additional information required by the department to evaluate compliance with the provisions of this chapter and Iowa Code chapter 101. The copy of the SPCC plan or portions thereof submitted to the department will clearly identify the licensed professional engineer who prepared the plan or will be accompanied by a letter making this identification.

221.11(2) Minimum requirements for plans submitted for review shall include the following:

a. Drawings showing the name of the person, firm, or corporation proposing the installation, the location, and the adjacent streets or highways.

b. In the case of refineries or bulk plants, drawings showing, in addition to any applicable features required under paragraphs 221.11(2)“*d*” and “*e*,” the plot of ground to be utilized and its immediate surroundings on all sides and a complete layout of buildings, tanks, loading and unloading docks, and heating devices, if any.

c. In the case of service stations, drawings showing, in addition to any applicable features required under paragraphs 221.11(2)“*d*,” “*e*,” and “*f*,” the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, and greasing or washing stalls; and the type and location of any heating device.

d. In the case of aboveground storage, drawings showing the location and capacity of each tank; dimensions of each tank whose capacity exceeds 50,000 gallons, the class of liquid to be stored in each tank, the type of tank supports, the clearances, the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank, and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

e. In the case of underground storage, drawings showing the location and capacity of each tank; the class of liquids to be stored; and the location of fill, gauge, vent pipes, openings, and clearances.

f. In the case of an installation for storage, handling, or use of flammable or combustible liquids within buildings or enclosures at any establishment or occupancy covered in this chapter, a drawing in detail sufficient to show whether applicable requirements are to be met.

221.11(3) Fees for plan reviews apply as follows:

a. \$100 plus \$25 for each new or replacement tank included in the plan, for any site or facility at which flammable or combustible liquids are or will be stored, except for new construction of a refinery.

b. \$500 for review of the initial construction plans of a refinery if the projected construction costs are \$100,000,000 or less and \$1,000 for the initial construction plans for a refinery if the projected construction costs are greater than \$100,000,000.

221.11(4) The owner will submit payment of plan review fees electronically or in the form of a check, money order, or warrant payable to the department. Payment will not be made in cash.

661—221.12(101) Approval of plans. A registration tag for a new aboveground storage tank will not be issued prior to approval by the department of plans for the installation of the tank and payment of the required plan review and registration fee. The department may require inspection of the tank and payment of an inspection fee prior to use of the tank.

661—221.13(101) Inspections. Any facility at which flammable or combustible liquids are stored is subject to inspection by an employee of the department during the regular business hours of the facility or within four hours of notifying the owner of intent to inspect the facility. Inspections may be

initiated by the department or designee at random or on any other basis; may be conducted at the request of the owner, operator, or manager of a facility; or may be conducted to investigate allegations made in a complaint. Complaints should be in writing and submitted to the department and specify the location and nature of the alleged violations.

661—221.14(101) Registration of existing and new tanks—fees. All existing, new, replacement, and out-of-service aboveground tanks of 1,101-gallon capacity or greater shall be registered with the department as follows: aboveground tanks used to store flammable or combustible liquids, as defined in Iowa Code section 455B.471, including but not limited to crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil; and tanks and are used, or planned for use, to store blended fuels, which include either gasoline or diesel.

221.14(1) Registration form. Registration forms for aboveground storage tanks may be obtained from the department. A completed registration form shall be submitted to the department, online or by mail by the date on which it is due, and accompanied by the applicable fee, including any applicable late charges.

221.14(2) Fees. Registration fees and late fees are set forth in Iowa Code section 101.22.

221.14(3) Registration deadline. Each tank shall be registered annually by October 1 of each year.

Exception: A tank may be registered for the first time on any date without penalty, provided that it has not previously been in use to store flammable or combustible liquids. A tank that is registered for the first time shall not be used to store flammable or combustible liquid until the registration has been completed and the registration tag has been attached to the tank.

221.14(4) Payment. The registration fee, and any applicable late fee, may be submitted electronically or by draft, check, or money order payable to the department. Payment cannot be made in cash.

661—221.15(101) Inspections and orders.

221.15(1) Inspections. Any tank is subject to inspection at any time by the department, an employee of the department, a local fire chief, or any member of the local fire department designated by the local fire chief. Any of the persons listed who seeks to inspect a tank pursuant to this rule shall, upon request, be allowed access to any facility in which a tank or tanks are located as follows:

a. At any time such a facility is attended, immediate access to the facility to the person who requests access to the facility in order to conduct an inspection;

b. If a facility is unattended, the person who seeks to conduct the inspection will notify the owner or operator of the facility. During regular business hours, or between 8 a.m. and 4 p.m. Monday through Friday, access shall be allowed within one hour of notification. If access is sought other than during regular business hours, access will be provided at 8 a.m. on the next weekday other than a holiday;

c. If the person who seeks access to the facility indicates that access is being sought to investigate an emergency or potential emergency, the owner of the facility will provide access within one hour of receiving the request, regardless of the time of day or day of the week when the request is received.

221.15(2) Orders. If the person who conducts an inspection pursuant to this chapter finds that a tank is in violation of any applicable provision of this chapter or Iowa Code chapter 101, the person may issue an order for correction. The order will specify the violation or violations, corrective actions to be taken, and the time allowed for completion of the corrective actions.

221.15(3) Suspension of use. If any corrective action ordered pursuant to subrule 221.15(2) is not completed in the time specified therein, the department may order that the tank be placed out of service until the corrective action or actions have been completed. If a tank is ordered to be placed out of service pursuant to this subrule, the tank will have a sticker prominently affixed to it that states that

the tank is out of service by order of the department and that it is a violation of law to transfer any flammable or combustible liquid into the tank.

221.15(4) *Emergency order.* If the department finds that a violation identified during an inspection conducted pursuant to subrule 221.15(1) creates an imminent threat to public safety or public health, or if the department finds, after consultation with the department of natural resources, that such a violation creates an imminent threat of environmental damage, the department will order that the tank be placed out of service immediately and may order that the tank be evacuated of liquid and purged of vapors. If a tank is ordered to be placed out of service pursuant to this subrule, the tank will have a sticker prominently affixed to it that states that the tank is out of service by order of the department and that it is a violation of law to transfer any flammable or combustible liquid into the tank.

221.15(5) *Notice.* Notice of any order issued pursuant to this rule will be given to the owner or operator of a tank subject to the order. Notice of an emergency order issued pursuant to subrule 221.15(4) will be given by personal service. Notice of any other order issued pursuant to this rule may be given by regular mail, electronic mail, or personal service.

Exception: If the owner of a tank subject to an order issued pursuant to this rule is unknown or cannot be located, notice will be considered to have been given if the notice is served personally to any person at the location of the tank or, if no person is present, by affixing the notice to the tank. Alternatively, notice may be given by mailing the notice to the address at which the tank is located, with a return receipt requested. Notification from the United States Postal Service that delivery was attempted unsuccessfully or that delivery was refused will serve as proof that notice was given.

661—221.16(101) Leaks, spills, or damage. Any leak from, spill from, or damage to a storage tank shall:

221.16(1) Be reported to the local fire department and, if required by law, to the department of natural resources.

221.16(2) Be placed out of service until the leak or damage has been repaired.

221.16(3) Have a sign placed prominently on the tank stating that the tank is out of service and that no flammable or combustible liquid shall be placed into the tank until required repairs have been completed.

661—221.17(101) Civil penalty. The department may impose a civil penalty in accordance with Iowa Code section 101.26 upon the owner of a storage tank for any of the following:

221.17(1) Failure to register a storage tank currently being used to store a flammable or combustible liquid if the registration is more than 30 days late.

221.17(2) Allowing any flammable or combustible liquid to be placed into a tank that has been ordered to be placed out of service and for which the order has not been rescinded or allowing any flammable or combustible liquid to be placed into any tank that has been damaged or is leaking, if the damage or leak has not been repaired.

661—221.18(17A,101) Appeals. Any order or civil penalty issued pursuant to this chapter may be appealed by submitting a request for a contested case hearing to the department, in writing, within 30 days of receipt or service of the order or civil penalty. Contested cases are governed by 481—Chapter 9 (contested cases) and 481—Chapter 10 (rules of practice and procedure before the administrative hearings division). Any order or civil penalty appealed pursuant to this rule will be stayed until the issuance of a final agency decision.

Exception: An emergency order issued pursuant to subrule 221.15(4) will not be stayed and will take effect immediately upon notification of the order to the owner of the tank.

These rules are intended to implement Iowa Code chapter 101.

ITEM 2. Rescind and reserve **661—Chapter 224.**