Regulatory Analysis

Notice of Intended Action to be published: 661—Chapter 228
"Liquefied Natural Gas"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 101.1
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 10A, 17A and 101

Public Hearing

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

November 25, 2024 9 a.m.	Geode 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 repromulgates Chapter 228 and implements Iowa Code section 101.1 in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 101.1 provides that the director will formulate reasonable rules for the safe transportation, storage, handling, and use of liquefied natural gases. Iowa Code section 101.2 requires that the rules be in substantial compliance with the standards of the national fire protection association relating to liquefied natural gases. Iowa Code section 10A.511 requires the director to enforce all laws, rules and regulations concerning the storage, transportation, handling, and use of flammable liquids, combustibles, fireworks and explosives, as well as liquid petroleum gas.

This rulemaking implements the aforementioned Iowa Code sections by establishing the adopted edition of the National Fire Protection Association (NFPA) 59A.

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 are borne by the members of the industry by complying with the requirements in this rulemaking. A free version of the NFPA is available through NFPA.org to the public. Stakeholders 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. As set forth above, Iowa Code section 101.2 requires that the rules be in substantial compliance with the standards of the NFPA.

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

Working with liquefied natural gases can, by its nature, be dangerous. The proposed rulemaking benefits persons involved in the transport, storage, handling, or use of liquefied natural gases by protecting their safety through adoption of national industry standards. The rulemaking also benefits the public by ensuring safe practices in the transport, storage, handling, or use of liquefied natural gases. The rulemaking benefits fire fighters and other first responders who would have to respond to disasters resulting from unsafe practices that are prevented by this rulemaking.

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:**

Because the proposed rulemaking requires that members of the industry adopt and implement appropriate operational policies, most of the costs are not directly incurred due to this rulemaking, but are necessary when engaging in safe transport, storage, handling or use of liquefied natural gases. These costs are difficult to quantify. 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. These costs are primarily incurred due to the nature of operations governed by this rulemaking and the statutory requirement that the rules be in substantial compliance with the standards of the NFPA.

Examples of changes in the NFPA 59A 2023 edition include adding minimum required records reflecting the current design of a facility and updating standards for location of fire and gas detectors. Costs associated with these changes are difficult to quantify but are anticipated to be small.

- **Qualitative description of impact:**

Implementing the requirements of Iowa Code chapter 101 ensures the safety of persons intending to transport, store, handle, or use liquefied natural gases, as well as the general public. A number of other states have adopted the NFPA, including Nebraska, Minnesota, Illinois, Missouri and Wisconsin. The broad implementation of the NFPA amongst states ensures consistency and safe practices regarding the transport, storage, handling and use of liquefied natural gases.

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 that, among other duties, are responsible for the inspection of aboveground storage tanks containing liquefied natural gas. These FTEs ensure compliance with NFPA 59A code standards.

- **Anticipated effect on state revenues:**

This rulemaking is not anticipated to have any effect on state revenues. Implementation and enforcement costs borne by the Department and identified above are incurred due to the nature of the Department's statutorily prescribed duties pursuant to Iowa Code chapter 101 and are not affected by this rulemaking. The Department collects no fees for inspections of liquefied natural gas aboveground storage tanks.

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

The benefit of ensuring the safe handling of liquefied natural gases as set forth above far outweigh the potential costs of inaction. Liquefied natural gas can release harmful air pollutants causing respiratory illnesses, heart disease and cancer. The gases can cause pool fires, flammable vapor clouds, fire and cryogenic impacts. The rulemaking is essential to the health and safety of the general public as well as people working in the industry and fulfills the Department's rulemaking duties prescribed by Iowa Code sections 101.1 and 101.2.

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

There are no less costly or less intrusive methods because the rules implement requirements found in Iowa Code chapter 101.

6. **Alternative methods considered by the agency:**

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

See the response to Section 5 above.

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

See the response to 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 rulemaking is meant to ensure public safety and the appropriate transportation, storage, handling, and use of liquefied natural gases. To exempt small businesses from adhering to this rulemaking would jeopardize any member of the public who sought services from that business. The risk to the public is greater than the potential harm or cost to the small business. Furthermore, if a small business identifies a component of the adopted standards that is overly burdensome and the goals of which could be achieved in a manner that would reduce the impact on the small business, it could utilize the Department's established waiver process.

Text of Proposed Rulemaking

ITEM 1. Rescind 661—Chapter 228 and adopt the following **new** chapter in lieu thereof:

CHAPTER 228
LIQUEFIED NATURAL GAS

661—228.1(101) Transportation, storage, handling, and use of liquefied natural gas. NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 2023 edition, published by the National Fire Protection Association and available at www.nfpa.org, is adopted by reference as the rules governing the transportation, storage, handling, and use of liquefied natural gas. Persons who transport, store, handle, or use liquefied natural gas shall comply with the applicable requirements established therein.

This rule is intended to implement Iowa Code chapter 101.