

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to intrastate gas pipelines and underground storage

The Utilities Board hereby amends Chapter 10, “Intrastate Gas and Underground Gas Storage,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 474.5 and 479.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 479.17.

Purpose and Summary

The adopted amendments update the Board’s rules that establish filing requirements and procedures and requirements for notice to landowners and other affected persons, construction, and hearing of petitions for natural gas pipeline and underground storage permits.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 19, 2019, as **ARC 4506C**. An oral presentation was held on August 1, 2019, at 1 p.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

Comments were made at the oral presentation by the Office of Consumer Advocate, the Iowa Association of Municipal Utilities, the Iowa Farm Bureau Federation, MidAmerican Energy Company, Interstate Power and Light Company, and Black Hills Energy. The comments addressed the identification of persons with legal interests in property over which the pipeline would be located, requirements for informational meetings, requirements for petitions for permits, requirements for amendments to permits, and criteria for determining if a pipeline is a distribution pipeline or a transmission pipeline.

The written comments addressed the same issues that were discussed at the oral presentation.

The Board issued an order adopting amendments on January 28, 2020. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2016-0004.

The Board made several revisions to the amendments based upon comments. The Board modified the definition of “affected person” to address comments. The Board clarified notice requirements for informational meetings and made several other clarifying revisions.

Adoption of Rule Making

This rule making was adopted by the Board on January 28, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend **199—Chapter 10**, title, as follows:

INTRASTATE GAS PIPELINES AND UNDERGROUND GAS STORAGE

ITEM 2. Amend rule 199—10.1(479) as follows:

199—10.1(479) General information.

10.1(1) *Authority Purpose and authority.* The purpose of this chapter is to implement the requirements in Iowa Code chapter 479 and to establish procedures and filing requirements for a permit to construct, maintain, and operate an intrastate gas pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements the requirements in Iowa Code chapter 479 for permits for underground storage of natural gas. The standards rules relating to intrastate gas pipelines and underground gas storage in this chapter are prescribed adopted by the Iowa utilities board (board) pursuant to Iowa Code section 479.17. The rules in this chapter do not apply to interstate pipe, pipes, or pipelines used in the transportation or transmission of natural gas or hazardous liquids.

10.1(2) *Purpose When a permit is required.* The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate an intrastate gas pipeline and for the underground storage of gas. In addition, the rules in this chapter set forth safety standards for the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines and facilities. A pipeline permit shall be required for any pipeline which will operate at a pressure in excess of 150 pounds per square inch gauge (psig) or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR 192.3. Using the factors set out in rule 199—10.14(479), the board shall determine whether a pipeline is a transmission line and requires a permit.

10.1(3) *Definitions.* Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the following meanings indicated below:

“Affected person” means any person with a recorded legal right or recorded interest in the property, including but not limited to a contract purchaser of record, a tenant occupying the property under a recorded lease, a record lienholder, and a record encumbrancer of the property. The term also includes persons in possession of or residing on the property and persons with unrecorded interests in the property that have been identified through a good-faith effort of the pipeline company.

“Amendment of permit” means that changes to the pipeline permit or pipeline require the filing of a petition to amend an existing pipeline permit as described in rule 199—10.9(479).

“Approximate right angle” means within 5 degrees of a 90 degree angle.

“Board” means the utilities board within the utilities division of the department of commerce.

“County inspector” means a professional engineer licensed under Iowa Code chapter 542B who is familiar with agricultural and environmental inspection requirements and has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479.

“Multiple line crossing” means a point at which a proposed pipeline will either ~~overcross or undercross~~ cross over or under an existing pipeline.

“Negotiating” means contact between a pipeline company and a person with authority to negotiate an easement that involves the location, damages, compensation, or other matter that is prohibited by Iowa Code section 479.5(5). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

“Permit” means a new, amended, or renewal permit issued ~~after appropriate application to and determination~~ by the board.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

“Pipeline” means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“Pipeline company” means any person, ~~firm, copartnership, association, corporation, or syndicate~~ engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“Renewal permit” means ~~the extension and reissuance of a permit after appropriate application to and determination by the board.~~

“Underground storage” means storage of natural gas in a subsurface stratum or formation of the earth.

10.1(4) No change.

ITEM 3. Renumber rules **199—10.2(479)** and **199—10.3(479)** as **199—10.3(479)** and **199—10.2(479)**.

ITEM 4. Amend renumbered rule 199—10.2(479) as follows:

199—10.2(479) Informational meetings. Informational meetings shall be held for any proposed pipeline project ~~over~~ five miles or more in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure ~~of over~~ in excess of 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or property rights ~~therein~~ would be affected.

10.2(1) Time frame for holding meeting. Informational meetings shall be held not less than 30 days nor more than two years prior to the filing of the petition for pipeline permit ~~and shall comply with the following:~~

10.2(1) 10.2(2) Facilities. ~~Prospective petitioners for a permit~~ A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with ~~the~~ any applicable requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4 Standards for Accessible Design, including both the Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR Part 1191, Appendices B and D (as amended through April 1, 2020), where such a building or facility is reasonably available.

10.2(2) 10.2(3) Location. The informational meeting location shall be reasonably accessible to all persons, ~~companies or corporations which~~ who may be affected by the granting of a permit ~~or who have an interest in the proposed pipeline.~~

10.2(3) Route deviation. ~~Prospective petitioners desiring a route corridor to permit minor route deviations beyond the proposed permanent right of way width shall include as affected all parties within the desired corridor. Prospective petitioners may also provide notice to affected parties on alternative route corridors.~~

10.2(4) Board approval. A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting and shall include a proposed time and date for the informational meeting, an alternate time and date, and a description of the proposed project and route. The pipeline company shall be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Once a date and time for the informational meeting have been approved, the pipeline company shall file the location of the informational meeting and a copy of the pipeline company's presentation with the board.

~~10.2(4)~~ 10.2(5) Notices. Announcement by mailed and published notice of the each informational meeting shall be given to affected parties of interest in real estate. ~~Affected parties of interest in real estate are those persons, companies or corporations listed on the tax assessment roles as responsible for payment of real estate taxes and parties persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and those persons in possession of or residing on the property over which the prospective petitioner will~~ in the corridor in which the pipeline company intends to seek easements.

a. The notice shall ~~set forth the~~ include the following:

- (1) The name of the applicant pipeline company; the applicant's
- (2) The pipeline company's principal place of business; the
- (3) The general description and purpose of the proposed project; the
- (4) The general nature of the right-of-way desired; the
- (5) The possibility that the right-of-way may be acquired by condemnation if approved by the board; a

- (6) A map showing the route of the proposed project; a
- (7) A description of the process used by the board in making a decision on whether to approve a permit, including the right to take property by eminent domain; that

- (8) That the landowner has and any other affected person have a right to be present at such the meeting and to file objections with the board; and designation

- (9) Designation of the time, date and place of the meeting; and contain the
- (10) A copy of the statement of damage claims as required by paragraph 10.3(3) "b"; and
- (11) The following statement: Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)725-7300 in advance of the scheduled date to request that appropriate arrangements be made accommodations. Mailed notices shall also include a copy of the statement of damage claims as required by 10.2(3) "b."

b. ~~The prospective petitioner pipeline company shall cause a written copy of the meeting notice to be served, by certified United States mail with return receipt requested, on all affected parties persons as listed on the tax assessment rolls as responsible for payment of real estate taxes imposed on the property and persons in possession of or residing on the property whose address is addresses are known. The certified meeting notice shall be deposited in the U.S. mails United States mail not less than 30 days prior to the date of the meeting.~~

c. ~~The prospective petitioner pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the each county where the pipeline is proposed to be located at least one week and not more than three weeks prior to the date of the meeting. Publication shall be considered as notice to affected parties persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property whose residence is addresses are not known, provided a good-faith effort to notify obtain the addresses can be demonstrated by the pipeline company. The maps used in the published notice shall clearly delineate the pipeline route.~~

d. The pipeline company shall file an affidavit that describes the good-faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit shall be signed by an attorney representing the pipeline company.

~~10.2(5)~~ 10.2(6) Personnel. ~~The prospective petitioner pipeline company shall provide qualified personnel to speak for it in matters relating to present the following information at the informational meeting:~~

- a. Service requirements and planning which have resulted in the proposed project.

- b. When the pipeline will be constructed.
- c. In general terms, the elements involved in pipeline construction.
- d. In general terms, the rights which the ~~prospective petitioner~~ pipeline company will seek to acquire through easements.
- e. Procedures to be followed in contacting the affected parties persons for specific negotiations in acquiring voluntary easements.
- f. Methods and factors used in arriving at an offered price for voluntary easements, including the range of cash amount for each component.
- g. Manner in which voluntary easement payments are made, including discussion of conditional easements, signing fees and time of payment.
- h. Other factors or damages not included in the easement for which compensation is made, including features of interest to affected parties persons but not limited to computation of amounts and manner of payment.

~~10.2(6) Coordinating with board. The date, time, and location of the informational meeting shall be selected after consultation with the board to allow for scheduling of presiding officers.~~

10.2(7) Notice to county board of supervisors. The pipeline company shall send notice of the request for an informational meeting to the county board of supervisors in each county where the pipeline is proposed to be located. The pipeline company shall request from the board of supervisors the name of the county inspector, a professional engineer who shall conduct the on-site inspection required in Iowa Code section 479.29(2). The pipeline company shall provide the name and contact information of the county inspector to the landowners and other affected persons at the meeting, if known.

~~This rule is intended to implement Iowa Code section 479.5.~~

ITEM 5. Amend renumbered rule 199—10.3(479) as follows:

199—10.3(479) Petition for permit.

10.3(1) A petition for a permit shall be made to filed with the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board with the board on the date accepted by the board's electronic filing system as provided for in 199—Chapter 14. An original and two copies of the petition and exhibits shall be filed, unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—Chapter 14. The petition shall be attested to by an officer, official or attorney with authority to represent the pipeline company. Required exhibits shall be in the following form:

- a. Exhibit A. A legal description showing, at a minimum, the:
 - (1) The beginning and ending points of the proposed pipeline.
 - (2) The general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether.
 - (3) Whether the proposed pipeline will be located on private or public property, public highway or railroad right-of-way, together with such other.
 - (4) Other pertinent information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.
 - (5) When the route is in or adjacent to the right-of-way of a named road or a railroad, the exhibit shall specifically identify the road or railroad by name.

~~If it becomes apparent that there will be deviation of greater than 660 feet (one-eighth mile) in some area from the proposed route as filed with the board, construction of the line in that area shall be suspended. Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedures hereinafter set forth to be followed upon the filing of a petition for permit shall be followed.~~

b. Exhibit B. Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of such maps shall be filed. The maps may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile, and shall be legible when printed on paper no larger than 11 × 17 inches. Maps based on satellite imagery are preferred. A map of the entire route, if the route is located in more than one county or there is more than one map for a county, shall be filed

in this exhibit on paper no larger than 11 × 17 inches without regard to scale. The following minimum information shall be provided on the maps:

(1) The route of the pipeline which is the subject of the petition, including the starting and ending points, and when paralleling a road or railroad, which side it is on. Multiple pipelines on the same right-of-way shall be indicated, and the distance between paralleling pipelines shall be shown.

(2) The name of the county, county and lines, section lines, and section numbers, township numbers, and range numbers.

(3) The location and identity of adjacent or crossed public roads, railroads, ~~major~~ named streams or bodies of water, and other pertinent natural or man-made features influencing the route.

(4) The name and corporate limits of cities, and the name and boundaries of any public lands or parks.

(5) Other pipelines and the identity of the owner.

(6) Any buildings or places of public assembly within the potential impact radius of the transmission pipeline as defined in 49 CFR 192.903.

c. Exhibit C. A showing on forms prescribed by this board of engineering specifications covering the engineering features, materials and manner of construction of the proposed pipeline, its approximate length, diameter and the name and location of each railroad and primary highway and the number of secondary highways to be crossed, if any, and such other information as may be deemed pertinent on forms prescribed by the board, which are located on the board's website. In addition, the maximum and normal operating pressure of the proposed pipeline shall be provided.

d. Exhibit D. Satisfactory attested proof of solvency and financial ability to pay damages in the sum of \$250,000 or more; or surety bond satisfactory to this the board in the penal sum of \$250,000 with surety approved by this the board, conditioned that the petitioner pipeline company will pay any and all damages legally recovered against it growing out of the construction and operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to this the board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the pipeline company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. The board may require additional surety or insurance policies to ensure the payment of damages growing out of the construction and operation of a transmission pipeline that will be constructed in more than one county.

e. Exhibit E.

(1) Consent or other showing of right documentation of appropriate public highway authorities, or railroad companies, where the pipeline will be placed longitudinally on, over or under, or at other than an approximate right angle to railroad tracks or highway, when such consent is obtained prior to filing of the petition, ~~and hearing~~ shall be filed with the petition.

(2) If the exact and specific route is uncertain any consent is not obtained at the time of the petition is filed, the pipeline company shall file a statement shall be made by petitioner that it will obtain all necessary consents or file other showing documentation of the right will be obtained to commence construction prior to commencement of construction and copies filed with this board of the pipeline. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

(3) Whether there are permits that will be required from other state agencies for construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

f. Exhibit F. This exhibit shall contain the following:

(1) A statement of the purpose of the project and a description of how the services rendered by the pipeline will promote the public convenience and necessity.

(2) A general statement covering each of the following topics: ~~the~~

1. The nature of the lands, waters, and public or private facilities to be crossed; the

2. The possible use of alternative routes; the

3. The relationship of the proposed pipeline to present and future land use and zoning ordinances; and the

4. _____ The inconvenience or undue injury which may result to property owners as a result of the proposed project.

(3) For an existing pipeline, the year of original construction and a description of any amendments or reportable changes since the permit or latest renewal permit was issued.

g. Exhibit G. If informational meetings were required, an affidavit that such meetings were held in each county affected by the proposed project and the time and place of each meeting. Copies of the mailed notice letter, the corridor map, and the published notice(s) of the informational meeting shall be attached to the affidavit.

h. Exhibit H. This exhibit is required only if the petition requests the right of eminent domain. The extent of the eminent domain request may be uncertain at the time the petition is filed. However, this exhibit must be in final form before a hearing is scheduled. It shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and for each such property:

(1) The legal description of the property.

(2) The legal description of the desired easement.

(3) A specific description of the easement rights being sought.

(4) The names and addresses of the owners of record and parties in possession of the property all affected persons based upon a title search conducted for the property over which eminent domain is requested.

(5) A map drawn to an appropriate scale showing the boundaries of the property, the boundaries and dimensions of the proposed easement, the location of pipelines or pipeline facilities within the proposed easement, the location of and distance to any building within 300 feet of the proposed pipeline, and any other features pertinent to the location of the line pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested filed with the property identified as required in 199—paragraph 9.2(1) “e.”

i. Exhibit I. If pipeline construction on agricultural land as defined in 199—subrule 9.1(3) is proposed, a land restoration plan shall be prepared and filed as provided in rule 199—9.2(479,479A,479B). The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479.29(2) shall be included in the land restoration plan, if known.

j. Underground storage. If permission is sought to construct, maintain and operate facilities for underground storage of gas, the petition shall include the following information, in addition to that stated above:

(1) A description of the public or private highways, grounds and waters, streams and private lands of any kind under which the storage is proposed, together with a map.

(2) Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the facilities.

k. Other exhibits Exhibit K. The pipeline company shall file additional information as follows:

(1) An affidavit affirming that the company undertook a review of land records to determine all affected persons for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement is anticipated to be required, when the easement negotiations will be completed and whether all affected persons associated with the property have been notified.

(3) Whether there are any agreements or additional facilities that need to be constructed to receive natural gas.

(4) Projected date when construction of the pipeline will begin.

(5) Whether the pipeline will have pressure-relieving or pressure-limiting devices that meet the requirements of 49 CFR 192.199 and 192.201.

l. Other exhibits. The board may require filing of additional exhibits if further information on a particular project is deemed necessary.

10.3(2) Construction on an existing easement.

a. Petitions proposing new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline shall include a statement indicating whether any unresolved damage claims remain from the previous pipeline construction, and if so shall provide the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

b. A petition for permit proposing a new pipeline construction on an existing easement where the pipeline company has previously constructed a pipeline ~~will~~ shall not be acted upon by the board if a damage claim from the installation of ~~its~~ the previous pipeline has not been ~~determined~~ resolved by negotiation, arbitration, or court action. ~~This paragraph will not apply~~ The board may take action on the petition if the damage claim is under litigation or arbitration.

10.3(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction ~~will~~ shall not be acted upon by the board if the pipeline company does not ~~have on~~ file with the board a written statement in compliance with Iowa Code chapter 479 as to how damages resulting from the construction of the pipeline shall be determined and paid.

b. The statement shall contain the following information: the type of damages which will be compensated for, how the amount of damages will be determined, the procedures by which disputes may be resolved, ~~and~~ the manner of payment, and the procedures that the affected person is required to follow to obtain a determination of damages by a county compensation commission.

c. The statement shall be amended as necessary to reflect changes in the law, company policy, or the needs of a specific project.

~~b. d.~~ A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479.5. Where no informational meeting is required, a copy shall be provided to each affected ~~party~~ person prior to entering into negotiations for payment of damages.

~~e. e.~~ Nothing in this rule shall prevent a ~~party~~ person from negotiating with the pipeline company for terms which are different, more specific, or in addition to the statement filed with the board.

10.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing or future easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined in subrule 10.1(3).

This rule is intended to implement Iowa Code sections 479.5, 479.17, 479.26, 479.42, and 479.43.

ITEM 6. Amend rule 199—10.4(479) as follows:

199—10.4(479) Notice of hearing.

10.4(1) ~~When a proper petition for permit is received by~~ filed with the board, it shall be docketed for hearing and the petitioner shall be advised of the time and place of hearing, except as provided for in rule 199—10.8(479) the petition shall be reviewed by board staff for compliance with applicable laws and regulations. Once board staff has completed the review and filed a report regarding the proposed pipeline and petition, the petition shall be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—10.8(479) that do not require a hearing.

10.4(2) Petitioner ~~The pipeline company shall also~~ be furnished copies of the official notice of hearing, which ~~petitioner the pipeline company shall cause to be published once each week for two consecutive weeks in a newspaper of general circulation in each county in or through which construction is proposed. The second publication shall be not less than 10 nor more than 30 days prior to the date of the hearing. Proof of such publication shall be filed prior to or at the hearing.~~

10.4(3) The published notice shall include a map showing either the pipeline route or the area affected by underground gas storage, or a telephone number and an address through which interested persons ~~can~~ may obtain a copy of a map from ~~petitioner the pipeline company~~ at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy shall be filed with the petition.

10.4(2) 10.4(4) If a petition for permit seeks the right of eminent domain, ~~petitioner the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to on the owners and parties in possession of lands~~ landowners and any affected person with interest in the

property over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property shall accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to ~~their~~ the person's last known address, and this notice shall be mailed ~~not~~ no later than the first day of publication of the official notice of hearing on the petition. Not less than five days prior to the date of the hearing, the petitioner shall file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail and the date of the mailing, and an affidavit that all affected persons as defined in subrule 10.1(3) were served.

~~10.4(3)~~ 10.4(5) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained at the time the petition is filed, a copy of the notice of hearing shall be served upon ~~the owners and parties in possession of those lands~~ any affected person as defined in subrule 10.1(3). Service shall be by ordinary mail, addressed to the last known address, mailed ~~not~~ no later than the first day of publication of the official notice. A copy of each letter of notification, or one copy of the letter accompanied by a written statement listing all ~~parties~~ persons to which ~~it~~ the notice was mailed, ~~and~~ and the date of mailing, and an affidavit that all affected persons were served, shall be filed with the board not less than five days prior to the hearing.

ITEM 7. Amend rule 199—10.5(479) as follows:

~~199—10.5(479) Objections. All whose rights or interests may be affected by the object of a petition may file written objection thereto. Such written objection~~ Any person whose rights or interests may be affected by a proposed pipeline or underground storage facility may file a written objection with the board. Written objections shall be filed with the secretary of this board not less than five days prior to the date of hearing. This The board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event ~~petitioner~~ the pipeline company shall be granted a reasonable time to ~~meet such objections~~ respond to a late-filed objection.

ITEM 8. Amend rule 199—10.6(479) as follows:

~~199—10.6(479) Hearing. Hearing shall be~~ A petition for a pipeline permit or amendment to a pipeline permit shall be scheduled for hearing not less than 10 ~~or~~ nor more than 30 days from the date of last publication of the notice of hearing.

~~Petitioner shall be represented by one or more duly authorized representatives or counsel or both. This board may examine the proposed route of the pipeline or location of the underground storage facilities which are the object of the petition or may cause examination to be made on its behalf by an engineer of its selection. One or more members of this board or a duly appointed administrative law judge shall consider the petition and any objections filed thereto and may hear testimony deemed appropriate. One or more petitions may be considered at the same hearing. Petitions may be consolidated. Hearing shall be held in the office of this board or at any other place within the state of Iowa as this board may designate. Any hearing permitted by these rules in which there are no objections, interventions or material issues in dispute may be conducted by telephonic means. Notice of the telephonic hearings shall be given to parties within a reasonable time prior to the date of hearing.~~

10.6(1) Representation of a pipeline company at a pipeline permit hearing shall comply with the requirements of 199—subrule 7.4(8).

10.6(2) The board or presiding officer may schedule a prehearing conference to consider a procedural schedule for the petition and a hearing date.

10.6(3) One or more petitions may be consolidated for hearing.

10.6(4) Hearings shall be scheduled and held in the office of the board or at any other place within the state of Iowa as the board may designate pursuant to Iowa Code section 479.8. Requests for conducting a hearing or taking testimony by telephone or electronic means may be approved by the board or presiding officer.

10.6(5) The hearing requirements in this rule also apply to petitions for underground storage permits or amendments to underground storage permits.

ITEM 9. Amend rule 199—10.7(479) as follows:

~~199—10.7(479) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a pipeline permit shall be issued. Otherwise the petition shall be dismissed with or without prejudice. Where proposed construction has not been established definitely, the permit will be issued on the route or location as set forth in the petition, subject to deviation of up to 660 feet (one-eighth mile) on either side of the proposed route. If the proposed construction is not completed within two years from the date of issue, subject to extension at the discretion of the board, the permit shall be void and of no further force or effect. Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline shall be filed with the board.~~

~~A pipeline permit shall normally expire 25 years from date of issue. No permit shall ever be granted for a longer period than 25 years.~~

~~10.7(1) A pipeline permit shall be issued once an order granting the permit is final and all the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad right-of-way until after the pipeline permit is issued.~~

~~10.7(2) The issuance of the permit authorizes construction on the route or location as approved by the board, subject to deviation within the permanent route easement right-of-way. If a deviation outside of the permanent route easement right-of-way becomes necessary, construction of the pipeline in that location shall be suspended and the pipeline company shall follow the procedures for filing of a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, E, and F reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company shall secure the necessary easements before construction may commence on the altered route. The right of eminent domain shall not be used to acquire any such easement except as specifically approved by the board, and a hearing will not be required unless the board determines a hearing is necessary to complete review of the petition for amendment.~~

~~10.7(3) If the construction of facilities authorized by a permit is not commenced within two years of the date the permit is granted, or within two years after final disposition of judicial review of a permit order or of condemnation proceedings, the permit shall be forfeited unless the board grants an extension of the permit filed prior to the expiration of the two-year period.~~

~~10.7(4) Upon completion of the proposed construction, maps accurately showing the final routing of the pipeline, in compliance with 199—Chapter 9 and revised Exhibits A, B, and C, shall be filed with the board.~~

~~10.7(5) The board shall set the term of the permit. The term of the permit may be less than, but shall not exceed, 25 years from the date of issuance.~~

ITEM 10. Amend rule 199—10.8(479) as follows:

199—10.8(479) Renewal permits.

10.8(1) A petition for renewal of an original or previously renewed pipeline permit may be filed at any time subsequent to issuance of the permit and shall be filed at least one year prior to expiration of the permit. This requirement is not applicable to renewal of permits that expire within one year of April 1, 2020. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form, and the form is available on the board's website. The petition shall include the name of the pipeline company requesting renewal of the permit, the pipeline company's principal office and place of business, a description of any amendment or reportable change since the permit or previous renewal permit was issued, and the same exhibits as required for a new permit, as applicable. The petition shall be considered filed with the board on the date accepted into the board's electronic filing system as provided for in 199—Chapter 14. The petition shall be attested to by an officer, official, or attorney with authority to represent the pipeline company.

10.8(2) The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs.

10.8(3) If review of the petition finds there are unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the board shall set the matter with

be set for hearing. If a hearing is not required, and the petition satisfies the requirements of this rule, a renewal permit will be issued upon the filing of the proof of publication required by rule 199—10.4(479).

~~10.8(4) Renewal permits shall normally expire~~ The board shall set the term of a renewal permit. The term may be less than, and shall not exceed, 25 years from date of issue. ~~No permit shall be granted for a period longer than 25 years.~~ The same procedure shall be followed for subsequent renewals.

~~This rule is intended to implement Iowa Code sections 476.2 and 479.23.~~

ITEM 11. Amend rule 199—10.9(479) as follows:

199—10.9(479) Amendment of permits.

10.9(1) An amendment of a pipeline permit by the board is required in any of the following circumstances:

a. Construction of a an additional pipeline paralleling all or part of an existing line pipeline of petitioner; the pipeline company.

b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile); the pipeline company outside of the permit easement.

c. Relocation or replacement of an existing pipeline of petitioner which: the pipeline company
(1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route outside of the permit easement approved by the board; or

(2) Involves relocation requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated at over 150 psig. Informational meetings, an informational meeting as provided for by rule 199—10.3(479) 199—10.2(479) shall be held for these relocations and replacements.

d. Contiguous extension of an underground storage area of petitioner; or the pipeline company.

e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit or previous renewal of the permit.

10.9(2) Petition for amendment.

a. The petition for amendment of an original or renewed pipeline permit shall include the docket number and issue date of the permit for which amendment is sought and shall clearly state the purpose of the petition. If the petition is for construction of additional pipeline facilities or expansion of an underground storage area, the same exhibits as required for a petition for permit shall be attached.

b. The applicable procedures for a petition for permit, including hearing, shall be followed. Upon appropriate determination by ~~this~~ the board, an amendment to the permit ~~will~~ shall be issued. Such amendment shall be subject to the same conditions with respect to ~~completion~~ commencement of construction within two years and the filing of final routing maps as ~~attached to~~ required for pipeline permits.

~~This rule is intended to implement Iowa Code sections 476.2 and 479.23.~~

ITEM 12. Amend rule 199—10.10(479) as follows:

199—10.10(479) Fees and expenses.

10.10(1) Permit expenses. The ~~petitioner~~ pipeline company shall pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, hearing, and inspection related to a petition requesting a pipeline permit ~~action~~ or any other activity of the board related to a pipeline permit.

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

10.10(2) Construction inspection. The ~~petitioner~~ pipeline company shall reimburse the board for the actual unrecovered expenses incurred due to inspection of pipeline construction or testing activities following from ~~a permit action~~ the granting of a pipeline permit.

~~Any moneys collected by the board from other sources for chargeable activities will be deducted from billings for actual expenses submitted to the petitioner.~~

~~10.10(3) Annual inspection fee.~~ A pipeline company shall pay an annual inspection fee on all pipelines under permit of 50 cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state of Iowa. The fee shall be paid for the calendar year in advance between January 1 and February 1 of each year. When new pipeline subject to the fee is installed, the fee shall be paid beginning the following calendar year. Pipelines removed from service shall remain subject to the fee until the calendar year following the year the board is notified of the removal from service in accordance with rule 199—10.18(479).

ITEM 13. Amend rule 199—10.11(479) as follows:

199—10.11(479) Inspections. ~~This~~ The board shall from time to time examine the construction, maintenance, and condition of pipelines, underground storage facilities, and equipment used in connection with pipelines ~~or~~ and facilities in the state of Iowa to determine ~~if the same are unsafe or dangerous and~~ whether they comply with the appropriate standards of pipeline safety. One or more members of ~~this~~ the board, or one or more duly appointed representatives of the board, may enter upon the premises of any pipeline company within the state of Iowa for the purpose of making the inspections.

ITEM 14. Amend rule 199—10.12(479) as follows:

199—10.12(479) Standards for construction, operation and maintenance.

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

- a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~May 1, 2019~~ April 1, 2020.
- b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~May 1, 2019~~ April 1, 2020.
- c. 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~May 1, 2019~~ April 1, 2020.
- d. ASME B31.8 - 2016, “Gas Transmission and Distribution Piping Systems.”
- e. 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”
- f. At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

Conflicts between the standards established in paragraphs 10.12(1) “a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

10.12(2) If review of Exhibit C, or inspection of facilities which are the subject of a permit petition, finds noncompliance with the standards adopted in this rule, ~~no final action will be taken by the board on the petition without a satisfactory showing by the petitioner that the noncompliance has been or will be corrected~~ the pipeline company shall provide satisfactory evidence showing the noncompliance has been corrected prior to the board taking final action on the petition or will be corrected as a result of the board taking final action on the petition.

10.12(3) Pipelines in tilled agricultural land shall be installed with a minimum cover of 48 inches.

ITEM 15. Renumber rule ~~199—10.14(479)~~ as **199—10.13(479)**.

ITEM 16. Amend renumbered rule 199—10.13(479) as follows:

199—10.13(479) Crossings of highways, railroads, and rivers.

10.13(1) Iowa Code chapter 479 gives the Iowa utilities board primary authority over the routing of pipelines. However, highway and railroad authorities and environmental agencies may have a jurisdictional interest in the routing of the pipeline, including requirements that permits or other authorizations be obtained prior to construction ~~for~~ of crossings of highway or railroad right-of-way, or rivers or other bodies of water.

10.13(2) ~~Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval~~ Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended that the appropriate other authorities be contacted well

in advance of construction to determine what restrictions or conditions may be placed on the crossing, by those authorities and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline. Approvals and any restrictions, conditions, or relocations of existing facilities are required to be filed with the board prior to the granting of the permit. A pipeline company may request board approval to begin construction on a segment of a pipeline prior to obtaining all necessary consents for construction of the entire pipeline.

~~10.13(2)~~ **10.13(3)** Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on such right-of-way; shall not be constructed unless a showing of consent by the appropriate authority has been provided by the ~~petitioner~~ pipeline company as required in paragraph ~~10.2(1)“e.”~~ 10.3(1)“e.”

ITEM 17. Adopt the following new rule 199—10.14(479):

199—10.14(479) Transmission line factors. Factors considered by the board in determining whether a pipeline is a transmission line and is therefore required to have a permit are set out in this rule. These factors are part of the board’s consideration, especially when a request has been made to reclassify a pipeline from transmission to distribution. These factors are to provide guidance for determining whether a pipeline needs a permit under this chapter, but there may be other factors not included in this rule:

1. The definitions of a transmission line in ASME B31.8 and 49 CFR 192.3.
2. Pipeline Hazardous Material Safety Administration interpretations.
3. The location of a distribution center.
4. Interconnection with an interstate pipeline.
5. Location of distribution regulator stations downstream of a proposed distribution center.
6. Whether a proposed distribution center has more than one source of supply and the type of pipeline that provides the supply.
7. Transfer of ownership of gas.
8. Reduction in pressure of pipeline at a meter.
9. No resale of gas downstream of a distribution center.

ITEM 18. Rescind rule **199—10.16(479)**.

ITEM 19. Renumber rules **199—10.17(479)** to **199—10.19(479)** as **199—10.15(479)** to **199—10.17(479)**.

ITEM 20. Amend renumbered rule 199—10.15(479) as follows:

199—10.15(479) Reports to federal agencies.

10.15(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 191, or Part 192, ~~or Part 199~~, a pipeline company shall file a copy of the report shall be filed with the board. The board shall also be advised of any telephonic incident report made by the pipeline company.

10.15(2) In addition to incident reports required by 49 CFR Part 191, the board shall be notified of any incident or accident where the economic damage exceeds \$15,000 or which results in loss of service to 50 or more customers. The pipeline company shall notify the board, as soon as possible, of any incident by emailing the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at (515)745-2332. The cost of gas lost due to the incident shall not be considered in calculating the economic damage of the incident.

10.15(3) Utilities operating in other states shall provide to the board data for Iowa only.

10.15(4) The board shall be notified, as soon as practical, of any reportable incident by email to the duty officer at dutyofficer@iub.iowa.gov or, if email is not available, by calling the board duty officer at (515)745-2332.

ITEM 21. Amend renumbered rule 199—10.16(479) as follows:

199—10.16(479) Reportable changes to pipelines under permit.

10.16(1) ~~The board~~ A pipeline company shall ~~receive~~ file prior notice with the board of any of the following actions affecting a pipeline under permit:

~~a.~~ Abandonment or removal from service. The pipeline company shall also notify the landowners prior to the abandonment or removal of the pipeline from service.

~~b.~~ Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for permit.

~~b.~~ Pressure test, ~~uprating,~~ or increase in maximum allowable or normal operating pressure.

~~d.~~ Change in product being transported.

~~e.~~ c. Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.

~~f.~~ Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

10.16(2) The notice shall include the docket and permit numbers of the pipeline, the location involved, a description of the proposed activity, anticipated dates of commencement and completion, revised maps and technical specifications, where appropriate, and the name and telephone number of a person to contact for additional information.

ITEM 22. Amend renumbered rule 199—10.17(479) as follows:

199—10.17(479) Sale or transfer of permit.

10.17(1) No permit shall be sold or transferred without ~~prior~~ written approval of the board. A petition for approval of the sale or transfer shall be jointly filed by the buyer, or transferee, and the seller, or transferor, shall include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa; is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and if the sale, or transfer, is prior to completion of construction of the pipeline shall show that the buyer, or transferee, has the financial ability to pay up to \$250,000 in damages associated with construction or operation of the pipeline, or any other amount the board has determined is necessary when granting the permit.

10.17(2) ~~No transfer of pipeline permit prior to completion of pipeline construction shall be effective until the person to whom the permit was issued files notice with the board of the transfer. The notice shall include the date of the transfer and the name and address of the transferee.~~

10.17(3) ~~10.17(2)~~ The board shall receive notice from the transferor of any other transfer of a pipeline permit ~~after completion of construction.~~

For the purposes of this rule, reassignment of a pipeline permit as part of a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer and requires prior board approval.

ITEM 23. Adopt the following new rule 199—10.18(479):

199—10.18(479) Termination of petition for pipeline permit proceedings. If a pipeline company fails to publish the official notice within 90 days after the official notice is provided by the board, the board may dismiss the petition.

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