

CHAPTER 13
HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

199—13.1(479B) General information.

13.1(1) Authority. The standards in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are prescribed by the Iowa utilities board pursuant to Iowa Code section 479B.1.

13.1(2) Purpose. The purpose of this chapter is to establish standards for a petition for a permit to construct, maintain, and operate a hazardous liquid pipeline and for the underground storage of hazardous liquids.

13.1(3) Definitions. Words and terms not otherwise defined in this chapter shall be understood to have their usual meaning. For the administration and interpretation of this chapter, the following words and terms, when used in these rules, shall have the meanings indicated below:

“*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.

“*Hazardous liquid*” means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

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

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

“*Pipeline*” means any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid.

“*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 transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.

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

“*Underground storage*” means storage of hazardous liquid in a subsurface stratum or formation of the earth.

13.1(4) Railroad crossings. Where these rules call for the consent or other showing of right from a railroad for a railroad crossing, an affidavit filed by a petitioner which states that proper application for approval of railroad crossing has been made, that a one-time crossing fee has been paid as provided for in rule 199—42.3(476) and that 35 days have passed since mailing of the application and payment with no claim of special circumstance or objection from the railroad will be accepted as a showing of consent for the crossing.

199—13.2(479B) Petition for permit.

13.2(1) A petition for a permit shall be made to 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. 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. Required exhibits shall be in the following form:

a. Exhibit A. A legal description showing, at minimum, the general direction of the proposed route through each quarter section of land to be crossed, including township and range and whether on private or public property, public highway or railroad right-of-way, together with other information as may be deemed pertinent. Construction deviation of 660 feet (one-eighth mile) from proposed routing will be permitted.

If it becomes apparent there will be a 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 the area shall be suspended.

Exhibits A, B, E, and F reflecting the deviation shall be filed, and the procedure set forth shall be followed upon the filing of a petition for amendment of a permit.

b. Exhibit B. Maps showing the proposed routing of the pipeline. Strip maps will be acceptable. Two copies of the 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. The following minimum information shall be provided:

(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.

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

(3) The location and identity of public roads, railroads, major 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.

c. Exhibit C. An explanation of the purpose of the proposed project and a general description of the proposed pipeline, including its approximate length, size, products carried, and other information as may be pertinent to describe the project.

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 the board in the penal sum of \$250,000 with surety approved by the board, conditioned that the petitioner will pay any and all damages legally recovered against it growing out of the operation of its pipeline or gas storage facilities in the state of Iowa; security satisfactory to the board as a guarantee for the payment of damages in the sum of \$250,000; or satisfactory proofs that the company has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000.

e. Exhibit E. Consent or other showing of right 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 consent is obtained prior to filing of the petition and hearing shall be filed with the petition.

If the exact and specific route is uncertain at the time of petition, a statement shall be made by petitioner that all consents or other showing of right will be obtained prior to construction and copies filed with the board.

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

(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 nature of the lands, waters, and public or private facilities to be crossed; the possible use of alternative routes; the relationship of the proposed pipeline to present and future land use and zoning ordinances; and 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 the 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 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, the exhibit must be in final form before a hearing is scheduled. The exhibit shall consist of a map of the route showing the location of each property for which the right of eminent domain is sought and the following information for each 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.
- (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 to the rights being sought.

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 for in rule 199—9.2(479,479A,479B).

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

13.2(2) Petitions proposing new pipeline construction on an existing easement where the 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 include the name of each landowner or tenant, a legal description of the property involved, and the status of proceedings to settle the claim.

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

13.2(3) Statement of damage claims.

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

The statement shall contain the following information: the type of damages which will be compensated, how the amount of damages will be determined, the procedures by which disputes may be resolved, and the manner of payment.

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

b. A copy of this statement shall be mailed with the notice of informational meeting as provided for in Iowa Code section 479B.4. If no informational meeting is required, a copy shall be provided to each affected party prior to entering into negotiations for payment of damages.

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

13.2(4) Existing pipelines. Petitions for permit for pipelines in operation on July 1, 1995, shall be made in accordance with Iowa Code section 479B.4.

This rule is intended to implement Iowa Code sections 479B.4, 479B.5, 479B.13, 479B.16, and 479B.26.

199—13.3(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project over five miles in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure of over 150 pounds per square inch. A separate informational meeting shall be held in each county in which real property or rights therein would be affected. 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:

13.3(1) Facilities. Prospective petitioners for a permit 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 requirements of the Americans with Disabilities Act Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available.

13.3(2) Location. The informational meeting location shall be reasonably accessible to all persons, companies or corporations which may be affected by the granting of a permit.

13.3(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.

13.3(4) Notices. Announcement by mailed and published notice of the 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 rolls as responsible for payment of real estate taxes and parties in possession of or residing on the property over which the prospective petitioner will seek easements.

a. The meeting notice shall state the name of the prospective petitioner; state the address of the prospective petitioner's principal place of business; state the general description and purpose of the proposed project; state the general nature of the right-of-way desired; include a map showing the proposed route; advise that the affected party has the right to be present at the informational meeting and to file objections with the board; contain the following statement: "Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made"; and designate the date, time, and place of the meeting. Mailed notices shall also include a copy of the statement of damage claims as required by 13.2(3)"*b.*"

b. The prospective petitioner 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 whose addresses are known. The certified meeting notice shall be deposited in the U.S. mails not less than 30 days prior to the date of the meeting.

c. The prospective petitioner shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in the county 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 whose residence is not known provided a good faith effort to notify can be demonstrated by the pipeline company.

13.3(5) Personnel. The prospective petitioner shall provide qualified personnel to speak for it in matters relating to the following:

a. The purpose of and need for 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 will seek to acquire through easements.

e. Procedures to be followed in contacting affected parties 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 but not limited to computation of amounts and manner of payment.

13.3(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.

This rule is intended to implement Iowa Code section 479B.4.

199—13.4(479B) Notice of hearing.

13.4(1) When a proper petition for permit is received by 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 13.8(479B). Petitioner shall also be furnished copies of the official notice of hearing which petitioner 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 publication shall be filed prior to or at the hearing.

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 obtain a copy of a map from petitioner 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.

13.4(2) If a petition for permit seeks the right of eminent domain, petitioner shall, in addition to the published notice of hearing, serve a copy of the notice of hearing to the owners and parties in possession of lands 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 last-known address; and this notice shall be mailed not 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 addresses to which notice was sent by certified mail and the date of the mailing.

13.4(3) If a petition does not seek the right of eminent domain, but all required interests in private property have not yet been obtained, a copy of the notice of hearing shall be served upon the owners and parties in possession of those lands. Service shall be by ordinary mail, addressed to the last-known address, mailed not 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 to which it was mailed and the date of mailing, shall be filed with the board not less than five days prior to the hearing.

199—13.5(479B) Objections. A person, including a governmental entity, whose rights or interests may be affected by the object of a petition may file a written objection. The written objection shall be filed with the secretary of the board not less than five days prior to date of hearing. The board may, for good cause shown, permit filing of objections less than five days prior to hearing, but in such event petitioner shall be granted a reasonable time to meet objections.

199—13.6(479B) Hearing. Hearing shall be not less than 10 or more than 30 days from the date of last publication of notice of hearing.

Petitioner shall be represented by one or more duly authorized representatives or counsel or both. The 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 the 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 the board or at any other place within the state of Iowa as the 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.

199—13.7(479B) Pipeline permit. If after hearing and appropriate findings of fact it is determined a permit should be granted, a 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 permit shall normally expire 25 years from date of issue. No permit shall be granted for a period longer than 25 years.

199—13.8(479B) Renewal permits. A petition for renewal of permit may be filed at any time subsequent to issuance of a permit and prior to expiration. The petition shall be made on the form prescribed by the board. Instructions for the petition are included as a part of the form. The procedure for petition for permit shall be followed with respect to publication of notice, objections, and assessment of costs. If review of the petition finds unresolved issues of fact or law, or if an objection is filed within 20 days of the second publication of the published notice, the matter will be set for hearing. If a hearing is not required, a renewal permit will be issued upon the filing of the proof of publication required by subrule 13.4(1). Renewal permits shall normally expire 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 479B.14.

199—13.9(479B) Amendment of permits.

13.9(1) An amendment of pipeline permit by the board is required in any of the following circumstances:

- a. Construction of a pipeline paralleling an existing line of petitioner;
- b. Extension of an existing pipeline of petitioner by more than 660 feet (one-eighth mile);
- c. Relocation of an existing pipeline of petitioner which:
 - (1) Relocates the pipeline more than 660 feet (one-eighth mile) from the route approved by the board; or
 - (2) Involves relocation requiring new or additional interests in property for five miles or more of pipe to be operated at over 150 psig. Informational meetings as provided for by rule 13.3(479B) shall be held for these relocations.
- d. Contiguous extension of an underground storage area of petitioner; or
- e. Modification of any condition or limitation placed on the construction or operation of the pipeline in the final order granting the pipeline permit.

13.9(2) Petition for amendment. The petition for amendment 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.

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

199—13.10(479B) Fees and expenses. The petitioner shall pay the actual unrecovered cost incurred by the board attributable to the processing, investigation, and inspection related to a petition requesting a pipeline permit action.

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

199—13.11 Reserved.

199—13.12(479B) Land restoration. Pipelines shall be constructed in compliance with 199 IAC Chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction."

199—13.13 Reserved.

199—13.14(479B) Crossings of highways, railroads, and rivers.

13.14(1) Iowa Code chapter 479B 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 crossings of highway or railroad right-of-way, or rivers or other bodies of water.

Except for other than approximate right angle crossings of highway or railroad right-of-way, the approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. It is recommended the appropriate other authorities be contacted well in advance of construction to determine what restrictions or conditions may be placed on the crossing, and to obtain information on any proposed reconstruction or relocation of existing facilities which may impact the routing of the pipeline.

13.14(2) Pipeline routes which include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, shall not be constructed unless a showing of consent by the appropriate authority has been provided by the petitioner as required in paragraph 13.2(1) "e."

199—13.15 to 13.17 Reserved.

199—13.18(479B) Reportable changes to pipelines under permit.

13.18(1) The board shall receive prior notice of any of the following actions affecting a pipeline under permit:

- a.* Abandonment or removal from service.
- b.* Relocation of more than 300 feet from the original alignment, or any relocation that would bring the pipeline to within 300 feet of an occupied residence. Relocations of 660 feet (one-eighth mile) or more shall require the filing of a petition for amendment of a permit.
- c.* Change in product being transported.
- d.* Replacement of a pipeline or significant portion thereof, not including short repair sections of pipe at least as strong as the original pipe.
- e.* Extensions of existing pipelines by 660 feet (one-eighth mile) or less.

13.18(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 facility descriptions, where appropriate, and the name and telephone number of a person to contact for additional information.

199—13.19(479B) Sale or transfer of permit.

13.19(1) No permit shall be sold without prior written approval of the board. A petition for approval shall be jointly filed by the buyer and seller and shall include assurances that the buyer is authorized to transact business in the state of Iowa; that the buyer is willing and able to construct, operate, and maintain the pipeline in accordance with these rules; and, if the sale is prior to completion of construction of the pipeline, that the buyer has the financial ability to pay up to \$250,000 in damages.

13.19(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.

13.19(3) 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.

199—13.20(479B) Amendments to rules. Rescinded IAB 6/25/03, effective 7/30/03.

These rules are intended to implement Iowa Code chapter 479B.

[Filed 3/20/98, Notice 9/10/97—published 4/8/98, effective 5/13/98]

[Filed 10/13/99, Notice 5/19/99—published 11/3/99, effective 12/8/99]

[Filed 4/12/02, Notice 3/6/02—published 5/1/02, effective 6/5/02]

[Filed 6/6/03, Notice 4/2/03—published 6/25/03, effective 7/30/03]

[Filed 9/24/04, Notice 8/18/04—published 10/13/04, effective 11/17/04]

[Filed 4/18/08, Notice 3/12/08—published 5/7/08, effective 6/11/08]

[Filed 10/31/08, Notice 4/9/08—published 11/19/08, effective 12/24/08]