

## INTERSTATE NATURAL GAS PIPELINES

### **479A.1 Purpose.**

It is the purpose of the general assembly in enacting this law to confer upon the utilities board the power and authority to implement certain controls over the transportation of natural gas to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a pipeline within the state. It is also the purpose of the general assembly in enacting this law to provide for the board to act as an agent for the federal government in determining pipeline company compliance with the standards of the federal government for pipelines within the boundaries of the state.

88 Acts, ch 1074, §1

### **479A.2 Definitions.**

As used in this chapter, unless the context requires otherwise:

1. "*Board*" means the utilities board within the utilities division of the department of commerce.
2. "*Pipeline*" means an interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas within or through this state.
3. "*Pipeline company*" means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines.
4. "*Underground storage*" means the storage of natural gas in a subsurface stratum or formation of the earth by a pipeline company.

88 Acts, ch 1074, §2

### **479A.3 Conditions attending operation.**

A pipeline company shall not construct, maintain, or operate pipeline under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in this state except in accordance with this chapter.

88 Acts, ch 1074, §3

### **479A.4 Construction inspection.**

The board shall supervise pipelines, pipeline companies, and underground storage, and shall inspect the construction, maintenance, and condition of pipelines and underground storage facilities in accordance with section 479A.18. When inspecting for safety standard compliance, the board shall apply only United States department of transportation safety standards.

88 Acts, ch 1074, §4

### **479A.5 Notice prior to construction.**

Before beginning construction in this state, a pipeline company shall provide an adequate opportunity for state inspection, by giving written notice to the chairperson of the board stating the time, date, location, and nature of the construction. The notice shall be filed with the chairperson of the board not less than five business days before commencement of the construction.

88 Acts, ch 1074, §5

**479A.6 Cost of construction inspection.**

A pipeline company shall pay actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

88 Acts, ch 1074, §6

**479A.7 Annual inspection fee.**

A pipeline company shall pay an annual inspection fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in this state. The annual inspection fee shall be paid for the calendar year in advance between January 1 and February 1 of each year.

88 Acts, ch 1074, §7

**479A.8 Failure to pay penalties.**

The board shall collect the inspection fees, and failure to pay an inspection fee within thirty days after the time the fee becomes due is cause for the assessment of civil penalties in accordance with section 479A.16.

88 Acts, ch 1074, §8

**479A.9 Deposit of funds.**

Moneys received under this chapter shall be credited to the general fund of the state as provided in section 476.10.

88 Acts, ch 1074, §9; 94 Acts, ch 1107, §84; 99 Acts, ch 85, §10, 11

**479A.10 Rules.**

The board shall adopt rules, pursuant to chapter 17A for the enforcement of this chapter.

88 Acts, ch 1074, §10

**479A.11 Damages.**

A pipeline company operating pipelines or underground storage shall be given reasonable access to the pipelines and storage areas for the purpose of constructing, operating, maintaining, or locating their pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon a pipeline or storage area, but shall pay the owner of the lands for the right of entry and the owner of crops on the land all damages caused by entering, using, or occupying the lands for these purposes; and shall pay to the owner of the lands, after the completion of construction of the pipeline or storage, all damages caused by settling of the soil along and above the pipeline, and wash or erosion of the soil along the pipeline due to the construction of the pipeline. However, this section does not prevent the execution of an agreement with other terms between the pipeline company and the owner of the land or crops with reference to their use.

88 Acts, ch 1074, §11; 95 Acts, ch 192, § 19

**479A.12 Financial condition of company bond or other security.**

Before construction is begun by a pipeline company, the company shall satisfy the board that the company has property subject to execution within this state other than pipelines, of a value in excess of two hundred fifty thousand dollars, or the company must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the company will pay any and all damages legally recovered against it growing out of the construction, abandonment, or operation of its pipeline and underground storage facilities in this state, or the company shall deposit with the board security satisfactory to the board as a guaranty for the payment of that amount of damages, or furnish to the board satisfactory proofs of its solvency and financial ability to pay that amount of damages.

88 Acts, ch 1074, §12; 98 Acts, ch 1093, §1

#### **479A.13 Jurisdiction.**

In all cases arising under this chapter, the district court of any county in which property of a pipeline company is located has jurisdiction of a case involving that company.

88 Acts, ch 1074, §13; 95 Acts, ch 192, § 20

#### **479A.14 Land restoration standards inspection.**

1. The board shall adopt rules establishing standards for the restoration of agricultural lands during and after pipeline construction. In addition to the requirements of section 17A.4, the board shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. A county board of supervisors may, under chapter 17A and subsequent to the rulemaking proceedings, petition for additional rulemaking to establish standards for land restoration after pipeline construction within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under this section shall not apply to land located within city boundaries unless the land is used for agricultural purposes. Rules adopted under this section shall address, but are not limited to, all of the following subject matters:

- a.* Topsoil separation and replacement.
- b.* Temporary and permanent repair to drain tile.
- c.* Removal of rocks and debris from the right-of-way.
- d.* Restoration of areas of soil compaction.
- e.* Restoration of terraces, waterways, and other erosion control structures.
- f.* Revegetation of untilled land.
- g.* Future installation of drain tile or soil conservation structures.
- h.* Restoration of land slope and contour.
- i.* Restoration of areas used for field entrances and temporary roads.
- j.* Construction in wet conditions.
- k.* Designation of a pipeline company point of contact for landowner inquiries or claims.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards

adopted under this section to be performed at any pipeline construction project in the county. A licensed professional engineer familiar with the standards adopted under this section and registered under chapter 542B shall be responsible for the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under this section, of the land restoration plan, or of an independent agreement on land restoration executed in accordance with subsection 10, the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company, and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. An inspector shall adequately inspect underground improvements altered during construction of a pipeline. An inspection shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep an inspector continually informed of the work schedule and any schedule changes. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

5. If the pipeline company or its contractor does not comply with the requirements of this section, with the land restoration plan, or with an independent agreement on land restoration executed in accordance with subsection 10, the county board of supervisors may petition the board for an order requiring corrective action to be taken. In addition, the county board of supervisors may file a complaint with the board seeking imposition of civil penalties pursuant to section 479A.16.

6. The pipeline company shall allow landowners and the inspector to view the proposed center line of the pipeline before commencing trenching operations to ensure that construction takes place in the proper location.

7. An inspector may temporarily halt the construction if the construction is not in compliance with this chapter and the standards adopted under this chapter, the land restoration plan approved by the board, or the terms of an independent agreement with the pipeline company regarding line location or land restoration executed in accordance with subsection 10, until the inspector consults with the supervisory personnel of the pipeline company.

8. The board shall instruct inspectors appointed by the county board of supervisors regarding the content of this chapter and the standards and the inspectors' responsibility to require construction conforming with them.

9. Prior to the initiation of construction, the pipeline company shall file a written land restoration plan with the board describing the methods and procedures by which compliance with this section and the standards adopted under this section will be achieved. The board shall review this plan to insure that the requirements of this section and rules adopted pursuant to this section are met. After board review, the pipeline company shall provide copies of the plan to all landowners of property that will be disturbed by the construction. The requirements of this subsection may be waived by the board to the extent an environmental impact statement addressing the land restoration subjects in subsection 1 was prepared by the federal energy regulatory commission.

10. This section does not preclude the application of provisions for protecting or restoring property that are different than those prescribed in this section, in rules adopted pursuant to this section, or in the land restoration plan if the alternative provisions are contained in agreements independently executed by the pipeline company and the landowner, and if the alternative provisions are not inconsistent with state law or with rules adopted by the board. Independent agreements on land restoration or line location between the landowner and pipeline company shall be in writing and a copy provided to the county inspector.

11. For the purposes of this section, "*construction*" includes the removal of a previously constructed pipeline.

88 Acts, ch 1074, §14; 95 Acts, ch 192, § 21; 99 Acts, ch 85, §4, 11; 2000 Acts, ch 1080, §1

#### **479A.15 Entry for land surveys.**

A pipeline company may enter upon private land for the purpose of surveying and examining the land to determine direction or depth of a pipeline by giving ten days' written notice by restricted certified mail to the landowner and to any person residing on or in possession of the land. For purposes of this section only, "*landowner*" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property. The entry for land surveys authorized in this section is not a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry and survey.

88 Acts, ch 1074, §15; 95 Acts, ch 192, § 22

#### **479A.16 Civil penalty.**

A person who violates this chapter or a rule or an order issued pursuant to this chapter is subject to a civil penalty levied by the board not to exceed one thousand dollars for each violation. Each day that the violation continues constitutes a separate offense. However, the civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to this section shall be credited to and are appropriated for the Iowa energy center created in section 266.39C.

A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

88 Acts, ch 1074, §16; 95 Acts, ch 192, § 23

#### **479A.17 Rehearing judicial review.**

Rehearing procedure for a person aggrieved by the action of the board in assessing or failing to assess civil penalties under this chapter shall be as provided in section 476.12. Judicial review may be sought in accordance with chapter 17A.

88 Acts, ch 1074, §17

#### **479A.18 Federal inspection.**

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with the applicable standards of pipeline safety as provided by Pub. L. No. 103-272, as codified in 49 U.S.C. § 6010160125.

88 Acts, ch 1074, §18; 95 Acts, ch 49, § 14

#### **479A.19 Right to cancel agreement.**

1. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall allow the landowner or a person serving in a fiduciary capacity in the landowner's behalf to cancel an agreement granting an easement or other interest by certified mail with return

requested to the company's principal place of business if received by the company within seven days, excluding Saturday and Sunday, of the date of the contract; shall inform the landowner or fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or fiduciary; and shall provide the landowner or fiduciary with a form in duplicate for the notice of cancellation.

2. A person seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline shall not record an agreement until after the period for cancellation has expired, and shall not include in an agreement a waiver of the right to cancel in accordance with this section.

3. The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

88 Acts, ch 1074, §19

#### **479A.20 Arbitration agreements.**

Notwithstanding conflicting provisions of chapter 679A, if an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline, and if either party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in place of the arbitrator who would have been appointed or agreed to by the other party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other party and file proof of mailing with the petition. If, after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other party under the agreement.

For purposes of this section only, "*landowner*" means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

88 Acts, ch 1074, §20; 95 Acts, ch 192, § 24

#### **479A.21 Subsequent pipelines.**

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been resolved unless that claim is under litigation or arbitration or is the subject of a proceeding pursuant to section 479A.25.

88 Acts, ch 1074, §21; 95 Acts, ch 192, § 25

#### **479A.22 Damage statement.**

A pipeline company shall not install a pipeline unless there is a written statement on file with the board as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The company shall provide a copy of the statement to the landowner.

88 Acts, ch 1074, §22

#### **479A.23 Negotiated annual fee.**

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

88 Acts, ch 1074, §23

#### **479A.24 Particular damage claims.**

1. Compensable losses shall include, but are not limited to, all of the following:

*a.* Loss or reduced yield of crops or forage on the pipeline right-of-way, whether caused directly by construction or from disturbance of usual farm operations.

*b.* Loss or reduced yield of crops or yield from land near the pipeline right-of-way resulting from lack of timely access to the land or other disturbance of usual farm operations, including interference with irrigation.

*c.* Fertilizer, lime, or organic material applied by the landowner to restore land disturbed by construction to full productivity.

*d.* Loss of or damage to trees of commercial or other value that occurs at the time of construction, restoration, or at the time of any subsequent work by the pipeline company.

*e.* The cost of or losses in moving or relocating livestock, and the loss of gain by, or the death or injury of livestock caused by the interruption or relocation of normal feeding.

*f.* Erosion on lands attributable to pipeline construction.

*g.* Damage to farm equipment caused by striking a pipeline, debris, or other material reasonably associated with pipeline construction while engaged in normal farming operations as defined in section 480.1.

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under section 6B.52 on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the company in writing fourteen days prior to harvest in each year to assess crop deficiency.

3. With the exception of claims for damage to drain tile and future crop deficiency, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of completion of installation of a pipeline as determined by the county board of supervisors.

88 Acts, ch 1074, §24; 99 Acts, ch 85, §5, 11

#### **479A.25 Determination of installation damages.**

1. The county board of supervisors shall determine when installation of a pipeline has been completed in that county for the purposes of this section. Not less than ninety days after the completion of installation, and if an agreement cannot be made as to damages, a landowner whose land was affected by the installation of the pipeline or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from the installation of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county

for the appointment of a compensation commission as provided in section 6B.4.

The application shall contain all of the following:

*a.* The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

*b.* A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

*c.* The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. After the commissioners have been appointed, the applicant shall serve notice on the pipeline company or the landowner stating all of the following:

*a.* That a compensation commission has been appointed to determine the damages caused by the installation of the pipe- line.

*b.* The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

*c.* The place, date, and time when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the installation of the pipeline. The commissioners shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. Chapter 6B applies to this section to the extent it is applicable and consistent with this section.

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners, if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages. If the award does not exceed one hundred ten percent, the landowners shall pay the fees and costs incurred by the pipeline company. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in this section, "*damages*" means compensation for damages to the land, crops, and other personal property caused by the construction activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and "*landowner*" includes a tenant.

8. This section does not apply if the easement provides for any other means of negotiation or arbitration.

88 Acts, ch 1074, §25; 95 Acts, ch 192, § 26; 2000 Acts, ch 1179, §27, 30

#### **479A.26 Subsequent tiling.**

Additional costs of new tile construction caused by an existing pipeline shall be paid by the pipeline company. To receive compensation under this section, the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

88 Acts, ch 1074, § 26; 92 Acts, ch 1103, § 10; 95 Acts, ch 192, § 27

#### **479A.27 Reversion on nonuse.**

1. If a pipeline right-of-way, or any part of a pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in this section to the person who, at the time of the abandonment or nonuse, is the owner of the tract from which such right-of-way was taken. Abandonment of pipeline facilities requires approval from the federal energy regulatory commission prior to this provision taking effect.

2. To effect a reversion on nonuse of right-of-way, the owner or holder of purported fee title to such real estate shall serve notice upon the owner of such right-of-way easement and, if filed of record, successors in interest and upon any party in possession of the real estate. The written notice shall accurately describe the real estate and easement in question, set out the facts concerning ownership of the fee, ownership of the right-of-way easement, and the period of abandonment or nonuse, and notify the parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless the parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in the notice.

3. The notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication an affidavit shall not be required before publication. If an affidavit disputing the facts contained in the notice is not filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached and endorsed, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property to the extent such removal is in accordance with the terms of the abandonment authority from the federal energy regulatory commission. Provisions of this chapter relating to damages shall apply when the pipeline is removed.

5. Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to section 479A.28, shall remain responsible for the additional costs of

subsequent tiling as provided for in section 479A.26, shall mark the location of the line in response to a notice of proposed excavation in accordance with chapter 480, and shall remain subject to the damage provisions of this chapter in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of this subsection.

99 Acts, ch 85, §6, 11; 2000 Acts, ch 1139, §3

**479A.28 Farmland improvements.**

A landowner or contractor may require a representative of the pipeline company to be present on site, at no charge to the landowner, at all times during each phase and separate activity related to a farmland improvement within fifty feet of either side of a pipeline. If the pipeline company and the landowner or contractor constructing the farmland improvement mutually agree that a representative of the pipeline company is not required to be present, the requirements of this section are waived in relation to the farmland improvement which would have otherwise made the requirements of this section applicable. A farmland improvement includes, but is not limited to, the terracing of farmland and tiling.

2000 Acts, ch 1139, §4