

IOWA UTILITIES BOARD

IN RE:

EXECUTIVE ORDER 10 — REVIEW OF
HAZARDOUS LIQUID PIPELINES AND
UNDERGROUND STORAGE RULES
[199 IOWA ADMINISTRATIVE CODE
CHAPTER 13]

DOCKET NO. RMU-2023-0013

ORDER OPENING DOCKET AND SETTING TECHNICAL CONFERENCE AND COMMENT DEADLINE

On January 10, 2023, Gov. Kim Reynolds issued Executive Order Number 10 (Executive Order), which put a moratorium on agency rulemaking and directed agencies, including the Utilities Board (Board), to engage in a comprehensive evaluation of existing rules. The goals of the Executive Order include increasing public input in the rulemaking process, eliminating rules that do not provide substantial benefits to Iowans, reducing the page and word count of the Iowa Administrative Code, and reducing restrictive rule language. As a part of the comprehensive review, agencies are required to repeal each rules chapter and evaluate whether the chapter, or a portion of the chapter, should be re-promulgated. To assist agencies in performing their comprehensive reviews, the Iowa Department of Management developed and published forms and processes. See <https://dom.iowa.gov/red-tape-review> (last accessed on April 11, 2024).

Pursuant to the Executive Order, the Board is conducting comprehensive reviews of each chapter of its administrative rules, and the Board will open the above-captioned docket for purposes of conducting a comprehensive review of chapter 13, which

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contains the Board's Hazardous Liquid Pipeline and Underground Storage rules.

Attached to this order as Attachment A is the Board's retrospective analysis (Red Tape Review Rule Report) of chapter 13, which the Board will publish on the Board's website, iub.iowa.gov, as required by section III.B of the Executive Order. Attached to this order as Attachment B is the Board's draft Regulatory Analysis of chapter 13, which the Board will submit in the legislative Rules Management System for publication in the Iowa Administrative Bulletin and which may contain changes from the version attached to this order. Finally, attached to this order as Attachment C is a draft version of chapter 13 that the Board is evaluating whether to re-promulgate. Most of the current proposed changes to chapter 13 center on the removal of unnecessary and restrictive language.

The Board also will schedule a technical conference for 1 p.m. July 30, 2024. The technical conference will be led by Board staff, and participation may occur in person or by webinar. The purpose of the technical conference is to receive comments regarding the draft Regulatory Analysis and the proposed version of chapter 13 to be re-promulgated. Additionally, the Board will accept written comments through July 30, 2024, concerning the draft Regulatory Analysis and the proposed re-promulgated version of chapter 13. The Board will use the oral and written comments received to prepare a final version of the Regulatory Analysis, which will be uploaded in this docket and published on the Board's website.

IT IS THEREFORE ORDERED:

1. Docket No. RMU-2023-0013 is opened for the purpose of conducting a comprehensive review of 199 Iowa Administrative Code chapter 13 pursuant to Executive Order Number 10.

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2. A technical conference is set for 1 p.m. July 30, 2024, in the Utilities Board Hearing Room, located at 1375 East Court Avenue, Des Moines, Iowa. Interested persons may appear in person.

3. Comments regarding the draft Regulatory Analysis or the proposed re-promulgated version of chapter 13 shall be filed by July 30, 2024.

UTILITIES BOARD

Erik M. Helland 2024.05.22 10:09:51 -05'00'

Joshua Byrnes Date: 2024.05.21
14:13:00 -05'00'

ATTEST:

Keetah A Horras Date: 2024.05.22
11:54:59 -05'00'

Sarah Martz Date: 2024.05.21
14:05:27 -05'00'

Dated at Des Moines, Iowa, this 22nd day of May, 2024.

Red Tape Review Rule Report (Due: September 1, 2025)

Department Name:	Iowa Utilities Board	Date:	April 16, 2024	Total Rule Count:	16
IAC #:	199	Chapter/ SubChapter/ Rule(s):	Chapter 13	Iowa Code Section Authorizing Rule:	Iowa Code Chapter 479B
Contact Name:	Hunter Fors	Email:	hunter.fors@iub.iowa.gov	Phone:	515-322-5331

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

Pursuant to Iowa Code Chapter 479B, a pipeline company cannot construct, operate, or maintain a hazardous liquid pipeline or hazardous liquid underground storage facility under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in the state of Iowa unless approved by the Board. Chapter 13 establishes the requirements and procedures for hazardous liquid pipeline or hazardous liquid underground storage facility proceedings before the Board thereby, informing the general public and those interested in this industry of the Board’s requirements.

Is the benefit being achieved? Please provide evidence.

Yes. The procedures and requirements governing hazardous liquid pipelines and underground storage permitting proceedings are contained within this chapter.

What are the costs incurred by the public to comply with the rule?

A person seeking a permit may incur costs, the costs incurred are directly caused by the nature and course of the proceeding itself, as opposed to the rules.

What are the costs to the agency or any other agency to implement/enforce the rule?

The Board incurs costs in relation to these rules through the general conduct of the Board; however, the requirements that the Board conduct these types of proceedings are imposed by Iowa Code Chapter 479B, not the rules. Additionally, pursuant to Iowa Code §§ 476.10 and 479B.10, Board costs incurred in a particular permit proceeding may be assessed to the party requesting the permit.

Do the costs justify the benefits achieved? Please explain.

ATTACHMENT A

Yes. Any costs incurred by the Board or persons participating in a permit proceeding are outweighed by the benefits of ensuring lowans and other interested persons are provided notice of the proceeding and having an orderly and fair proceeding.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

While removing the requirements imposed by these rules in a franchise proceeding is a potential option, such action would inhibit the intended benefits of this chapter. The chapter effectively imposes necessary procedural restrictions to achieve a fair and cost-effective result.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

- 199 IAC 13.1 - remove restrictive, redundant, and unnecessary language
- 199 IAC 13.2 - remove restrictive, redundant, and duplicative language
- 199 IAC 13.3 - remove restrictive and redundant language
- 199 IAC 13.4 - remove restrictive and redundant language
- 199 IAC 13.5 - remove restrictive, redundant, and duplicative language
- 199 IAC 13.6 - remove restrictive language
- 199 IAC 13.7 - remove restrictive language
- 199 IAC 13.8 - remove restrictive and unnecessary language
- 199 IAC 13.9 - remove restrictive language
- 199 IAC 13.10 - remove restrictive language
- 199 IAC 13.11 - remove restrictive language
- 199 IAC 13.12 - remove restrictive language
- 199 IAC 13.13 - remove restrictive language
- 199 IAC 13.14 - remove restrictive and unnecessary language
- 199 IAC 13.15 - remove restrictive language

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	515
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	90

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.

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TEXT BOXES WILL EXPAND AS YOU TYPE

Agency Name Iowa Utilities Board Rule # 199 IAC Chapter 13

Iowa Code Section Authorizing Rule Iowa Code Chapter 479B

State or Federal Law(s) Implemented by the Rule Iowa Code Chapter 479B

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

Date/Time: July, 30, 2024 at 1:00 p.m.

Location: Iowa Utilities Board Hearing Room, 1375 E. Court Ave., Des Moines, IA 50319

Any interested person may submit written comments concerning this regulatory analysis. Written comments in response to this regulatory analysis must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Contact Name

IT Support

Address

1375 E. Court Ave., Des Moines, IA 50319

Email and/or phone number

Phone: 515-725-7300 Email: ITsupport@iub.iowa.gov

Purpose and summary of proposed rule:

The purpose of this proposed rulemaking is to set forth the requirements for requesting an Board-issued permit for the construction, operation, and maintenance of a hazardous liquid pipeline or hazardous liquid underground storage facility in Iowa and the procedures governing hazardous liquid pipeline or hazardous liquid underground storage facility contested cases.

Analysis of Impact of Proposed Rule

1. Persons affected by the proposed rule
 - Classes of persons that will bear the costs of the proposed rule:

The proposed rule applies to all persons requesting a Board-issued permit for a hazardous liquid pipeline or a hazardous liquid underground storage facility. Those persons requesting the permit

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may incur costs during the course of the proceeding; however, the cases are primarily caused by the underlying nature and course of the proceeding.

- Classes of persons that will benefit from the proposed rule:

The proposed rule benefits persons who seek to construct, operate, or maintain a hazardous liquid pipeline or hazardous liquid underground storage facility in Iowa, as well as persons who have already constructed and are operating and maintaining a hazardous liquid pipeline or hazardous liquid underground storage facility in Iowa. The process also benefits Iowans and landowners who seek to participate in the permitting process.

Impact of the proposed rule, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred

- Quantitative description of impact:

These proposed rules are intended to assist persons seeking a Board-issued hazardous liquid pipeline or a hazardous liquid underground storage facility permit and other persons wishing to participate in permit proceedings by describing and detailing the rules governing such proceedings. The rules are further intended to ensure that Board permitting proceedings are fairly and efficiently conducted. While there may be costs incurred by persons participating in Board permitting proceedings, those costs are more directly caused by the nature and course of such a proceeding.

- Qualitative description of impact:

The proposed rules assist Iowans and other persons choosing to participate in a hazardous liquid pipeline or a hazardous liquid underground storage facility permit proceeding. The proposed rules ensure that such persons are aware of the proceeding expectations and procedures.

2. Costs to the state

- Implementation and enforcement costs borne by the agency or any other agency:

The Board incurs costs in conducting hazardous liquid pipeline or hazardous liquid underground storage contested case proceedings; however, the requirement that the Board conduct these types of proceedings are not imposed by these proposed rules, but instead, are required by Iowa Code chapter 479B. Additionally, pursuant to Iowa Code §§ 476.10 and 479B.10, IUB costs incurred in a particular franchise or permit proceeding may be assessed to the person requesting the permit.

- Anticipated effect on state revenues:

There is no anticipated effect of state revenues.

3. Comparison of the costs and benefits of the proposed rule to the costs and benefits of inaction

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Because these proposed rules merely provide the framework for the Board's hazardous liquid pipeline or a hazardous liquid underground storage facility permit proceedings and because the public benefits from the availability of the information contained within the chapter the benefits of providing the information outweigh the costs. Inaction is not advised because the public would not be aware of what was needed to initiate and participate in hazardous liquid pipeline or a hazardous liquid underground storage facility permit proceeding. The rules are especially beneficial as those that participate under chapter 13 rules may not participate in Board proceedings often.

4. Determination if less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule

The Board does not believe there are any less costly methods of addressing the purpose of this rule.

5. Alternative methods considered by the agency
 - Description of any alternative methods that were seriously considered by the agency:

Inaction was considered by the agency.

- Reasons why they were rejected in favor of the proposed rule:

Inaction is not advisable because there is value in informing the public of the hazardous liquid pipeline and hazardous liquid underground storage facility permitting procedures.

Small Business Impact

If the rule will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

- Establish less stringent compliance or reporting requirements in the rule for small business.
- Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.
- Consolidate or simplify the rule's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rule for small business.
- Exempt small business from any or all requirements of the rule.

If legal and feasible, how does the rule use a method discussed above to reduce the substantial impact on small business?

The agency does not believe the proposed rulemaking will have an adverse impact on small

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businesses.

Text of Proposed Rule:

CHAPTER 13
HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

199—13.1(479B) General information.

13.1(1) Purpose and authority. The purpose of this chapter is to implement Iowa Code chapter 479B and to establish procedures and filing requirements for a permit to construct, maintain, and operate an interstate hazardous liquid pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements Iowa Code chapter 479B for permits for underground storage of hazardous liquids. The rules in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are adopted by the Iowa utilities board pursuant to Iowa Code chapter 479B.

13.1(2) When a permit is required. A hazardous liquid pipeline permit is needed for any hazardous liquid pipeline to be constructed in Iowa, regardless of length or operating pressure of the pipeline.

13.1(3) Definitions. The definitions listed in Iowa Code section 479B.2 are incorporated herein by reference. Words and terms not otherwise defined in this chapter or Iowa Code section 479B.2 will have their usual meaning. For the administration and interpretation of this chapter, the following words and terms have the following meanings:

“*Affected person*” means any person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

“*Amendment of permit*” means changes to the pipeline permit or pipeline that require the filing of a petition to amend an existing pipeline permit as described in rule 199—13.9(479B).

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

“*CFR*” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of [effective date of rules], unless a separate effective date is identified in a specific rule.

“*County inspector*” means a professional engineer licensed under Iowa Code chapter 542B, familiar with agricultural and environmental inspection requirements, who 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 479B.

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

“*Negotiating*” means contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is restricted by Iowa Code section 479B.4(6). Contact for

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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 by the board.

“Person” means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

199—13.2(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project five miles or more in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure 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 would be affected.

13.2(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.

13.2(2) Facilities. A pipeline company is 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 that is in substantial compliance with the Americans with Disabilities Act Standards for Accessible Design, including both Title II 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, where such a building or facility is reasonably available.

13.2(3) Location. The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

13.2(4) Board approval. A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting with the board and include a proposed date and time for the informational meeting, an alternate time and date, and a description of the proposed project and map of the route, including the notification corridor. The pipeline company may be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Not less than 30 days prior to the informational meeting, the pipeline company is to file with the board the location of the informational meeting. Not less than 14 days prior to the informational meeting, the pipeline company is to file with the board a copy of its informational meeting presentation.

13.2(5) Notices. Notice by mailed and published notice of each informational meeting shall be given to 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 in the corridor in which the pipeline company intends to seek easements.

a. The notice includes the information listed in Iowa Code section 479B.4(5)(a), as well as the following:

(1) The possibility that the right-of-way may be acquired by condemnation if approved by the board;

(2) The following statement: “Persons with disabilities requiring assistive services or devices to observe or participate should contact the board at 515.725.7300 in advance of the scheduled date to request accommodations”; and

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(3) A copy of the statement of damage claims described in paragraph 13.3(3) “b.”

b. The 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 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 addresses are known. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

c. The pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in 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 is considered as notice to affected persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are not known, provided a good faith effort to obtain the address can be demonstrated by the pipeline company. The map used in the published notice should clearly delineate the pipeline route.

d. The pipeline company shall file prior to the informational meeting an affidavit that describes the good faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit is to be signed by a corporate officer or an attorney representing the pipeline company.

13.2(6) *Personnel.* The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

a. Service requirements and planning that have resulted in the proposed project.
b. When the pipeline is proposed to be constructed.
c. In general terms, the elements involved in pipeline construction.
d. In general terms, the rights the pipeline company will seek to acquire through easements.
e. Procedures to be followed in contacting the affected 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 persons but not limited to computation of amounts and manner of payment.

13.2(7) *Notice to county board of supervisors.* The pipeline company is responsible for sending notice of the request for an informational meeting to the county board of supervisors in each county where the proposed pipeline is to be located. The pipeline company is to request from the board of supervisors the name of the county inspector, a professional engineer who will conduct the on-site inspection required by Iowa Code section 479B.20(2). The pipeline company will provide the name and contact information of the county inspector to the board, landowners, and other affected persons at the meeting, if known.

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13.3(1) A petition for a permit shall be filed with the board upon the form prescribed and may include all required exhibits. The petition is to be attested to by an officer, official, or attorney with authority to represent the pipeline company. 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 should 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 should 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, is to be filed in this exhibit and should be legible when printed on paper no larger than 11 by 17 inches without regard to scale. The pipeline company should include necessary data files showing the proposed route of the pipeline. The following minimum information shall be provided on the maps:

- (1) The route of the pipeline that 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, 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

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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 or hazardous liquid storage facility 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, will be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company will 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 will 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 will be included.

f. Exhibit F. This exhibit contains 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 will 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. The exhibit must be in final form prior to issuance of the official notice by the board and approval of eminent domain notice. The exhibit consists of a map of the route showing the

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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 in accordance with 199—Chapter 9.

(7) An updated electronic file required by paragraph 13.3(1) “b” to show the locations and boundaries of the property and the easements boundaries for 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 is to 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 will include maps showing the information described in 479B.4(2), as well as a description of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed, together with a map.

k. Exhibit K. The pipeline company shall file the 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 is to be signed by an attorney or officer 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.

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(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, 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 will 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 will 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 will be determined and paid.

b. The statement contains 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 may 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 is to 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 prevents a person from negotiating with the pipeline company for terms that 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).

199—13.4(479B) Notice of hearing.

13.4(1) When a petition for permit is filed with the board, the petition will be reviewed by the board. Once the board has completed its review of the proposed pipeline and petition, the petition may be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—13.8(479B), which may not require a hearing.

13.4(2) The pipeline company will be furnished copies of the official notice of hearing, which 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

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proposed. The second publication cannot be less than 10 and no more than 30 days prior to the date of the hearing. Proof of publication will be filed with the board prior to the hearing.

13.4(3) The published notice includes a map showing either the pipeline route or the area affected by underground hazardous liquid storage, or a telephone number and an address through which interested persons may obtain a copy of a map from the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy will be filed with the petition.

13.4(4) If a petition for permit seeks the right of eminent domain, the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing on the landowners and any affected person with an interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property will accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to the person's last-known address, and this notice shall be mailed 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 pipeline company will file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail, the date of the mailing, and an affidavit that all affected persons were served.

13.4(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 any affected person with interests in the property. Service shall be by ordinary mail, addressed to the last-known address, and mailed 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 persons to whom the notice was mailed, the date of mailing, and an affidavit that all affected persons were served, will be filed with the board not less than five days prior to the hearing.

199—13.5(479B) Objections. 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 consistent with Iowa Code section 479B.7.

199—13.6(479B) Hearing. Hearings required under this chapter will comply with Iowa Code section 479B.6 and 199—Chapter 7.

199—13.7(479B) Pipeline permit.

13.7(1) A pipeline permit will be issued once an order granting the permit is final and the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad rights-of-way until after the pipeline permit is issued.

13.7(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 the permanent route easement right-of-way becomes necessary, construction of the line in that location shall be suspended and the pipeline company will follow the procedures for filing a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, C, E, and F, reflecting the proposed deviation. In case of any

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deviation from the approved permanent route easement, the pipeline company will 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 a review of the petition for amendment.

13.7(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 or of condemnation proceedings, the permit may be forfeited, unless the board grants an extension of the permit filed prior to the expiration of the two-year period.

13.7(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, will be filed with the board.

13.7(5) The board will set the term of the permit. The term of the permit may be less than, but may not exceed, 25 years from the date of issuance.

199—13.8(479B) Renewal permits.

13.8(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 but no later than at least one year prior to expiration of the permit. The petition will be made on the forms prescribed by the board. Instructions for the petition are included as part of the form, which is available on the board's website. The petition includes 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 Exhibits A, B, C, and D. The board may request additional information be filed during the review of the renewal petition and exhibits. The petition is to be attested to by an officer, official, or attorney with authority to represent the pipeline company.

13.8(2) The procedure for a petition for permit will be followed with respect to publication of notice, objections, and assessment of costs.

13.8(3) If 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 may set the matter 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 as required by rule 199—13.4(479B).

13.8(4) The board will set the term of a renewal permit. The term may be less than, but may not exceed, 25 years from the date of issuance. The same procedure will be followed in subsequent renewals. A renewal permit may be issued by an authorized employee of the board.

199—13.9(479B) Amendment of permits.

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

a. Construction of an additional pipeline paralleling all or part of an existing pipeline of the pipeline company with a valid permit.

b. Extension of an existing pipeline of the pipeline company outside of the permitted permanent route easement.

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- c.* Relocation or replacement of an existing pipeline of the pipeline company which:
- (1) Relocates the pipeline outside of the permitted permanent route easement approved by the board; or
 - (2) Involves relocation or replacement requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated in excess of 150 pounds per square inch gauge, an informational meeting, as provided in rule 199—13.2(479B), will be held.
- d.* Contiguous extension of an underground storage area of 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.

13.9(2) Petition for amendment.

a. The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and 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 are to be attached.

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

199—13.10(479B) Fees and expenses. The pipeline company will pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, hearing, inspection related to a petition requesting a pipeline permit, and any other activity of the board related to a pipeline permit, pursuant to 199—Chapter 17.

199—13.11(479B) Land restoration. Pipelines shall be constructed in compliance with Iowa Code section 479B.20 and 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”

199—13.12(479B) Crossings of highways, railroads, and rivers.

13.12(1) Iowa Code chapter 479B gives the 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.

13.12(2) Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. The pipeline company will file with the petition information that shows the pipeline company contacted the other necessary authorities in advance of filing the petition 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 grant of the permit. A

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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.

13.12(3) Pipeline routes that include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, will not be constructed unless a showing of consent by the appropriate authority has been provided by the pipeline company as required in paragraph 13.3(1) “e.”

199—13.13(479B) Reportable changes to pipelines under permit.

13.13(1) A pipeline company shall 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 will also notify the landowners of the abandonment or removal of the pipeline from service.
- b.* Pressure test or increase in maximum allowable operating pressure.
- c.* Replacement of a pipeline or significant portion thereof, which meets or exceeds the minimum strength criteria of the original pipe.

13.13(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—13.14(479B) Sale or transfer of permit.

13.14(1) No permit shall be sold or transferred without written approval of the board. A petition for approval of the sale or transfer is to be jointly filed by the buyer, or transferee, and the seller, or transferor, and include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa and is willing and able to construct, operate, and maintain the pipeline in accordance with these rules. If the sale, or transfer, is prior to completion of construction of the pipeline, the buyer, or transferee, shall demonstrate it has the financial ability to pay, for damages associated with construction or operation of the pipeline, up to \$250,000 or any other amount the board determined necessary when granting the permit.

13.14(2) The reassignment of a pipeline permit as part of a name change or a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer for the purposes of this rule.

199—13.15(479B) Reports to federal agencies.

13.15(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 195, a pipeline company is to file a copy of the report with the board. The board is to be advised of any telephonic incident report made by the pipeline company. The pipeline company will 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.

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13.15(2) Pipeline companies operating in other states will provide the board data for Iowa only.

199—13.16(479B) Termination of petition for pipeline permit proceedings. If a pipeline company fails to correct an identified deficiency within six months after written notification by the board, or after such shorter period as the board may specify in the written notification, to cure an incomplete or deficient permit petition, or 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.

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

CHAPTER 13
HAZARDOUS LIQUID PIPELINES AND UNDERGROUND STORAGE

199—13.1(479B) General information.

13.1(1) Purpose and authority. The purpose of this chapter is to implement Iowa Code chapter 479B and to establish procedures and filing requirements for a permit to construct, maintain, and operate an interstate hazardous liquid pipeline, for an amendment to an existing permit, and for renewal of an existing permit. This chapter also implements Iowa Code chapter 479B for permits for underground storage of hazardous liquids. The rules in this chapter relating to hazardous liquid pipelines and underground storage of hazardous liquids are adopted by the Iowa utilities board pursuant to Iowa Code chapter 479B.

13.1(2) When a permit is required. A hazardous liquid pipeline permit is needed for any hazardous liquid pipeline to be constructed in Iowa, regardless of length or operating pressure of the pipeline.

13.1(3) Definitions. The definitions listed in Iowa Code section 479B.2 are incorporated herein by reference. Words and terms not otherwise defined in this chapter or Iowa Code section 479B.2 will have their usual meaning. For the administration and interpretation of this chapter, the following words and terms have the following meanings:

“*Affected person*” means any person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

“*Amendment of permit*” means changes to the pipeline permit or pipeline that require the filing of a petition to amend an existing pipeline permit as described in rule 199—13.9(479B).

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

“*CFR*” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of [effective date of rules], unless a separate effective date is identified in a specific rule.

“*County inspector*” means a professional engineer licensed under Iowa Code chapter 542B, familiar with agricultural and environmental inspection requirements, who 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 479B.

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

“*Negotiating*” means contact between a pipeline company and a person with authority to negotiate an easement or other interest in land that involves the location, damages, compensation, or other matter that is restricted by Iowa Code section 479B.4(6). 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 by the board.

“*Person*” means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

199—13.2(479B) Informational meetings. Informational meetings shall be held for any proposed pipeline project five miles or more in length, including both the current project and future anticipated extensions, and which is to be operated at a pressure 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 would be affected.

13.2(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.

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13.2(2) Facilities. A pipeline company is 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 that is in substantial compliance with the Americans with Disabilities Act Standards for Accessible Design, including both Title II 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, where such a building or facility is reasonably available.

13.2(3) Location. The informational meeting location shall be reasonably accessible to all persons who may be affected by the granting of a permit or who have an interest in the proposed pipeline.

13.2(4) Board approval. A pipeline company proposing to schedule an informational meeting shall file a request to schedule the informational meeting with the board and include a proposed date and time for the informational meeting, an alternate time and date, and a description of the proposed project and map of the route, including the notification corridor. The pipeline company may be notified within ten days of the filing of the request whether the request is approved or alternate times and dates are required. Not less than 30 days prior to the informational meeting, the pipeline company is to file with the board the location of the informational meeting. Not less than 14 days prior to the informational meeting, the pipeline company is to file with the board a copy of its informational meeting presentation.

13.2(5) Notices. Notice by mailed and published notice of each informational meeting shall be given to 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 in the corridor in which the pipeline company intends to seek easements.

a. The notice includes the information listed in Iowa Code section 479B.4(5)(a), as well as the following:

(1) The possibility that the right-of-way may be acquired by condemnation if approved by the board;

(2) The following statement: “Persons with disabilities requiring assistive services or devices to observe or participate should contact the board at 515.725.7300 in advance of the scheduled date to request accommodations”; and

(3) A copy of the statement of damage claims described in paragraph 13.3(3) “*b.*”

b. The 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 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 addresses are known. The certified meeting notice shall be deposited in the United States mail not less than 30 days prior to the date of the meeting.

c. The pipeline company shall cause the meeting notice, including the map, to be published once in a newspaper of general circulation in 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 is considered as notice to affected persons listed on the tax assessment rolls as responsible for paying the real estate taxes imposed on the property and persons in possession of or residing on the property whose addresses are not known, provided a good faith effort to obtain the address can be demonstrated by the pipeline company. The map used in the published notice should clearly delineate the pipeline route.

d. The pipeline company shall file prior to the informational meeting an affidavit that describes the good faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit is to be signed by a corporate officer or an attorney representing the pipeline company.

13.2(6) Personnel. The pipeline company shall provide qualified personnel to present the following information at the informational meeting:

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- a. Service requirements and planning that have resulted in the proposed project.
- b. When the pipeline is proposed to be constructed.
- c. In general terms, the elements involved in pipeline construction.
- d. In general terms, the rights the pipeline company will seek to acquire through easements.
- e. Procedures to be followed in contacting the affected 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 persons but not limited to computation of amounts and manner of payment.

13.2(7) Notice to county board of supervisors. The pipeline company is responsible for sending notice of the request for an informational meeting to the county board of supervisors in each county where the proposed pipeline is to be located. The pipeline company is to request from the board of supervisors the name of the county inspector, a professional engineer who will conduct the on-site inspection required by Iowa Code section 479B.20(2). The pipeline company will provide the name and contact information of the county inspector to the board, landowners, and other affected persons at the meeting, if known.

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 may include all required exhibits. The petition is to be attested to by an officer, official, or attorney with authority to represent the pipeline company. 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 should 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 should 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, is to be filed in this exhibit and should be legible when printed on paper no larger than 11 by 17 inches without regard to scale. The pipeline company should include necessary data files showing the proposed route of the pipeline. The following minimum information shall be provided on the maps:
 - (1) The route of the pipeline that 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.

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(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, 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 or hazardous liquid storage facility 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, will be filed with the petition.

(2) If any consent is not obtained at the time the petition is filed, the pipeline company will 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 will 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 will be included.

f. Exhibit F. This exhibit contains 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.

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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 will 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. The exhibit must be in final form prior to issuance of the official notice by the board and approval of eminent domain notice. The exhibit consists 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 in accordance with 199—Chapter 9.

(7) An updated electronic file required by paragraph 13.3(1)“b” to show the locations and boundaries of the property and the easements boundaries for 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 is to 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 will include maps showing the information described in 479B.4(2), as well as a description of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed, together with a map.

k. Exhibit K. The pipeline company shall file the 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 is to be signed by an attorney or officer 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.

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(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, 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 will 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 will 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 will be determined and paid.

b. The statement contains 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 may 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 is to 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 prevents a person from negotiating with the pipeline company for terms that 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).

199—13.4(479B) Notice of hearing.

13.4(1) When a petition for permit is filed with the board, the petition will be reviewed by the board. Once the board has completed its review of the proposed pipeline and petition, the petition may be set for hearing. This subrule does not apply to renewal petitions filed pursuant to rule 199—13.8(479B), which may not require a hearing.

13.4(2) The pipeline company will be furnished copies of the official notice of hearing, which 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 cannot be less than 10 and no more than 30 days prior to the date of the hearing. Proof of publication will be filed with the board prior to the hearing.

13.4(3) The published notice includes a map showing either the pipeline route or the area affected by underground hazardous liquid storage, or a telephone number and an address

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through which interested persons may obtain a copy of a map from the pipeline company at no charge. If a map other than that filed as Exhibit B will be published or provided, a copy will be filed with the petition.

13.4(4) If a petition for permit seeks the right of eminent domain, the pipeline company shall, in addition to the published notice of hearing, serve a copy of the notice of hearing on the landowners and any affected person with an interest in the property over which eminent domain is sought. A copy of the Exhibit H filed with the board for the affected property will accompany the notice. Service shall be by certified United States mail, return receipt requested, addressed to the person's last-known address, and this notice shall be mailed 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 pipeline company will file with the board a certificate of service showing all persons and addresses to which notice was sent by certified mail, the date of the mailing, and an affidavit that all affected persons were served.

13.4(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 any affected person with interests in the property. Service shall be by ordinary mail, addressed to the last-known address, and mailed 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 persons to whom the notice was mailed, the date of mailing, and an affidavit that all affected persons were served, will be filed with the board not less than five days prior to the hearing.

199—13.5(479B) Objections. 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 consistent with Iowa Code section 479B.7.

199—13.6(479B) Hearing. Hearings required under this chapter will comply with Iowa Code section 479B.6 and 199—Chapter 7.

199—13.7(479B) Pipeline permit.

13.7(1) A pipeline permit will be issued once an order granting the permit is final and the compliance requirements have been met. A pipeline company may request board approval to delay obtaining consent to cross railroad rights-of-way until after the pipeline permit is issued.

13.7(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 the permanent route easement right-of-way becomes necessary, construction of the line in that location shall be suspended and the pipeline company will follow the procedures for filing a petition for amendment of a permit, except that the pipeline company need only file Exhibits A, B, C, E, and F, reflecting the proposed deviation. In case of any deviation from the approved permanent route easement, the pipeline company will 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 a review of the petition for amendment.

13.7(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 or of condemnation proceedings, the permit may be forfeited, unless the board grants an extension of the permit filed prior to the expiration of the two-year period.

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13.7(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, will be filed with the board.

13.7(5) The board will set the term of the permit. The term of the permit may be less than, but may not exceed, 25 years from the date of issuance.

199—13.8(479B) Renewal permits.

13.8(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 but no later than at least one year prior to expiration of the permit. The petition will be made on the forms prescribed by the board. Instructions for the petition are included as part of the form, which is available on the board's website. The petition includes 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 Exhibits A, B, C, and D. The board may request additional information be filed during the review of the renewal petition and exhibits. The petition is to be attested to by an officer, official, or attorney with authority to represent the pipeline company.

13.8(2) The procedure for a petition for permit will be followed with respect to publication of notice, objections, and assessment of costs.

13.8(3) If 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 may set the matter 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 as required by rule 199—13.4(479B).

13.8(4) The board will set the term of a renewal permit. The term may be less than, but may not exceed, 25 years from the date of issuance. The same procedure will be followed in subsequent renewals. A renewal permit may be issued by an authorized employee of the board.

199—13.9(479B) Amendment of permits.

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

a. Construction of an additional pipeline paralleling all or part of an existing pipeline of the pipeline company with a valid permit.

b. Extension of an existing pipeline of the pipeline company outside of the permitted permanent route easement.

c. Relocation or replacement of an existing pipeline of the pipeline company which:

(1) Relocates the pipeline outside of the permitted permanent route easement approved by the board; or

(2) Involves relocation or replacement requiring new or additional interests in property. If the relocation or replacement is for five miles or more of pipe to be operated in excess of 150 pounds per square inch gauge, an informational meeting, as provided in rule 199—13.2(479B), will be held.

d. Contiguous extension of an underground storage area of 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.

13.9(2) Petition for amendment.

a. The petition for amendment shall include the docket number and issue date of the permit for which amendment is sought and 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 are to be attached.

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

199—13.10(479B) Fees and expenses. The pipeline company will pay the actual unrecovered cost incurred by the board attributable to the informational meeting, processing, investigation, hearing, inspection related to a petition requesting a pipeline permit, and any other activity of the board related to a pipeline permit, pursuant to 199—Chapter 17.

199—13.11(479B) Land restoration. Pipelines shall be constructed in compliance with Iowa Code section 479B.20 and 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”

199—13.12(479B) Crossings of highways, railroads, and rivers.

13.12(1) Iowa Code chapter 479B gives the 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.

13.12(2) Approval of other authorities need not be obtained prior to petitioning the board for a pipeline permit. The pipeline company will file with the petition information that shows the pipeline company contacted the other necessary authorities in advance of filing the petition 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 grant 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.

13.12(3) Pipeline routes that include crossings of highway or railroad right-of-way at other than an approximate right angle, or longitudinally on the right-of-way, will not be constructed unless a showing of consent by the appropriate authority has been provided by the pipeline company as required in paragraph 13.3(1) “e.”

199—13.13(479B) Reportable changes to pipelines under permit.

13.13(1) A pipeline company shall 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 will also notify the landowners of the abandonment or removal of the pipeline from service.

b. Pressure test or increase in maximum allowable operating pressure.

c. Replacement of a pipeline or significant portion thereof, which meets or exceeds the minimum strength criteria of the original pipe.

13.13(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.

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199—13.14(479B) Sale or transfer of permit.

13.14(1) No permit shall be sold or transferred without written approval of the board. A petition for approval of the sale or transfer is to be jointly filed by the buyer, or transferee, and the seller, or transferor, and include assurances that the buyer, or transferee, is authorized to transact business in the state of Iowa and is willing and able to construct, operate, and maintain the pipeline in accordance with these rules. If the sale, or transfer, is prior to completion of construction of the pipeline, the buyer, or transferee, shall demonstrate it has the financial ability to pay, for damages associated with construction or operation of the pipeline, up to \$250,000 or any other amount the board determined necessary when granting the permit.

13.14(2) The reassignment of a pipeline permit as part of a name change or a corporate restructuring, with no change in pipeline operating personnel or procedures, is considered a transfer for the purposes of this rule.

199—13.15(479B) Reports to federal agencies.

13.15(1) Upon submission of any incident, annual, or other report to the U.S. Department of Transportation pursuant to 49 CFR Part 195, a pipeline company is to file a copy of the report with the board. The board is to be advised of any telephonic incident report made by the pipeline company. The pipeline company will 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.

13.15(2) Pipeline companies operating in other states will provide the board data for Iowa only.

199—13.16(479B) Termination of petition for pipeline permit proceedings. If a pipeline company fails to correct an identified deficiency within six months after written notification by the board, or after such shorter period as the board may specify in the written notification, to cure an incomplete or deficient permit petition, or 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.

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