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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code sections 2B.5A and 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay or suspension imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Inspections and Appeals Department[481]

Replace Analysis

Remove Reserved Chapters 32 and 33

Insert Chapter 32 and Reserved Chapter 33

Professional Licensure Division[645]

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Public Safety Department[661]

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CHAPTER 32
CONSUMABLE HEMP PRODUCTS

481—32.1(204) Definitions. For the purpose of these rules, the following terms shall have the meanings indicated in this chapter. The definitions set out in Iowa Code section 204.2 shall be considered to be incorporated verbatim herein.

“Accredited laboratory” means a laboratory accredited in accordance with the International Organization for Standardization/International Electrotechnical Commission Standard (ISO/IEC) 17025 or a comparable or successor standard for the analyses performed on consumable hemp products.

“Adulterated” means the same as in the Federal Food, Drug, and Cosmetic Act, Section 402, except that a consumable hemp product is not deemed “adulterated” pursuant to this chapter solely because it contains a hemp product not generally recognized as safe by the Federal Food and Drug Administration.

“Approved hemp source” means a manufacturer of a consumable hemp product that is engaged in the wholesale or retail sale of the product and that is:

1. Located in this state and manufactures the consumable hemp product in compliance with Iowa Code chapter 204 and these rules; or
2. Located in a state that has a state hemp plan approved by the United States Department of Agriculture under 7 U.S.C. Chapter 38, Subchapter VII.

“Cannabidiol” or *“CBD”* means the specific chemical compound with the Chemical Abstracts Service number 13956-29-1.

“Certificate of analysis” or *“COA”* means an official document released by an accredited laboratory following an analysis of a consumable hemp product. The certificate of analysis shall contain the concentrations of cannabinoids, pesticides, residual solvents, metals, harmful pathogens, and toxicants, including data on levels of total delta-9 tetrahydrocannabinol (THC) content concentration and whether a sample passed or failed any limits related to these analyses.

“Certificate of free sale” means a government certification that products such as food, drugs, medicine, or cosmetics are approved for unrestricted sale in the jurisdiction in which they originate.

“Consumable hemp establishment” means an individual or entity engaged in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product in Iowa or to purchasers located in Iowa. A consumable hemp establishment does not include an individual or entity manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product containing only hemp seed or hemp seed-derived food ingredients generally recognized as safe (GRAS) under the conditions of use by the United States Food and Drug Administration.

“Consumable hemp manufacturer” means a consumable hemp establishment engaged in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product on a wholesale basis. A consumable hemp manufacturer includes individuals and entities outside of Iowa that distribute consumable hemp products in Iowa. A consumable hemp manufacturer does not include individuals or entities exclusively engaged in the harvesting, storage, or distribution of raw hemp.

“Consumable hemp product” means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body.

1. A consumable hemp product may be introduced into the human body by ingestion or absorption by any device including but not limited to an electronic device.
2. A consumable hemp product may exist in a solid or liquid state.
3. A hemp product is deemed to be a consumable hemp product if it is any of the following:
 - Designed by the processor, including the manufacturer, to be introduced into the human body.
 - Advertised as an item to be introduced into the human body.
 - Distributed, exported, or imported for sale or distribution to be introduced into the human body.
4. “Consumable hemp product” includes, but is not limited to, any of the following:
 - A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.

- Hemp processed or otherwise manufactured, marketed, sold, or distributed as human food, a human food additive, a human dietary supplement, or a human drug.

5. “Consumable hemp product” does not include a hemp product if the intended use of the hemp product is introduction into the human body by any method of inhalation, as prohibited under Iowa Code section 204.14A.

“*Consumable hemp retailer*” means a consumable hemp establishment selling consumable hemp product to consumers on a retail basis. A consumable hemp retailer includes an establishment selling consumable hemp products online.

“*Delta-9 tetrahydrocannabinol*” or “*THC*” means the specific chemical compound with the Chemical Abstracts Service number 1972-08-3.

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

“*Expiration date*” means the month and year as determined by the manufacturer, packer, or distributor on the basis of tests showing that the product, until that date, under the conditions of handling, storage, preparation, and use per label directions, will, when consumed, contain not less than the quantity of each ingredient as set forth on its label.

“*Food*” means the same as defined in Iowa Code section 137F.1. Food includes human dietary supplements and alcoholic beverages.

“*Harvesting*” applies to farms and farm mixed-type facilities and means activities that are traditionally performed on farms for the purpose of removing raw agricultural commodities from the place they were grown or raised and preparing them for use as food. Harvesting is limited to activities performed on raw agricultural commodities, or on processed foods created by drying/dehydrating a raw agricultural commodity without additional manufacturing/processing, on a farm. Harvesting does not include activities that transform a raw agricultural commodity into a processed food as defined in Section 201(gg) of the Federal Food, Drug, and Cosmetic Act. Examples of harvesting include cutting (or otherwise separating) the edible portion of the raw agricultural commodity from the crop plant and removing or trimming part of the raw agricultural commodity (e.g., foliage, husks, roots or stems). Examples of harvesting also include cooling, field coring, filtering, gathering, hulling, shelling, sifting, threshing, trimming of outer leaves of, and washing raw agricultural commodities grown on a farm.

“*Jurisdiction of origin*” means the federal, state, or local regulatory jurisdiction that has the authority to conduct inspections of the facility in which a consumable hemp product was most recently subject to a manufacturing/processing activity.

“*Lot number*” means a specific quantity of raw hemp or processed hemp product that is uniform and intended to meet specifications for identity, strength, purity, and composition that shall contain the manufacturer’s, processor’s, or distributor’s number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of consumable hemp products.

“*Manufacturing/processing*” means making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. Examples of manufacturing/processing activities include: baking, boiling, bottling, canning, cooking, cooling, cutting, distilling, drying/dehydrating raw agricultural commodities to create a distinct commodity (such as drying/dehydrating grapes to produce raisins), evaporating, eviscerating, extracting juice, formulating, freezing, grinding, homogenizing, irradiating, labeling, milling, mixing, packaging (including modified atmosphere packaging), pasteurizing, peeling, rendering, treating to manipulate ripening, trimming, washing, or waxing. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding.

“*Misbranded*” means a food that violates 21 U.S.C. Section 343.

“*QR code*” means a quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to product information regarding manufacturer data and accredited laboratory certificates of analysis.

“*Raw agricultural commodity*” means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

“*Raw hemp*” means an unprocessed hemp plant, or any part of the hemp plant, in its raw or natural state. Raw hemp is a raw agricultural commodity.

“*Tetrahydrocannabinolic acid*” or “*THCA*” means the specific chemical compound with the Chemical Abstracts Service number 23978-85-0.

“*Total delta-9 tetrahydrocannabinol*” or “*total THC*” means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of delta-9 tetrahydrocannabinol.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.2(204) Registration and posting. A consumable hemp establishment shall not engage in manufacturing, processing, packing, holding, preparing, distributing, or selling a consumable hemp product in Iowa or to purchasers located in Iowa until it has submitted a consumable hemp registration that is approved by the department.

32.2(1) Consumable hemp manufactures/distributors. Consumable hemp manufacturers shall register with the department at least 30 days prior to manufacturing, processing, packing, holding, preparing, distributing, or selling any consumable hemp product in Iowa or to purchasers located in Iowa. The consumable hemp manufacturer shall:

- a. Complete the online registration form prescribed by the department;
- b. Remit the registration fee set by the department in accordance with Iowa Code section 204.7; and
- c. Submit a complete list of all consumable hemp products the consumable hemp manufacturer intends to manufacture, process, pack, hold, prepare, distribute, or sell, along with documentation of the jurisdiction of origin for each consumable hemp product.

32.2(2) Consumable hemp retailers. Consumable hemp retailers shall register with the department at least 30 days prior to selling any consumable hemp product in Iowa or to purchasers located in Iowa. The consumable hemp retailer shall:

- a. Complete the online registration form prescribed by the department;
- b. Remit the registration fee set by the department in accordance with Iowa Code section 204.7; and
- c. Submit a complete list of all consumable hemp products the consumable hemp retailer intends to sell, along with documentation of the jurisdiction of origin for each consumable hemp product.

32.2(3) Combined consumable hemp manufacturers and retailers. A consumable hemp establishment engaged in activities of a consumable hemp manufacturer and a consumable hemp retailer shall submit a separate registration for each activity. A registered consumable hemp manufacturer that exclusively sells consumable hemp products it has manufactured to consumers on a retail basis is not required to register as a consumable hemp retailer.

32.2(4) Physical location. A consumable hemp establishment’s registration is valid for one physical location. A consumable hemp establishment that manufactures, processes, packs, holds, prepares, distributes, or sells a consumable hemp product at more than one physical location shall submit a separate registration for each physical location.

32.2(5) Expiration and renewal. A consumable hemp registration, unless sooner suspended or revoked, shall expire one year after the registration is approved by the department. A consumable hemp registration shall be renewed annually through the department’s online registration system, accompanied by the required fee, at least 30 days prior to expiration. Consumable hemp registrations that are expired more than 60 days will be revoked without notice.

32.2(6) Transferability. A consumable hemp registration is not transferable to a new owner or new physical location.

32.2(7) Posting of registrations. A valid registration shall be posted on the premises of the consumable hemp establishment in a location that is visible to the public. An image of the valid registration must also be posted on any website or online point of sale in a location that is visible to the public prior to payment.

32.2(8) Returned payments. The department will attempt to redeem a payment submitted for a consumable hemp registration that is not honored by the bank on which it is drafted. The department will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 shall be assessed for each dishonored payment. If the department does not receive payment, the establishment

will be operating without a valid registration and is subject to penalties set forth in rules 481—32.7(204) and 481—32.8(204) (violations and enforcement; denial, suspension, or revocation of registration).
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.3(204) Testing requirements and documentation.

32.3(1) *Approved hemp source; certificate of analysis.* A consumable hemp product shall not be distributed or sold unless:

a. The consumable hemp product is from an approved hemp source and is accompanied by documentation that identifies the jurisdiction of origin. Documentation that identifies the jurisdiction of origin includes:

- (1) Certificate of free sale issued by the jurisdiction of origin;
- (2) Product label statements, provided the product label identifies the jurisdiction of origin; or
- (3) Other documentation that identifies the jurisdiction of origin and also identifies the following:
 1. Brand name;
 2. Container size in terms of net quantity of contents; and
 3. Lot number.

b. The consumable hemp product has a certificate of analysis prepared by an independent accredited laboratory that verifies and states:

- (1) The consumable hemp product is from a batch that has been tested by the independent accredited laboratory;
- (2) The presence and concentration of cannabinoids, including delta-9 tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and any other cannabinoids for which the product is being marketed;

(3) The consumable hemp product is from a batch that contained a total delta-9 tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry weight basis as calculated pursuant to an official postdecarboxylation analysis, as provided in Iowa Code section 204.8; and

(4) The consumable hemp product is from a batch that has been tested for pesticides, residual solvents, metals, harmful pathogens, and toxicants and does not exceed limits established in this rule.

32.3(2) *Toxicant limits.* If a testing sample is found to contain levels of any pesticide, residual solvent, metal, harmful pathogen, or toxicant that exceeds limits enumerated in this rule or by Iowa law, the product shall be considered adulterated and shall not enter commerce. The following lists of contaminants do not constitute authorization to use or apply any of the following during hemp cultivation or processing.

a. Pesticide limits.

- (1) Acetamiprid, .2 parts per million.
- (2) Aldicarb, .4 parts per million.
- (3) Azoxystrobin, .2 parts per million.
- (4) Bifenazate, .2 parts per million.
- (5) Boscalid, .4 parts per million.
- (6) Carbaryl, .5 parts per million.
- (7) Carbofuran, .2 parts per million.
- (8) Chlorantraniliprole, .2 parts per million.
- (9) Chlorpyrifos, .6 parts per million.
- (10) Cypermethrin, 18 parts per million.
- (11) Diazinon, 2.6 parts per million.
- (12) Dichlorvos, .1 parts per million.
- (13) Ethoprophos, .4 parts per million.
- (14) Etofenprox, .4 parts per million.
- (15) Fipronil, 1 part per million.
- (16) Flonicamid, 1 part per million.
- (17) Imidacloprid, .4 parts per million.
- (18) Metalaxyl, .2 parts per million.

- (19) Methiocarb, .4 parts per million.
- (20) Methomyl, .4 parts per million.
- (21) Methyl parathion, 8.5 parts per million.
- (22) Myclobutanil, .3 parts per million.
- (23) Oxamyl, 1 part per million.
- (24) Permethrin, 1.1 parts per million.
- (25) Pyridaben, .2 parts per million.
- (26) Spiroxamine, 2 parts per million.
- (27) Tebuconazole, .4 parts per million.
- (28) Thiacloprid, .2 parts per million.
- (29) Thiamethoxam, .2 parts per million.
- b.* Residual solvent limits.
 - (1) 1,2-Dimethoxyethane, 100 parts per billion.
 - (2) 1,4-Dioxane, 380 parts per billion.
 - (3) 1-Butanol, 5,000 parts per billion.
 - (4) 1-Pentanol, 5,000 parts per billion.
 - (5) 1-Propanol, 5,000 parts per billion.
 - (6) 2-Butanol, 5,000 parts per billion.
 - (7) 2-Butanone, 5,000 parts per billion.
 - (8) 2-Ethoxyethanol, 5,000 parts per billion.
 - (9) 2-methylbutane, 5,000 parts per billion.
 - (10) 2-Propanol (IPA), 5,000 parts per billion.
 - (11) Acetone, 5,000 parts per billion.
 - (12) Acetonitrile, 410 parts per billion.
 - (13) Benzene, 2 parts per billion.
 - (14) Butane, 5,000 parts per billion.
 - (15) Cumene, 70 parts per billion.
 - (16) Cyclohexane, 3,880 parts per billion.
 - (17) Dichloromethane, 600 parts per billion.
 - (18) 2,2-dimethylbutane, 290 parts per billion.
 - (19) 2,3-dimethylbutane, 290 parts per billion.
 - (20) 1,2-dimethylbenzene, 2,170 parts per billion.
 - (21) 1,3-dimethylbenzene, 2,170 parts per billion.
 - (22) 1,4-dimethylbenzene, 2,170 parts per billion.
 - (23) Dimethyl sulfoxide, 5,000 parts per billion.
 - (24) Ethanol, 5,000 parts per billion.
 - (25) Ethyl acetate, 5,000 parts per billion.
 - (26) Ethylbenzene, 2,170 parts per billion.
 - (27) Ethyl ether, 5,000 parts per billion.
 - (28) Ethylene glycol, 620 parts per billion.
 - (29) Ethylene oxide, 50 parts per billion.
 - (30) Heptane, 5,000 parts per billion.
 - (31) n-Hexane, 290 parts per billion.
 - (32) Isopropyl acetate, 5,000 parts per billion.
 - (33) Methanol, 3,000 parts per billion.
 - (34) Methylpropane, 5,000 parts per billion.
 - (35) 2-Methylpentane, 290 parts per billion.
 - (36) 3-Methylpentane, 290 parts per billion.
 - (37) N,N-dimethylacetamide, 1,090 parts per billion.
 - (38) Pentane, 5,000 parts per billion.
 - (39) Propane, 5,000 parts per billion.
 - (40) Pyridine, 200 parts per billion.

- (41) Sulfolane, 160 parts per billion.
- (42) Tetrahydrofuran, 720 parts per billion.
- (43) Toluene, 890 parts per billion.
- (44) Xylenes, Total (ortho-, meta-, para-), 2,170 parts per billion.

c. Metals limits.

- (1) Cadmium, 0.3 parts per million.
- (2) Lead, 1.0 part per million.
- (3) Arsenic, 1.5 parts per million.
- (4) Mercury, 0.5 parts per million.

d. Microbiological impurities limits.

- (1) Shiga toxin-producing *Escherichia coli* (STEC), none present or no detection.
- (2) Total aerobic microbial count, 1×10^3 CFU/g (max acceptable count: 2,000).
- (3) Salmonella, none present or no detection.
- (4) Total combined yeast mold count, 1×10^2 CFU/g (max acceptable count: 200).

e. Mycotoxin limits.

- (1) Total aflatoxin (B1, B2, G1, G2), 20 parts per billion.
- (2) Ochratoxin, 20 parts per billion.

32.3(3) Examination of records. All documentation required by this rule shall be maintained by the consumable hemp establishment and provided to the department or other regulatory authority immediately upon request.

32.3(4) Independent accredited laboratory. A consumable hemp establishment shall not utilize an accredited laboratory in which it has an ownership interest, unless the consumable hemp establishment holds less than a 10 percent ownership interest in the accredited laboratory if the accredited laboratory is a publicly traded company.

[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.4(204) Packaging and labeling requirements.

32.4(1) Contents. Each consumable hemp product intended for individual retail sale shall be labeled such that a reasonable consumer would plainly identify the product as a consumable hemp product and shall contain the following information:

- a. Lot number;
- b. Expiration date;
- c. Product name;
- d. Name, telephone number, and email address of the product manufacturer;
- e. If specific cannabinoids are contained within or marketed for the product, the number of milligrams of each cannabinoid per serving and serving size;
- f. A certificate of analysis that the batch contained a total delta-9 tetrahydrocannabinol concentration that did not exceed 0.3 percent on a dry weight basis as calculated pursuant to an official test as provided in Iowa Code section 204.8.

32.4(2) Form. The labeling requirements of paragraphs 32.4(1) “d” and “f” may be in the form of:

- a. A uniform resource locator (URL) for the manufacturer’s Internet website that provides or links to the information required by this section; or
- b. A QR code or other bar code that may be scanned and that leads to the information required on the label.

[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.5(204) Applicability of other laws and regulations.

32.5(1) A consumable hemp establishment shall comply with all relevant Iowa laws and regulations applicable to the manufacturing, processing, storage, distribution, and sale of food, including but not limited to Iowa Code chapter 137F (food establishments and food processing plants), Iowa Code chapter 137D (home bakeries), and regulations promulgated under those chapters.

32.5(2) An individual or entity subject to Iowa Code chapter 123 shall not introduce any consumable hemp product into the alcoholic beverage product for which the individual or entity is subject to Iowa

Code chapter 123, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp product into alcoholic beverage products sold to consumers on a retail basis in intrastate commerce.

32.5(3) An individual or entity subject to Iowa Code chapter 189A shall not introduce any consumable hemp product into the meat or poultry product for which the individual or entity is subject to Iowa Code chapter 189A, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp product into meat or poultry sold to consumers on a retail basis in intrastate commerce.

32.5(4) An individual or entity subject to Iowa Code chapters 190 to 192 shall not introduce any consumable hemp product into the dairy product for which the individual or entity is subject to Iowa Code chapters 190 to 192, unless the consumable hemp product is generally recognized as safe by the Federal Food and Drug Administration and is thus not deemed adulterated pursuant to the Federal Food, Drug, and Cosmetic Act, Section 402. A consumable hemp retailer may introduce any consumable hemp products into dairy products sold to consumers on a retail basis in intrastate commerce.

32.5(5) Consumable hemp products in interstate commerce are subject to federal law. Compliance with Iowa Code chapter 204 and this chapter does not represent compliance with federal law.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.6(204) Prohibitions.

32.6(1) A consumable hemp establishment shall not manufacture, process, pack, hold, prepare, distribute, or sell consumable hemp products:

- a. On the premises of a private residence, except a portion of a private residence that is distinctly separate from any living space, that is dedicated to the production or sale of food, and that meets all applicable state and local regulations;
- b. On the premises of a temporary location, including but not limited to a food stand, roadside stand, temporary booth, or any other temporary structure;
- c. Door to door;
- d. Through vending machines; or
- e. At private parties.

32.6(2) A consumable hemp product may be sold at a stand at a farmers market, provided:

- a. The farmers market is listed on the Iowa department of agriculture and land stewardship's farmers market directory;
- b. The individual selling the consumable hemp maintains a valid consumable hemp retailer registration at any location where consumable hemp is stored;
- c. The consumable hemp establishment registration is posted in plain sight at the farmers market stand; and
- d. All consumable hemp products sold are listed and maintained up to date with the department.

32.6(3) A consumable hemp product label and any associated marketing materials shall not contain any claims that the consumable hemp product can be used in the diagnosis, cure, mitigation, treatment, or prevention of disease, or is intended to affect the structure or any function of the body.

32.6(4) A consumable hemp retailer shall not manufacture, process, package, repackage, relabel, mix, blend, or otherwise manipulate a consumable hemp product. This subrule does not apply to a food service establishment that utilizes a consumable hemp product from an approved hemp source as a food ingredient intended for immediate consumption by the consumer, provided that the food service establishment discloses all label information required by rule 481—32.4(204) (packaging and labeling requirements) to the consumer through the menu, a menu board, placard, table tent, or other effective means.

32.6(5) A consumable hemp product that does not conform to this chapter shall be considered adulterated or misbranded and shall not enter commerce.

[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.7(204) Violations and enforcement.

32.7(1) Any consumable hemp product introduced into commerce by an individual or entity without a consumable hemp registration approved by the department in accordance with rule 481—32.2(204) (registration and posting) is subject to immediate embargo.

32.7(2) A consumable hemp product that is adulterated or misbranded when introduced into commerce is subject to immediate embargo.

32.7(3) A consumable hemp product that the department reasonably believes may be injurious to public health or that has entered commerce and is not in conformance with this chapter is subject to immediate embargo.

32.7(4) The embargo of a consumable hemp product shall be effective until such a time as the violation is remedied or the product is disposed of in a reasonable manner as determined by the department. If the violation cannot be remedied and disposal is required, the cost of disposal is the responsibility of the consumable hemp establishment. Disposal shall be observed by a person approved by the department. The embargo of a consumable hemp product may be appealed in accordance with rule 481—32.8(204) (denial, suspension, or revocation of registration).

32.7(5) A consumable hemp manufacturer shall conduct a recall of a consumable hemp product lot that has been tested and found to be adulterated. The cost of a recall or disposal of the product is the responsibility of the consumable hemp manufacturer.

[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.8(204) Denial, suspension, or revocation of registration. The department may deny, suspend, or revoke a registration in any case where the department finds that there has been repeated failure on the part of the consumable hemp establishment to comply with the provisions of this chapter, or for any of the following reasons:

32.8(1) Failure to register. An individual or entity that introduces a consumable hemp product into commerce without a consumable hemp registration approved by the department in accordance with rule 481—32.2(204) (registration and posting) may be denied a consumable hemp registration for a period of up to 30 days for a first violation; up to one year for a second violation; and up to five years for a third or any subsequent violation.

32.8(2) Nonconforming consumable hemp product. A registered consumable hemp establishment that introduces a consumable hemp product into commerce that is not in conformance with Iowa Code chapter 204 or this chapter is subject to the immediate revocation of its registration.

32.8(3) Qualifying criminal offense.

a. The conviction of any individual with an ownership interest in a consumable hemp establishment constituting a felony, serious misdemeanor, or aggravated misdemeanor and resulting from an activity constituting a criminal offense in the consumable hemp establishment may result in the denial, suspension, or revocation of the registration.

b. A conviction for committing a criminal offense involving a controlled substance as described in Iowa Code section 204.7 may result in the denial, suspension, or revocation of the registration.

c. A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the registration holder.

d. A deferred judgment, until discharged, shall be considered a conviction for purposes of this rule.

32.8(4) False or misleading information. Providing false or misleading information to the department under this chapter, including by submitting a false registration, may result in the denial, suspension, or revocation of the registration.

32.8(5) Failure to comply. Failing to comply with an order issued by the department under this chapter may result in the denial, suspension, or revocation of the registration.

32.8(6) Successive violations. A third violation of any provision of this chapter in a five-year period shall result in the denial, suspension, or revocation of the registration. The department shall disapprove any registration of a consumable hemp establishment for a five-year period following the date of the last violation.

32.8(7) Materially false information supplied. An individual or entity who materially falsifies any information contained in a consumable hemp registration shall be ineligible for registration.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.9(204) Inspection and access to records. The department may enter a consumable hemp establishment at any reasonable hour to assess compliance with Iowa Code chapter 204 and these rules. The manager or person in charge of the consumable hemp establishment shall afford free access to every part of the premises, including access to records related to consumable hemp products, and shall render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete assessment.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.10(204) Public examination of records.

32.10(1) Public information. Generally, information collected by the food and consumer safety bureau and contractors is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director.

32.10(2) Confidential information.

a. The following are examples of confidential records:

- (1) Trade secrets and proprietary information including items such as formulations, processes, policies and procedures, and customer lists;
 - (2) Health information related to foodborne illness complaints and outbreaks;
 - (3) The name or any identifying information of a person who files a complaint with the department;
- and
- (4) Other state or federal agencies' records.

b. A party claiming that information submitted to the department contains trade secrets or proprietary information should clearly mark those portions of the submission as confidential/trade secret.

32.10(3) Other agencies' records. For records of other state or federal agencies, the department shall refer the requester of such information to the appropriate agency.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

481—32.11(204) Appeals. All decisions of the food and consumer safety bureau may be contested by an adversely affected party. A request for a hearing must be made in writing to the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 9.
[ARC 5404C, IAB 1/27/21, effective 3/3/21]

These rules are intended to implement 2020 Iowa Acts, House File 2581.

[Filed ARC 5404C (Notice ARC 5265C, IAB 11/4/20), IAB 1/27/21, effective 3/3/21]

CHAPTER 33
FOOD AND BEVERAGE VENDING MACHINES INSPECTIONS
[Prior to 8/26/87, see Inspections and Appeals Department[481]—Ch 24]
Rescinded IAB 2/10/99, effective 3/17/99

PROFESSIONAL LICENSURE DIVISION[645]

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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CHAPTER 81
LICENSURE OF DIETITIANS

[Prior to 6/26/02, see 645—Ch 80]

645—81.1(152A) Definitions. For purposes of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Board*” means the board of dietetics.

“*Consultation*” means the practice of providing professional advice to another dietitian or other professional in a particular case and for a limited time, in affiliation with, and at the request of, a dietitian licensed in this state.

“*Dietetics*” means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and from behavioral and social sciences to achieve and maintain an individual’s health.

“*Grace period*” means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Licensee*” means any person licensed to practice as a dietitian in the state of Iowa.

“*License expiration date*” means the fifteenth day of the birth month every two years following initial licensure.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state.

“*Nutrition assessment*” means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition.

“*Nutrition counseling*” means advising and assisting individuals or groups, with consideration of cultural background and socioeconomic status, about appropriate nutritional intake by integrating information from the nutrition assessment with information about food and other sources of nutrients and meal preparation.

“*Reactivate*” or “*reactivation*” means the process as outlined in rule 645—81.15(17A,147,272C) by which an inactive license is restored to active status.

“*Reciprocal license*” means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of dietetics to license persons who have the same or similar qualifications as those required in Iowa.

“*Registered dietitian*” means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of the National Commission for Health Certifying Agencies.

“*Reinstatement*” means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

“*Supervision of nonlicensees*” means any of the following: delegation of duties, direct oversight, or indirect oversight of employees or other persons not licensed by the board.

[ARC 9606B, IAB 7/13/11, effective 8/17/11]

645—81.2(152A) Nutrition care. The primary function of dietetic practice is the provision of nutrition care services that shall include:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling concerning health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

645—81.3 Reserved.

645—81.4(152A) Requirements for licensure. The following criteria shall apply to licensure:

81.4(1) The applicant shall complete the application online at ibplicense.iowa.gov.

81.4(2) The applicant shall complete the application according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed.

81.4(3) Each application shall be accompanied by the appropriate fees. The fees are nonrefundable.

81.4(4) No application will be considered by the board until the applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration (CDR). The board will accept the passing score set by the CDR. Verification of satisfactory completion may be established by one of the following:

- a. The applicant sends to the board a copy of the CDR registration card;
- b. The CDR sends an official letter directly to the board to verify that the applicant holds registration status; or
- c. The CDR posts web-based verification that the applicant holds registration status.

81.4(5) A license is not required for dietitians who are in this state for the purpose of consultation, in accordance with rule 645—81.1(152A), when they are licensed in another state, U.S. territory, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university.

81.4(6) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 5405C, IAB 1/27/21, effective 3/3/21]

645—81.5(152A) Educational qualifications.

81.5(1) The applicant shall possess a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of study, which meets minimum academic requirements as established by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) and is approved by the board.

81.5(2) A foreign-trained dietitian shall:

- a. Provide an official letter sent directly from the Commission on Dietetic Registration (CDR) to the board to verify that the applicant has met the minimum academic and didactic program requirements of the CDR. Foreign degree equivalency evaluation requirements of the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND) are listed on the ACEND website at: www.eatrightpro.org/acend/students-and-advancing-education/information-for-students/foreign-degree-evaluation-agencies; and

- b. Provide evidence of meeting all other requirements in these rules.

[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 1835C, IAB 1/21/15, effective 2/25/15; ARC 5405C, IAB 1/27/21, effective 3/3/21]

645—81.6(152A) Supervised experience. The applicant shall complete an accredited competency-based supervised experience program approved by the Accreditation Council for Education in Nutrition and Dietetics (ACEND) of the Academy of Nutrition and Dietetics (AND).
[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 1835C, IAB 1/21/15, effective 2/25/15]

645—81.7(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides a copy of the Commission on Dietetic Registration (CDR) registration card or an alternate form of verification of passing the registration examination, as stated in 81.4(4)“a”; and
5. Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:
 - Licensee’s name;
 - Date of initial licensure;
 - Current licensure status; and
 - Any disciplinary action taken against the license.

[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 5405C, IAB 1/27/21, effective 3/3/21]

645—81.8 Reserved.

645—81.9(152A) License renewal.

81.9(1) The biennial license renewal period for a license to practice dietetics shall begin on the sixteenth day of the licensee’s birth month and end on the fifteenth day of the licensee’s birth month two years later. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice from the board does not relieve the licensee of the responsibility for renewing the license.

81.9(2) An initial license issued by the board may be valid for an 18- to 29-month period. When an initial license is renewed, it will be placed on a two-year renewal period identified in subrule 81.9(1).

81.9(3) A licensee seeking renewal shall:

a. Meet the continuing education requirements of rule 645—82.2(152A) and the mandatory reporting requirements of subrule 81.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

b. Submit the completed renewal application and renewal fee before the license expiration date.

81.9(4) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee’s employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of training in child abuse identification and reporting as required by Iowa Code section 232.69(3)“b” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 81.9(4)“e.”

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5)“b” in the previous three years or condition(s) for waiver of this requirement as identified in paragraph 81.9(4)“e.”

c. The course(s) shall be the curriculum provided by the Iowa department of human services.

d. The licensee shall maintain written documentation for three years after mandatory training as identified in paragraphs 81.9(4)“a” to “c,” including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in rule 645—4.14(272C).

f. The board may select licensees for audit of compliance with the requirements in paragraphs 81.9(4) “a” to “e.”

81.9(5) Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

81.9(6) A person licensed to practice dietetics shall keep the license certificate and wallet card(s) displayed in a conspicuous public place at the primary site of practice.

81.9(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 5.6(3). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

81.9(8) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a dietitian in Iowa until the license is reactivated. A licensee who practices as a dietitian in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

81.9(9) Renewal of a reactivated license. A licensee who reactivates the license in accordance with rule 645—81.15(17A,147,272C) will not be required to renew the license until the next renewal two years later if the license is reactivated within six months prior to the license renewal date.

[ARC 9606B, IAB 7/13/11, effective 8/17/11; ARC 5068C, IAB 7/1/20, effective 8/5/20]

645—81.10 to 81.14 Reserved.

645—81.15(17A,147,272C) License reactivation. To apply for reactivation of an inactive license, a licensee shall:

81.15(1) Submit a reactivation application on a form provided by the board.

81.15(2) Pay the reactivation fee that is due as specified in 645—subrule 5.6(4).

81.15(3) Provide verification of current competence to practice dietetics by satisfying one of the following criteria:

a. If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction’s board office if the verification includes:

1. Licensee’s name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 30 hours of continuing education within two years of the application for reactivation.

b. If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license.

(2) Verification of completion of 60 hours of continuing education within two years of application for reactivation.

645—81.16(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—81.15(17A,147,272C) prior to practicing dietetics in this state.

645—81.17(152A,272C) Telehealth visits. A licensee may provide dietetic services to an individual or a group utilizing a telehealth visit if the dietetic services are provided in accordance with all the requirements of this chapter.

81.17(1) "Telehealth visit" means the provision of dietetic services by a licensee to an individual or a group using technology where the licensee and the individual or group are not at the same physical location for the therapy session.

81.17(2) A licensee engaged in a telehealth visit shall utilize technology that is secure and HIPAA-compliant and that includes, at a minimum, audio and video equipment that allows two-way real-time interactive communication between the licensee and the individual or group. A licensee may use non-real-time technologies to prepare for a session or to communicate with an individual or a group between sessions.

81.17(3) A licensee engaged in a telehealth visit shall be held to the same standard of care as a licensee who provides in-person dietetic services. A licensee shall not utilize a telehealth visit if the standard of care for the particular services cannot be met by using technology.

81.17(4) Any licensee who provides a telehealth visit to an individual or a group located in Iowa shall be licensed in Iowa.

81.17(5) Prior to the first telehealth visit, a licensee shall obtain informed consent from the individual or group specific to the services that will be provided in a telehealth visit. At a minimum, the informed consent shall specifically inform the individual or group of the following:

- a.* The risks and limitations of the use of technology to provide dietetics services;
- b.* The potential for unauthorized access to protected health information; and
- c.* The potential for disruption of technology during a telehealth visit.

81.17(6) A licensee shall identify in the clinical record when dietetic services are provided utilizing a telehealth visit.

[ARC 5405C, IAB 1/27/21, effective 3/3/21]

These rules are intended to implement Iowa Code chapters 17A, 147, 152A and 272C.

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PUBLIC SAFETY DEPARTMENT[661]

Rules transferred from agency number 680 to 661 to conform with the reorganization numbering scheme in general

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661—157.1(321J) Approval of devices and methods to test for alcohol or drug concentration. The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

661—157.2(321J) Evidentiary breath testing.

157.2(1) A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

157.2(2) A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order at least once per calendar year according to procedures specified for that device. The interval between certifications shall not be more than 450 days.

157.2(3) The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner of public safety for collection of breath samples for evidentiary purposes. The current list shall be available upon request to the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or on the website of the department of public safety.

157.2(4) The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the Division of Criminal Investigation Criminalistics Laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's website.

157.2(5) All certifications of evidentiary breath testing devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

[ARC 7529B, IAB 1/28/09, effective 4/1/09; ARC 0219C, IAB 7/25/12, effective 9/1/12; ARC 5407C, IAB 1/27/21, effective 3/3/21]

661—157.3(321J) Urine collection. A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

157.3(1) The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(2) As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container which is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

157.3(3) The peace officer shall collect a second urine void for alcohol testing in a suitable container which is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

157.3(4) When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

157.3(5) A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the criminalistics laboratory website. Any peace officer wishing to use a test kit which is not listed should inquire of the criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory website is: dps.iowa.gov/divisions/criminal-investigation/criminalistics-laboratory/toxicology.

157.3(6) If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the Iowa division of criminal investigation criminalistics laboratory.

157.3(7) The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

661—157.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory. Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

661—157.5(321J) Preliminary breath screening test.

157.5(1) A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the website of the department.

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- a. The identity of the person performing the calibration.
- b. The date.
- c. The value of standard used.
- d. The unit type and identification number.
- e. The expiration date of the standard used.

[ARC 5407C, IAB 1/27/21, effective 3/3/21]

661—157.6(123) Chemical test—alcohol concentration—public intoxication. All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

661—157.7(321J) Detection of drugs other than alcohol.

157.7(1) Adoption of federal standards. Initial test requirements based upon standards adopted by the federal Substance Abuse and Health Services Administration in “Mandatory Guidelines for Federal Workplace Drug Testing Programs,” 82 FR 7920, and displayed in the following table are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, codeine/morphine, hydrocodone/hydromorphone, oxycodone/oxymorphone, 6-acetylmorphine, phencyclidine, amphetamine/methamphetamine, and MDMA/MDA. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Initial test analyte	Initial test cutoff ¹
Marijuana metabolites (THCA) ²	50 ng/ml ³
Cocaine metabolites (Benzoylecgonine)	150 ng/ml ³
Codeine/Morphine	2000 ng/ml
Hydrocodone/Hydromorphone	300 ng/ml
Oxycodone/Oxymorphone	100 ng/ml
6-Acetylmorphine	10 ng/ml
Phencyclidine	25 ng/ml
Amphetamine/Methamphetamine	500 ng/ml
MDMA ⁴ /MDA ⁵	500 ng/ml

¹ For grouped analytes (i.e., two or more analytes that are in the same drug class and have the same initial test cutoff):

Immunoassay: The test must be calibrated with one analyte from the group identified as the target analyte. The cross-reactivity of the immunoassay to the other analyte(s) within the group must be 80 percent or greater; if not, separate immunoassays must be used for the analytes within the group.

Alternate technology: Either one analyte or all analytes from the group must be used for calibration, depending on the technology. At least one analyte within the group must have a concentration equal to or greater than the initial test cutoff or, alternatively, the sum of the analytes present (i.e., equal to or greater than the laboratory’s validated limit of quantification) must be equal to or greater than the initial test cutoff.

² An immunoassay must be calibrated with the target analyte, D-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

³ *Alternate technology* (THCA and benzoylecgonine): The confirmatory test cutoff must be used for an alternate technology initial test that is specific for the target analyte (i.e., 15 ng/mL for THCA, 100 ng/mL for benzoylecgonine).

⁴ Methylenedioxymethamphetamine (MDMA).

⁵ Methylenedioxyamphetamine (MDA).

157.7(2) Reserved.

[ARC 0219C, IAB 7/25/12, effective 9/1/12; ARC 5407C, IAB 1/27/21, effective 3/3/21]

These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

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[Filed ARC 5407C (Notice ARC 5295C, IAB 12/2/20), IAB 1/27/21, effective 3/3/21]

CHAPTER 221
FLAMMABLE OR COMBUSTIBLE LIQUIDS

661—221.1(101) Scope. This chapter provides the rules of the state fire marshal for safe transportation, storage, handling, and use of flammable or combustible liquids. IFC, 2006 edition, sections 102.1 and 102.2, is adopted by reference.

221.1(1) The flammable or combustible liquids program is part of the aboveground flammable or combustible liquid storage tanks program and is located at the following address:

State Fire Marshal Division
Iowa Department of Public Safety
Attn: Aboveground Storage Tank Administration
215 East 7th Street
Des Moines, Iowa 50319

221.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

221.1(3) The website for the flammable or combustible liquids program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.
[ARC 5408C, IAB 1/27/21, effective 3/3/21]

661—221.2(101) Definitions. The following definitions shall apply to rules 661—221.1(101) through 661—221.8(101). These definitions are adopted in addition to those which appear in the International Fire Code, 2006 edition; NFPA 30, Flammable and Combustible Liquids Code, 2003 edition; and NFPA 30A, Code for Motor Fuel Dispensing and Repair Garages, 2003 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 shall apply.

“Approved by the state fire marshal” means a laboratory which has requested and received recognition by the state fire marshal to test equipment whose use or installation is required by rules of the state fire marshal, including rules in 661—Chapters 200 through 299, inclusive. A laboratory which seeks approval of the state fire marshal shall contact the state fire marshal division and shall provide information required by the state fire marshal. Approval or disapproval shall be granted only by a letter from the state fire marshal to the laboratory making the request, although advance notice of the decision of the state fire marshal regarding whether or not approval is to be granted may be provided by electronic mail.

“Diesel fuel” means a liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel-powered engine and which meets the applicable standards established in Iowa Code section 214A.2 and rule 21—85.33(214A,208A). A blend of “diesel fuel” which meets these standards and contains 6 percent biodiesel or more is “biodiesel fuel.” Diesel fuel blends which meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

“ICC” means the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

“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 state fire marshal.

“Listed” means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which 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 which is used to cool the driver or passenger compartment of any motor vehicle.

“*NFPA*” means the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. 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 January 1, 2007.

“*State fire code official*” means any employee of the state fire marshal division of the department of public safety, of any local fire department, or of the department of natural resources if the employee is operating under an agreement between the department of public safety and the department of natural resources.

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

[ARC 9620B, IAB 7/27/11, effective 9/1/11; ARC 5408C, IAB 1/27/21, effective 3/3/21]

661—221.3(101) Flammable or combustible liquids. The International Fire Code, 2006 edition, published by the ICC, Chapter 34 and references contained therein, and NFPA 30, Flammable and Combustible Liquids Code, 2003 edition and references contained therein, 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 IFC provision shall apply. Any refinery shall comply with the provisions of this rule and with any applicable provisions of 661—Chapter 201.

221.3(1) The IFC, 2006 edition, is adopted with the following amendments:

a. In section 3402.1, amend the following definitions:

(1) Delete the definition of combustible liquid and insert in lieu thereof the following:

COMBUSTIBLE LIQUID. A liquid having a closed cup flash point at or above 100°F (38°C) and below 200°F (93°C). Combustible liquids shall be subdivided as follows:

Class II. Liquids having a closed cup flash point at or above 100°F (38°C) and below 140°F (60°C).

Class IIIA. Liquids having a closed cup flash point at or above 140°F (60°C) and below 200°F (93°C).

The category of combustible liquids does not include compressed gases or cryogenic fluids.

(2) 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, or in which flammable or combustible liquids are used to produce on a commercial scale fuels intended for use in motor vehicles, whether or not those fuels are flammable or combustible liquids.

b. Delete section 3403.1 and insert in lieu thereof the following:

3403.1 Electrical. Electrical wiring and equipment shall be installed and maintained in accordance with NFPA 70, National Electrical Code, 2005 edition, published by NFPA.

c. Add the following new sections:

3403.6.12 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. In addition to the control valve or any other normal tank valves, there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be 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.

3403.6.13 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 3404.2.8.12 and insert in lieu thereof the following:

3404.2.8.12 Liquid removal. Means shall be provided to recover liquid from the vault. Where a pump is used to meet this requirement, the pump shall not be permanently installed in the vault. Electric-powered portable pumps shall be suitable for use in Class I, Division 1 locations, as defined in NFPA 70, National Electrical Code, 2005 edition.

e. Delete section 3404.2.8.17 and insert in lieu thereof the following:

3404.2.8.17 Classified area. The interior of a vault containing a tank that stores a Class I liquid shall be designated a Class I, Division 1 location, as defined in NFPA 70, National Electrical Code, 2005 edition.

f. Delete section 3404.2.9.1.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.1 Required foam fire protection systems. Foam fire protection shall be provided at any refinery and for aboveground tanks, other than pressure tanks operating at or above 1 pound per square inch gauge (psig) (6.89 kPa) when such tank, or group of tanks spaced less than 50 feet (15,240 mm) apart measured shell to shell, has a liquid surface area in excess of 1,500 square feet (139 m²), and is in accordance with any of the following:

g. Delete section 3404.2.9.1.2.1, introductory paragraph, and insert in lieu thereof the following:

3404.2.9.1.2.1 Where foam fire protection is required, it shall be provided in accordance with NFPA 11, 2005 edition, and shall 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. Where the flammable or combustible liquid contains more than 10 percent alcohol, the foam shall be alcohol-resistant. Fire-fighting foam shall be 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.

h. Amend the exception to section 3404.2.9.1.2.1 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.

i. Delete section 3404.3.1.1 and insert in lieu thereof the following:

3404.3.1.1 Approved containers. Only approved containers and portable tanks shall be used. No flammable or combustible liquid shall be placed into, stored in, or carried in any container other than one which is metal or hard plastic. No flammable or combustible liquid shall be placed into, stored in, or carried in any temporary or disposable container.

221.3(2) Amend NFPA 30, section 4.3.2.3.3, by adding the following new paragraphs:

(10) Each secondary containment tank shall have top-only openings and shall 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 shall be listed by an independent testing laboratory.

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

(12) 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.

221.3(3) Plans and plan review fees.

a. 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 state fire marshal division, online or by mail as established in rule 661—221.1(101), prior to commencing initial construction of the facility or prior to commencing any construction at an existing facility which includes the addition or replacement of an aboveground flammable or combustible liquid storage tank. The construction plans shall 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 shall not commence until approval of the plan has been received from the state fire marshal.

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 state fire marshal 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 state fire marshal 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 which are required for the specific facility by this subrule are included. If an SPCC plan or portions thereof are submitted to the state fire marshal, the person making the submission shall provide any additional information required by the state fire marshal 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 state fire marshal shall clearly identify the licensed professional engineer who prepared the plan or shall be accompanied by a letter making this identification.

b. Minimum requirements for plans submitted for review include the following:

(1) Drawings shall show the name of the person, firm or corporation proposing the installation, the location, and the adjacent streets or highways.

(2) In the case of refineries or bulk plants, the drawings shall show, in addition to any applicable features required under subparagraphs (4) and (5), 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.

(3) In the case of service stations, the drawings shall show, in addition to any applicable features required under subparagraphs (4), (5), and (6), 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.

(4) In the case of aboveground storage, the drawings shall show 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.

(5) In the case of underground storage, the drawings shall show 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.

(6) 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, the drawing shall be in detail sufficient to show whether applicable requirements are to be met.

c. Fees for plan reviews shall apply as follows:

(1) \$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.

(2) \$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.

(3) The owner shall submit payment of plan review fees electronically or in the form of a check, money order, or warrant payable to the Iowa State Fire Marshal Division as established in rule 661—221.1(101). Payment shall not be made in cash.

d. Plan review fees shall be refunded to the submitter if the plan review has not been completed and the submitter has not been notified of approval or disapproval of the plans within 60 days of receipt of the complete plans by the state fire marshal division.

221.3(4) Inspections.

a. Any facility at which flammable or combustible liquids are stored is subject to inspection by any state fire code official during the regular business hours of the facility. If the facility does not operate under regular business hours, a state fire code official shall have access to the facility between 8 a.m. and 4 p.m. on any day which is a business day for the state of Iowa, within four hours of notifying the owner of intent to inspect the facility.

b. Any inspection of a facility pursuant to this subrule conducted by an employee of the state fire marshal division of the department of public safety shall result in an inspection fee of \$100 plus \$25 for each aboveground flammable or combustible liquid storage tank, except that there shall be no fee for an initial inspection or the first reinspection after an initial inspection that is conducted pursuant to the receipt of a complaint alleging that the facility is in violation of any provision of this chapter, 661—Chapter 224 or Iowa Code chapter 101. The owner shall submit payment of inspection fees electronically or in the form of a check, money order, or warrant payable to the Iowa State Fire Marshal Division as established in rule 661—221.1(101). Payment shall not be made in cash.

c. Inspections may be initiated by the inspecting official 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. Such a complaint shall be in writing and submitted as established in rule 661—221.1(101) and shall specify the location and nature of the alleged violations. The complainant may or may not be identified. Complainants who identify themselves may request to be notified of the outcome of the inspection conducted in response to the complaint.

[ARC 5408C, IAB 1/27/21, effective 3/3/21]

661—221.4(101) Motor fuel dispensing facilities and repair garages. The International Fire Code, 2006 edition, published by the ICC, Chapter 22 and references contained therein, and NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2003 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 International Fire Code adopted herein is in conflict with any provision of NFPA 30A, the International Fire Code provision shall apply. The International Fire Code, 2006 edition, Chapter 22, is adopted with the following amendments:

221.4(1) Amend Table 2206.2.3 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 shall 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.

221.4(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 state fire marshal (661—Chapters 200 through 299 inclusive), diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.33(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. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall 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 state fire marshal or the department of natural resources.

NOTE: If option (2), (4), or (5) is used, under-dispenser containment shall 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.

221.4(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), paragraph “h.”

(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 shall not be required for a dispenser which sits directly upon a solid concrete apron.

221.4(4) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code 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:

a. 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 state fire marshal and has been approved for storage of flammable or combustible liquids in compliance with this subrule.

b. The facility has suffered damage which 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 shall continue only for as long as the normal storage tanks are inoperable and in no event 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 state fire marshal for such storage.

c. 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.

d. 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.

e. 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 state fire marshal for its use. In reviewing such a request, the state fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

f. All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. 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. The control shall be clearly marked "Emergency Shutoff."

g. 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.

h. 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."

i. Aboveground flammable or combustible liquid storage tanks used pursuant to this subrule shall 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 shall be allowed at the facility.

j. 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 shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

[ARC 7977B, IAB 7/29/09, effective 7/2/09; ARC 8114B, IAB 9/9/09, effective 9/1/09; ARC 9283B, IAB 12/15/10, effective 12/1/10; ARC 9620B, IAB 7/27/11, effective 9/1/11; ARC 5408C, IAB 1/27/21, effective 3/3/21]

661—221.5(101) Aircraft fueling. The International Fire Code, 2006 edition, published by the ICC, sections 1106 through 1106.21.1 and references contained therein, and NFPA 407, Standard for Aircraft Fuel Servicing, 2007 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, 2007 edition, the IFC provision shall apply.

661—221.6(101) Helicopter fueling. The International Fire Code, 2006 edition, published by the ICC, sections 1107 through 1107.8 and references contained therein, is adopted by reference as the rules for helicopter fueling facilities.

661—221.7(101) Fuel-fired appliances. The International Fire Code, 2006 edition, published by the ICC, sections 603 through 603.9 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—221.8(101) Stationary combustion engines and gas turbines. The International Fire Code, 2006 edition, Chapter 6 and references contained therein, and NFPA 37, "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines," 2006 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, 2006 edition, Chapter 6, adopted herein is in conflict with any provision of NFPA 37, 2006 edition, the provision of the IFC shall apply.

These rules are intended to implement Iowa Code chapter 101.

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[Filed Emergency After Notice ARC 7977B (Notice ARC 7772B, IAB 5/20/09), IAB 7/29/09,
effective 7/2/09]

[Filed Emergency ARC 8114B, IAB 9/9/09, effective 9/1/09]

[Filed Emergency ARC 9283B, IAB 12/15/10, effective 12/1/10]

[Filed ARC 9620B (Notice ARC 9289B, IAB 12/15/10), IAB 7/27/11, effective 9/1/11]

[Filed ARC 5408C (Notice ARC 5296C, IAB 12/2/20), IAB 1/27/21, effective 3/3/21]

CHAPTER 224
ABOVEGROUND FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS

661—224.1(101) Scope. These rules apply to aboveground flammable or combustible liquid storage tanks, as defined in Iowa Code section 101.21.

224.1(1) The aboveground flammable or combustible liquid storage tanks program is located at the following address:

State Fire Marshal Division
Iowa Department of Public Safety
Attn: Aboveground Storage Tank Administration
215 East 7th Street
Des Moines, Iowa 50319

224.1(2) The program may be contacted by electronic mail at sfmast@dps.state.ia.us or by the United States Postal Service.

224.1(3) The website for the aboveground flammable or combustible liquid storage tanks program is: dps.iowa.gov/divisions/state-fire-marshal/licensing/above-ground-storage-tanks.
[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.2(101) Definitions. The following definitions apply to the rules in this chapter:

“Aboveground flammable or combustible liquid storage tank” means one or a combination of tanks, including connecting pipes connected to the tanks which are used to contain an accumulation of flammable or combustible liquid and the volume of which, including the volume of the underground pipes, is more than 90 percent above the surface of the ground. *“Aboveground flammable or combustible liquid storage tank”* does not include any of the following:

1. Aboveground tanks of 1100 gallons or less capacity.
2. Tanks used for storing heating oil for consumptive use on the premises where stored.
3. Underground storage tanks as defined by Iowa Code section 455B.471.
4. A flow-through process tank, or a tank containing a regulated substance, other than motor fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.
5. An aboveground tank that stores flammable liquids on a farm located outside the limits of a city if the aboveground tank has 2000 gallons or less capacity.
6. An aboveground tank that stores combustible liquids on a farm located outside the limits of a city if the aboveground tank has 5000 gallons or less capacity.

“Combustible liquid” means any liquid that has a closed-cup flash point greater than or equal to 100 degrees Fahrenheit.

“Commodities” means crops as defined in Iowa Code section 202.1 or animals as defined in Iowa Code section 459.102.

“Farm” means land and associated improvements used to produce agricultural commodities, if at least \$1000 is annually generated from the sale of the agricultural commodities.

“Flammable liquid” means a liquid with a closed-cup flash point below 100 degrees Fahrenheit and a Reid vapor pressure not exceeding 40 psi absolute, 2026.6 mm Hg, at 100 degrees Fahrenheit.

“Liquefied natural gas” means a fuel in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

“Liquefied petroleum gas” means material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes.

“Operator” means a person in control of, or having responsibility for, the daily operation of an aboveground flammable or combustible liquid storage tank.

“Owner” means: in the case of an aboveground flammable or combustible liquid storage tank in use on or after July 1, 1989, a person who owns the aboveground flammable or combustible liquid storage tank used for the storage, use, or dispensing of flammable or combustible liquid, or in the case of an

aboveground flammable or combustible liquid storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.

“*Petroleum*” means petroleum as defined in Iowa Code section 455B.471.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.3(101) Compliance. Any tank subject to the provisions of this chapter shall be in compliance with this chapter, all applicable provisions of 661—Chapter 221, and Iowa Code chapter 101 at all times.

661—224.4(101) Registration of existing and new tanks—fees. All existing, new, replacement and out-of-service aboveground tanks of 1101-gallon capacity or greater shall be registered with the state fire marshal. This requirement applies to aboveground tanks used to store flammable or combustible liquids, as defined in Iowa Code section 455B.471, which include, but are not limited to, crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil. Tanks which are used, or planned for use, to store blended fuels which include either gasoline or diesel are subject to this requirement.

224.4(1) Registration form. Registration forms for aboveground storage tanks may be obtained from the state fire marshal division. A completed registration form shall be submitted to the state fire marshal division, online or by mail as established in rule 661—224.1(101), by the date on which it is due and shall be accompanied by the applicable fee, including any applicable late charges.

224.4(2) Fees. The annual registration fee for each tank shall be \$20. The fee shall cover registration for each tank for one year, which ends on October 1. If a tank is registered on or after October 1 of any year, payment of the fee shall cover registration until the following October 1.

224.4(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.

224.4(4) Late fees. A late fee of \$25 per tank shall be imposed for failure to register a tank prior to October 31 each year. The fee shall apply individually to each tank for which registration was not completed prior to October 31.

224.4(5) Payment. The registration fee, and any late fee if applicable, shall be submitted electronically or by draft, check, or money order in the applicable amount payable to the Iowa State Fire Marshal Division. Draft, check, or money order shall be addressed to the state fire marshal as established in subrule 224.1(1). Payment shall not be made in cash.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.5(101) Approval of plans. A registration tag for a new aboveground storage tank shall not be issued prior to approval by the state fire marshal of plans for the installation of the tank and payment of the required plan review and registration fee. The state fire marshal may require inspection of the tank and payment of an inspection fee prior to use of the tank.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.6(101) Inspections and orders.

224.6(1) Inspections. Any tank is subject to inspection at any time by the state fire marshal, an employee of the state fire marshal, 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. At any time such a facility is attended, the attendant shall allow immediate access to the facility to the person who requests access to the facility in order to conduct an inspection. If a facility is unattended, the person who seeks to conduct the inspection shall 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 shall be provided at 8 a.m. on the next weekday other than a holiday. 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 shall 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.

224.6(2) Orders. If the person who conducts an inspection pursuant to subrule 224.6(1) finds that a tank is in violation of any applicable provision of this chapter, 661—Chapter 221, or Iowa Code chapter 101, the person may issue an order for correction. The order shall specify the violation or violations, corrective actions to be taken, and the time allowed for completion of the corrective actions.

224.6(3) Suspension of use. If any corrective action ordered pursuant to subrule 224.6(2) is not completed in the time specified in the order issued pursuant to subrule 224.6(2), the state fire marshal 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 shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any flammable or combustible liquid into the tank.

224.6(4) Emergency order. If the state fire marshal finds that a violation identified during an inspection conducted pursuant to subrule 224.6(1) creates an imminent threat to public safety or public health, or if the state fire marshal finds, after consultation with the department of natural resources, that such a violation creates an imminent threat of environmental damage, the state fire marshal shall 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 shall have a sticker prominently affixed to it which states that the tank is out of service by order of the state fire marshal and that it is a violation of law to transfer any flammable or combustible liquid into the tank.

224.6(5) Notice. Notice of any order issued pursuant to this rule shall be given to the owner or operator of a tank subject to the order. Notice of an emergency order issued pursuant to subrule 224.6(4) shall 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 shall 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 shall serve as proof that notice was given.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.7(101) Leaks, spills, or damage. Any leak from, spill from, or damage to a storage tank shall be reported to the local fire department and, if required by law, to the department of natural resources. If a tank is leaking or has been damaged, it shall be placed out of service until the leak has been repaired. A sign shall be 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.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.8(101) Civil penalty. The state fire marshal may impose a civil penalty upon the owner of a storage tank for any of the following:

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.
2. Allowing any flammable or combustible liquid to be placed into a tank which 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 which has been damaged or is leaking, if the damage or leak has not been repaired.

A civil penalty issued pursuant to this rule and to Iowa Code section 101.26 shall not exceed \$100 for each day during which the violation occurs or \$1000 in total.

[ARC 5409C, IAB 1/27/21, effective 3/3/21]

661—224.9(17A,101) Appeals. Any order or civil penalty issued pursuant to this chapter may be appealed using the procedures specified in 661—Chapter 10, except that each time “commissioner” or “commissioner of public safety” appears, it shall be replaced by “state fire marshal.”

224.9(1) Any order or civil penalty appealed pursuant to this rule shall be stayed until the issuance of a final agency decision.

EXCEPTION: An emergency order issued pursuant to subrule 224.6(4) shall not be stayed and shall take effect immediately upon notification of the order to the owner of the tank.

224.9(2) Reserved.

These rules are intended to implement Iowa Code sections 101.21 through 101.27.

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