

199—13.3(479B) Petition for permit.

13.3(1) A petition for a permit shall be filed with the board upon the form prescribed and shall include all required exhibits. The petition shall be considered filed with the board on the date accepted by 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. Required exhibits shall be in the following form:

- a. Exhibit A.* A legal description showing, at minimum:
 - (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.
 - (3) Whether the proposed pipeline will be located on private or public property, public highway, or railroad right-of-way.
 - (4) Other pertinent information.
 - (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.
- b. Exhibit B.* Maps showing the proposed routing of the pipeline. 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 by 17 inches. Maps based on satellite imagery are preferred. An additional 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 by 17 inches without regard to scale. The pipeline company shall also provide the board with a KMZ file showing the proposed route of the pipeline. Data files necessary to provide mapping of the route through the use of a geographic information system application shall be provided upon the request of the board. 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 the pipeline 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 lines, section lines, section numbers, township numbers, and range numbers.
 - (3) The location and identity of adjacent or crossed public roads, railroads, 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 six tenths of a mile of the pipeline.
- c. Exhibit C.* A showing 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 and maximum capacity of the proposed pipeline shall be provided.
- d. Exhibit D.* Satisfactory 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 pipeline company will pay any and all damages legally recovered against the pipeline company growing out of the construction and operation of its pipeline or hazardous liquid 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. The board may require additional surety or insurance policies to ensure the payment of damages resulting from the construction and operation of a hazardous liquid pipeline in a county.
- e. Exhibit E.*

(1) Consent or 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 consent is obtained prior to filing of the petition, shall be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company shall file a statement that it will obtain all necessary consents or file other documentation of the right to commence construction prior to commencement of construction 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 shall be included.

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

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:

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

2. The possible use of alternative routes;

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

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 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, 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, 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 all affected persons for the property over which eminent domain is requested based upon a good faith effort to identify all affected persons.

(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 pipeline to the rights being sought.

(6) An overview map showing the location of the property over which eminent domain is requested, with the property identified as required by 199—Chapter 9.

(7) An updated KMZ file required by paragraph 13.3(1) “b” to show the locations of the property over which the pipeline company is seeking eminent domain.

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(479,479B).

The name and contact information of each county inspector designated by county boards of supervisors pursuant to Iowa Code section 479B.20(2) shall be included in the land restoration plan, when known.

j. Underground storage. If permission is sought to construct, maintain, and operate facilities for underground storage of hazardous liquid, 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. Exhibit K. The pipeline company shall file additional information as follows:

(1) An affidavit describing the good faith effort the company has undertaken to identify all affected persons in the property for all parcels over which the pipeline is proposed to be located before easements were signed or eminent domain requested. The affidavit shall be signed by an attorney representing the pipeline company.

(2) Whether any private easements will be required for the proposed pipeline and, if a private easement will 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 permits that will be required from other state agencies for the construction of the pipeline and, if so, a description of the permit required and whether the permit has been obtained.

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

(5) Whether there are any agreements or additional facilities that need to be constructed to transport or receive hazardous liquids.

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

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

13.3(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 include 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 shall not be acted upon by the board if a damage claim from the installation of the previous pipeline has not been resolved by negotiation, arbitration, or court action. The board may take action on the petition if the damage claim is under litigation or arbitration.

13.3(3) Statement of damage claims.

a. A petition for permit proposing new pipeline construction shall not be acted upon by the board if the pipeline company does not file with the board a written statement in compliance with Iowa Code chapter 479B 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, how the amount of damages will be determined, the procedures by which disputes may be resolved, 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.

d. 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 person prior to entering into negotiations for payment of damages.

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

13.3(4) Negotiation of easements. The pipeline company is not prohibited from responding to inquiries concerning existing easements or from requesting and collecting tenant and affected person information, provided that the pipeline company is not “negotiating” as defined at subrule 13.1(3).
[ARC 5894C, IAB 9/8/21, effective 10/13/21]