



## PIPELINE INFORMATIONAL MEETING PRESENTATION

In accordance with Iowa Code section 479.5, the following is a summary of the pipeline permit process before the Iowa Utilities Board (Board), and of the legal rights of affected landowners.

Iowa Code Chapter 479 is the law governing the construction of intrastate natural gas pipelines in Iowa. A copy of Chapter 479 is attached. A link to the laws or rules referenced during this presentation can be found on the Board web page at <http://iub.iowa.gov>.

### THE PERMIT PROCESS

1. Any intrastate natural gas transmission pipeline<sup>1</sup> must obtain a permit from the Board prior to construction. A company seeking to build a pipeline can also request that the Board grant the right of eminent domain (condemnation) to obtain the right-of-way needed for the project.

Iowa permitting and informational meeting requirements apply to intrastate natural gas pipelines only. Intrastate gas lines are typically those owned by utility companies regulated by the State of Iowa. Pipelines owned by businesses or industries are also typically intrastate. Interstate pipelines are multi-state lines which are regulated by the Federal Energy Regulatory Commission. Iowa is preempted by federal law from requiring that interstate pipelines receive a state permit.

2. If a proposed pipeline would be five miles long or longer, and would operate at over 150 psig<sup>2</sup>, before the company can request a permit from the Board an informational meeting must be held in each affected county. The company proposing the pipeline is required to notify all parties with an ownership interest in each potentially affected property of the meeting.<sup>3</sup>

3. At informational meetings a representative of the Board presents a summary of the legal rights of affected landowners, and a representative of the company explains the proposed project. The company cannot begin right-of-way negotiations with landowners until after this meeting, and cannot petition the Board for a permit until at least 30 days after this meeting.

4. This informational meeting is not an evidentiary hearing upon which the Board will base a decision. At this time there is no petition before the Board. The purpose of this

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<sup>1</sup> Defined in Utilities Board rules as a pipeline which is a transmission pipeline as defined in the American Society of Mechanical Engineers standard B31.8 or 49 C.F.R. Part 192. Other pipelines operating at 150 psig or more also require a permit.

<sup>2</sup> Psig means pounds per square inch gauge, or pressure above air pressure.

<sup>3</sup> Iowa Code section 479.5

meeting is to provide you with information relative to a proposed project, not to receive evidence on its merits. No formal record of this meeting is made. This is not the meeting for presenting evidence in favor of or opposing this project.

5. A public evidentiary hearing on pipeline permit petitions is required by Iowa Code section 479.7. After a proper petition is filed and review is completed, a notice is published for two consecutive weeks in a newspaper located in the county. The notice will identify the time, date, and place of the hearing. This hearing will be the opportunity for interested parties to present their evidence in favor of or opposing the project. The Board's decision will be based on the record created at that hearing.

6. If the pipeline is over five miles long and would operate at over 150 psig, Iowa Code section 479.8 requires the hearing be held in the county seat of the county located at the midpoint of the proposed line.

7. The Board is not an advocate for any person, landowner, or party. The Board acts as a neutral decision maker to determine whether a proposed pipeline promotes the public convenience and necessity and meets other requirements of Iowa law. The Board cannot serve as a legal advisor to any party. If you believe you have need for a lawyer, you may retain one at your own expense.

8. Board proceedings are conducted pursuant to Iowa Code Chapters 479 and 17A and 199 Iowa Administrative Code (IAC) Chapter 10. The decision whether to grant a permit and, if requested, the right of eminent domain, will be made by the Board. The Board may appoint an administrative law judge to preside over the hearing and issue a proposed decision. That proposed decision will become the final decision of the Board unless it is appealed to the Board.

9. When the Board has decided the case, either initially or on appeal from a proposed decision, any party to the proceeding may file for rehearing within 20 days<sup>4</sup>. Once a final decision has been made, any party may appeal to District Court within 30 days<sup>5</sup>.

10. All case documents, including the company's filings, Iowa Utility Board orders, notices, objections and appeals will be posted to the Board's Electronic Filing System (EFS) at <https://efs.iowa.gov/efs/>.

## **OBJECTIONS**

1. Any person whose rights or interests may be affected has the right to file a written objection to the proposed project with the Utilities Board.<sup>6</sup>

2. Written objections may be filed at any time but not later than five days prior to the hearing.<sup>7</sup> The Board may, but is not required to, allow late filed objections, in which case the company must be given reasonable time to respond. Verbal objections, other than

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<sup>4</sup> Iowa Code section 479.32

<sup>5</sup> Iowa Code section 479.32

<sup>6</sup> Iowa Code section 479.9

<sup>7</sup> Iowa Code section 479.10

statements made on the record during a hearing, will not be part of the official case record.

3. A suggested form of objection is attached to this document and is available electronically on the Board's website. The form, which is not required, is provided for your convenience and to show the type of information an objection should include.

4. The Utilities Board strongly prefers that objections be filed using the Electronic Filing System at <https://efs.iowa.gov/efs/>. However, written objections sent by mail will be accepted.<sup>8</sup>

5. At evidentiary hearings, parties will be given reasonable opportunity to cross-examine company witnesses, and to present witnesses on their own behalf. The burden is on the company to prove the necessary elements of its petition.

6. Board evidentiary hearings are quasi-judicial in nature. Hearings are comparable to courtroom proceedings, and follow similar rules of testimony, cross-examination, and presentation of evidence. The person presiding over the hearing will assist participants unfamiliar with such proceedings, but cannot assist any party with presentation of their case.

#### **RIGHT-OF-WAY**

1. To locate a pipeline on private property, the company must obtain the necessary rights from the landowner or owners. The legal document providing such rights is called an easement. An easement may be a voluntary easement, which is one the landowner agrees to sign after negotiations with the company; or it may be obtained through the use of eminent domain.

2. Generally speaking, an easement is an acquired privilege of the company for the use of a property. The landowner retains ownership, but use of the easement area is restricted by conditions set forth in the easement or by law. The rights sought by the company will be similar whether obtained by voluntary easement or by eminent domain.

3. The Board does not supervise or control negotiations for the purchase or acquisition of voluntary right-of-way easements. Once this informational meeting is completed, negotiations are strictly between you and the company either with or without your use of private counsel.

4. Landowners should carefully read the form of easement provided by the company and be thoroughly aware of the rights the company seeks. The landowner has the right to negotiate with the company over the terms of the easement.

5. If future installation of drain tile or soil conservation practices and structures on a property is contemplated, this information needs to be provided to the company, in writing, prior to the securing of an easement. If plans defined by a qualified technician showing this intended work are provided to the pipeline company in advance, Board

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<sup>8</sup> 199 IAC 14.4(4)

rules require that the pipeline be installed in a manner that avoids interference with those plans.<sup>9</sup>

6. If you decide to sign a voluntary easement, you have for a limited time the right to cancel the agreement. Cancellation must be by certified mail with return receipt requested, mailed to the company's principal place of business.<sup>10</sup> The company must receive the cancellation within seven days, excluding Saturday and Sunday, of the date the agreement was signed.

The company must inform you in writing of your right to cancel and provide you with a form for the notice of cancellation. The right of cancellation may be exercised only once.

7. If you have not allowed company surveyors on your property up to this time, after this informational meeting the company will have the right to enter upon land for making land surveys to determine direction or depth of pipelines. If permission has not been obtained voluntarily, the company must give the landowner ten days written notice by restricted certified mail of its intent, after which it may enter the land. The entry for authorized surveys is not trespass and may be aided by injunction. The company must pay for any damages incurred by the entry and survey.<sup>11</sup>

8. If pipeline right-of-way is wholly abandoned for pipeline purposes by relocation of the pipeline, is not used or operated for five consecutive years, or if construction is begun but ceases and is not resumed for five years, the right-of-way may revert to the current landowner.<sup>12</sup>

### **EMINENT DOMAIN (CONDEMNATION)**

1. If the company cannot obtain the rights it seeks by voluntary easement, it may petition the Board for authority to take those rights by eminent domain, or condemnation. Condemnation is the process of taking private property for public use through the power of eminent domain.

2. Under state law, private property cannot be taken for a pipeline unless a) The pipeline is needed to serve a public use and b) Just compensation is paid. The Board determines whether the company has shown the pipeline will serve a public use and promote the public convenience and necessity. The Board does not determine the matter of just compensation for property rights taken by eminent domain. That issue is determined by a Compensation Commission appointed from your county under Iowa Code Chapter 6B.

3. At this time the company does not have the right of eminent domain; that is, it does not have the power to condemn. The right of eminent domain may only be granted by the Board after an evidentiary hearing on the eminent domain request.

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<sup>9</sup> 199 Iowa Admin. Code 9.4(7)

<sup>10</sup> Iowa Code section 479.34

<sup>11</sup> Iowa Code section 479.30

<sup>12</sup> Iowa Code section 479.48

4. Iowa Code section 479.5 requires that at informational meetings the Board representative distribute and review a Statement of Property Owner's Rights prepared by the Iowa Attorney General. These have been adopted as Administrative Rules in 61 IAC Chapter 34.

In these rules an "acquiring agency" is not limited to government agencies; it can include private entities that by law have the right of eminent domain. The rules primarily address acquisition of property ownership, but some provisions apply to condemnation of easements. Also, the Attorney General has not updated those rules since 1999, and some of the code citations are out of date. We have taken the liberty of marking up a copy of those rules to show the correct citations. If you will please turn to the attached copy of those rules, we will review them.

5. There are 12 property rights set forth in Chapter 34. These rights pertain to owners of record who may have property acquired by condemnation. The rights specified in Chapter 34 are derived from Iowa Code chapters 6A, 6B, and 316. These statutory rights are not applicable when a landowner voluntarily negotiates for an easement.

6. If an easement on your property would be condemned, the first right on the statement, Number 1, would apply. The Iowa Constitution guarantees the right to just compensation for the taking of property. Rights 5, 6, and 10 could also apply to property condemned for a utility easement. These rights address procedures in condemnation proceedings taken by the court-appointed compensation commission in determining the amount to be paid to the landowner. Other rights may only apply if property ownership is to be obtained by condemnation. An easement is a right of use over the property of another, but does not transfer ownership.

The rights set out in Chapter 34 are not a full and complete list or explanation of a landowner's rights under condemnation law. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

## **DAMAGES**

1. In addition to payment for easement rights, the company is required to pay for actual property damages caused by constructing and maintaining the pipeline.<sup>13</sup> Payment for damages, including those incurred before, during, or after construction, is different than and separate from the payment for the easement. However, the easement may include provisions covering the determination and payment of damages.

2. In this context, "damages" means compensation for adverse physical impacts to the land, crops, livestock, and other property. The law is mainly oriented towards damages to agricultural lands, and provides a list of primarily agricultural damages that are specifically eligible for compensation. However, those are not the only damages that

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<sup>13</sup> Iowa Code sections 479.25 and 479.45

may be claimed. Any type of physical damage to agricultural, or urban, property is subject to compensation.

3. The damage settlement may include an allowance for a temporary reduction in crop yield in the disturbed area. If in future years the owner believes the settlement made for future crop deficiency was inadequate, Iowa Code section 479.45 allows renegotiation. The landowner must notify the company in writing fourteen days before harvest each year to assess crop deficiency.

4. In the context of damages, the term owner may refer to the tenant of the land if the tenant is the owner of the crops, livestock, or other property affected.

5. The company must provide you with a written statement explaining how damages resulting from pipeline construction will be determined and paid.<sup>14</sup> You have the right to negotiate with the company for more specific or additional terms.

6. The pipeline company must designate a point of contact for landowner inquiries or claims.<sup>15</sup> The information provided must include a name, address, and toll-free phone number. This information must be provided in writing prior to construction to all landowners with property that will be disturbed by the construction. When construction is completed, a point of contact shall remain available for at least one year for all landowners, and for individual landowners until their claims are settled.

7. Damage settlements are not decided by the Board but are subject to negotiation between the owner and the company.

8. The easement or other written agreement between the owner and company may provide that the damage amount be determined by an arbitrator.<sup>16</sup>

9. If the parties cannot agree on a settlement and no other means of resolving disputes has been agreed to, the landowner or tenant may petition the county board of supervisors to have the damages determined by a Compensation Commission.<sup>17</sup> The petition must be filed not less than 90 days after completion of installation of the pipeline.

If the award of the Compensation Commission is more than 110% of the company's final offer for damages, the company must pay for the cost of the assessment by the Commissioners, plus reasonable attorney fees and costs incurred by the owner as determined by the Commissioners. If the award is 110% or less of the company's final offer, the owner must pay the fees and costs incurred by the pipeline company.

10. If you find additional damage after you have already been paid for any construction or maintenance damages caused by the pipeline company, and the additional damage

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<sup>14</sup> Iowa Code section 479.43

<sup>15</sup> 199 Iowa Admin. Code 9.5

<sup>16</sup> Iowa Code section 479.41

<sup>17</sup> Iowa Code Chapter 6B and Iowa Code section 479.46

was not apparent when the first damages were paid, you have five years from the date of payment to renegotiate the damages.<sup>18</sup> The pipeline company is required to give you written notice of this right at the time of settlement of damages.

11. If the Company has previously constructed a pipeline on a property, Iowa Code section 479.42 forbids construction of another pipeline under that same easement if there is an outstanding, unpaid damage claim remaining from the previous construction. This does not apply if that claim is in the process of being settled through arbitration or litigation. Also, for this section to apply, except for claims for damage to drain tile and future crop deficiency, landowners and tenants must have submitted written claims for damages to the pipeline company within one year after final cleanup of the property.

12. Iowa law gives the company the right of reasonable access to its pipelines for purposes of constructing, operating, maintaining, and locating.<sup>19</sup> The company must pay the owner of the land and crops for all damages resulting from such entry and action. The law allows the parties to enter into a separate agreement to cover such situations.

13. Iowa law requires that you call the Iowa One Call system at 811 (or 1-800-292-8989) before any excavating is done.<sup>20</sup> Excavation does not include normal farm operations (tillage up to 15 inches deep) or gardening but it does include tiling and construction of erosion control structures. The call must be made at least 48 hours before excavation begins, not including weekends and legal holidays. The owners of any underground utilities in the area, including the proposed pipeline if it is approved and constructed, will mark the location within 48 hours (or notify you that the company's facilities are not in the area where you will be excavating). There is no charge for the call or for marking the lines. Failure to call will expose you to possible hazards and potential liability.

14. If new tile is installed after the pipeline is constructed and additional costs are incurred due to the presence of a pipeline, the company must pay those additional costs provided the county engineer or soil and water conservation district conservationist verifies that the pipeline is the specific cause; or, you can negotiate an agreement with the pipeline company on the project design and the share of the cost to be paid. Either way, you are encouraged to discuss your plans with the pipeline company well in advance of tile installation.<sup>21</sup>

## **AGRICULTURAL LAND RESTORATION/COUNTY INSPECTORS**

1. The Board has adopted rules establishing standards for the restoration of agricultural lands during and after pipeline construction. These rules are found in 199 Iowa

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<sup>18</sup> Iowa Code § 6B.52.

<sup>19</sup> Iowa Code section 479.25

<sup>20</sup> Iowa Code chapter 480.

<sup>21</sup> Iowa Code § 479.47

**Administrative Code Chapter 9. A copy of Chapter 9 is attached. During construction, these regulations will be enforced by inspectors hired by the county, not by the Board.<sup>22</sup>**

**2. When a petition for a pipeline permit is filed, it must include a land restoration plan showing how the requirements of the land restoration laws and rules will be met. The Board will consider this plan as part of the permit proceeding. The company must provide affected landowners with a copy of this plan prior to starting construction.**

**3. Landowners have the right to negotiate independent land restoration agreements with provisions different from those of the Board rules or the land restoration plan, provided they are not inconsistent with the rules. Such agreements may be part of the easement or separate. They must be in writing and a copy must be provided to the county inspector.**

**4. The company must allow landowners and county inspectors to view the proposed center line of the pipeline before commencing trenching operations to ensure that construction takes place in its proper location.**

**5. The county inspector may temporarily halt construction if the construction is not in compliance with the land restoration rules, the land restoration plan, or an independent agreement on land restoration or line location, until the inspector consults with the supervisory personnel of the pipeline company. If any special provisions in those areas were made during the easement negotiations, you should make sure the county inspector is aware of them before construction begins on your land.**

**6. If the company does not comply with requirements of the statute, the land restoration plan, or with an independent agreement, the county board of supervisors may petition the Board for an order requiring corrective action and may file a complaint seeking imposition of civil penalties.<sup>23</sup>**

**Attached to this presentation is a summary of events entitled Appendix A. This will not be read, but is provided to give you an overview of the process in the sequence that it may occur.**

**Rev. 08/2016**

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<sup>22</sup> Iowa Code § 479.29

<sup>23</sup> Iowa Code § 479.29(5)

## APPENDIX A

**NOTE:** A typical sequence of events, as it may affect the landowner, is set forth below. You should not attach any rigid significance to this sequence. It is merely an example to aid you in understanding the process.

1. Company planning determines need for the line between termini.
2. Prime route, and possibly alternative routes, are tentatively selected.
3. Route landowner and tenant names and addresses collected.
4. Informational meeting notices mailed.
5. Informational meeting held.
6. Company right-of-way personnel contact landowners to solicit voluntary easements.
7. Company may enter land for land survey to determine depth and direction of pipeline.
8. The company files petition for permit with Utilities Board. Eminent Domain may be requested at this time or later.
9. Newspaper publishes notices of petition.
10. Evidentiary hearing by Utilities Board.
11. Utilities Board decision denying or granting permit. If the petition requested eminent domain, a ruling granting or denying that right will also be issued.
12. If the petition and/or eminent domain is denied, the company may petition for rehearing or appeal the Utilities Board denial to the courts. If the petition and/or eminent domain is granted, the landowner may petition for rehearing or appeal the Utilities Board decision to the courts.

To simplify the balance of this list, it is assumed that the Utilities Board granted the permit and the right of eminent domain, and the decision was not appealed.

13. The pipeline company shows the landowner exactly where the pipeline will be placed.

14. **The company may commence construction where it has obtained voluntary easements.**
15. **If eminent domain actions are to be taken, the company petitions the chief judge of the judicial district for the county involved to appoint a Compensation Commission. (Iowa Code Chapter 6B).**
16. **The Compensation Commission sets compensation amounts, the company pays landowners who will accept; posts payment with the sheriff for those who won't, and may commence construction over the balance of the route.**
17. **Either the landowners or the company may appeal the amount determined by the Compensation Commission to the courts.**
18. **Line construction and clean-up completed.**
19. **Company pays agreed-to construction damages to eminent domain parcel owners and gives written notice (Iowa Code Section 6B.52) of renegotiation right.**
20. **If the landowner or tenant and company cannot agree on the amount of construction damages, and there is no provision in the easement or other agreement calling for such disputes to be settled by an arbitrator or other means, the landowner or tenant may petition the county board of supervisors to establish a Compensation Commission to determine the damages.**
21. **Either the landowners or the company may appeal the amount determined by the Compensation Commission to the courts.**

CHAPTER 34  
ACQUISITION NEGOTIATION STATEMENT OF RIGHTS\*

**61—34.1(78GA, HF476) Statement of property owner's rights.** 1999 Iowa Acts, House File 476, section 3, mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner's rights is adopted:

STATEMENT OF PROPERTY OWNER'S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.45 ~~as amended by 1999 Iowa Acts, House File 476, section 18~~; Iowa Code section 6B.54 ~~as amended by 1999 Iowa Acts, House File 476, section 20~~)
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than ten days before being contacted by the acquiring agency's acquisition agent. (Iowa Code section 6B.45 ~~as amended by 1999 Iowa Acts, House File 476, section 18~~)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54)
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (~~1999 Iowa Acts, House File 476, section 3~~ Iowa Code section 6B.2B)
6. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7 ~~as amended by 1999 Iowa Acts, House File 476, section 8~~; Iowa Code section 6B.18)
7. A review by the compensation commission of the necessity for the condemnation if your property is agricultural land being condemned for industry. (~~1999 Iowa Acts, House File 476, section 7~~ Iowa Code section 6B.4A, now repealed)
8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))
9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33 ~~as amended by 1999 Iowa Acts, House File 476, section 15~~; Iowa Code section 6B.54(10))
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)
11. At least 90 days' written notice to vacate occupied property. (Iowa Code section 6B.54(4))
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42 ~~as amended by 1999 Iowa Acts, House File 476, section 17~~)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

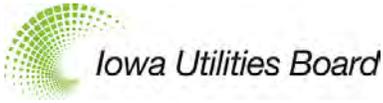
**61—34.2(78GA, HF476) Alternate statement of rights.** Rule 61—34.1(78GA, HF476) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner's rights.

These rules are intended to implement 1999 Iowa Acts, House File 476, section 3.

[Filed 9/17/99, Notice 8/11/99—published 10/6/99, effective 11/10/99]

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\* This copy of the rules has been modified to show the current code citations. These changes are not part of the official rules.



FILE ELECTRONICALLY AT <https://efs.iowa.gov>, or  
 MAIL TO: EXECUTIVE SECRETARY  
 IOWA UTILITIES BOARD  
 1375 East Court Avenue, Room 69  
 Des Moines, IA 50319-0069

**Suggested form for written objections to the granting of a pipeline permit. The use of this form is not required. If you have property interest in several properties affected by the proposed line you may wish to attach additional sheets listing items E, F, G, H, and I for each affected property.**

A. \_\_\_\_\_  
 (Name of company or utility)

B. \_\_\_\_\_  
 (Date and Location, if known, of Informational Meeting)

\_\_\_\_\_  
 (Docket Number, if known, of the proceeding)

C. \_\_\_\_\_  
 (Statement of the nature of the objection(s))

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (Use additional sheets, if necessary)

D. \_\_\_\_\_  
 (A description of the remedy or relief that you seek. If you are proposing an alternate route, please attach map.)

\_\_\_\_\_

E. \_\_\_\_\_ (Name -- typed or printed)                      \_\_\_\_\_ (Signature)

\_\_\_\_\_ (Mailing address)    \_\_\_\_\_ (Date)

\_\_\_\_\_ (City & Zip Code)    \_\_\_\_\_ (Phone)

F. \_\_\_\_\_  
 (Email address)

G. \_\_\_\_\_  
 (Description of affected property, including Section, Township, Range and County)

H. \_\_\_\_\_  
 (Statement of your property interest: such as owner, contract purchaser, mortgagor, lessee-tenant, holder of mineral rights, etc.)

I. Are you the party in possession?                      \_\_\_ Yes                      \_\_\_ No

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# ELECTRONIC FILING INSTRUCTIONS

To file your objection electronically using the [Board's Electronic Filing System \(EFS\)](#), follow these steps to prepare and submit your objection:

1. Prepare your written objection. You can use the sample objection form that is available on the Board's Web site or you can prepare your own document.
  - To access the sample objection form, go to [iub.iowa.gov/forms-and-applications](http://iub.iowa.gov/forms-and-applications) and click on [Objection Form – Pipeline Permit](#) from the Pipeline Permit portion of the page. This form is a "fillable form," which means that you can enter information on the form using your computer. When you are done, save the document to your computer.
  - If you prepare your own document by using a word processing program, be sure to include the information listed on the sample objection form.
2. Before filing your written objection on the EFS, make sure to follow these filing requirements:
  - You must file your objection in PDF format (text searchable preferred).
  - Each page is automatically stamped in the same location at the top of each page. In order for the stamp to be visible on each document one-inch margins are recommended. If the stamp is not visible the records center may reject the filing.
  - Please type in your signature. Any objection form or letter with handwritten signatures will be rejected.
3. Go to the EFS Web site at [efs.iowa.gov](http://efs.iowa.gov).
4. Click on *Submit Filing* on the menu at the top of the screen.
5. Click on *(S)ubmit Filing As Guest* and enter the following information about you (the Submitter) and your filing.
  - If you know the Docket Number (P-xxxx, for example), enter it in the *Docket Number* field.
  - In the *Filing Title* field, enter a title that will help the Board understand which application you are objecting to, such as "Objection to [Name of Company] Natural Gas Pipeline Permit in [Name of County]."
  - Enter your name, email address, and mailing address in the appropriate fields.
  - By entering your phone number, the Records Center will be able to contact you in the event that there is a problem with your filing.
  - Scroll down to the bottom of the screen and enter the characters that are shown in the image on the left side of the screen. Press the *(A)dd Documents* button to proceed to the next step in the filing process.
6. In this step you will upload the document (your objection) that you wish to file.
  - Click the *Browse...* button to select the document on your computer that you would like to upload.
  - In the *Document Title* field, enter a title for the document. When you are filing only one document, the document title can be the same as the filing title.
  - Click on the *(A)dd This Document to Filing* button.
  - If you have additional documents to include in your filing, click on the *Browse...* button and repeat the above steps until all of the documents have been uploaded.

**Need help? Contact the EFS Help desk by calling (515) 725-7337  
or by emailing [efshelpdesk@iub.iowa.gov](mailto:efshelpdesk@iub.iowa.gov).**

7. When you are ready to submit your filing, click on the *(S)ubmit Filing* button. You will see an "Upload Complete" message with a unique filing number.
8. If you provided an email address, you will receive an email that contains a link to your filing after the filing has been processed by Records Center staff.

**INSTRUCTIONS FOR REQUESTING PERMISSION TO FURTHER PARTICIPATE ON PAPER**

All communications, except the filing or withdrawal of objections, from you to the Board having to do with the case (such as motions, prepared testimony or exhibits) must be filed electronically using EFS. If you want to submit further communications to the Board and you cannot do so electronically, you must ask the Board for permission to submit paper filings. File a written request for permission to file paper documents under subrule 14.4(1) with the Board's Executive Secretary at 1375 E Court Ave Rm 69, Des Moines, Iowa 50319-0069. File the original and ten copies of the request. The request should explain why you are not able to use the Board's Internet-based electronic filing system. The Board will issue an order responding to your request.

CHAPTER 479

PIPELINES AND UNDERGROUND GAS STORAGE

Referred to in §6B.2A, §6B.42, §306A.3, §318.9, §428.24, §428.26, §428.28, §437A.3, §437A.5, §438.1, §438.2, §455B.471, §474.1, §474.9, §546.7

479.1	Purpose — applicability.	479.24	Eminent domain.
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**479.1 Purpose — applicability.**

It is the purpose of the general assembly in enacting this law to confer upon the utilities board the power and authority to supervise the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state by pipeline, whether specifically mentioned in [this chapter](#) or not, and the power and authority to supervise the underground storage of gas, to protect the safety and welfare of the public in its use of public or private highways, grounds, waters, and streams of any kind in this state. However, [this chapter](#) does not apply to interstate natural gas or hazardous liquid pipelines, pipeline companies, and underground storage, as these terms are defined in [chapters 479A](#) and [479B](#).

[C35, §8338-f14; C39, §8338.22; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.1; C77, 79, 81, §479.1]

[88 Acts, ch 1074, §27](#); [95 Acts, ch 192, §5](#)

**479.2 Definitions.**

As used in [this chapter](#):

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

2. “Pipeline” means a pipe, pipes, or pipelines used for the transportation or transmission of a solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include interstate pipe, pipes, or pipelines used for the transportation or transmission of natural gas or hazardous liquids.

3. “Pipeline company” means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any solid, liquid, or gaseous substance, except water, within or through this state. However, the term does not include a person owning, operating, or controlling interstate pipelines for the transportation or transmission of natural gas or hazardous liquids.

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

[C31, §8338-d1; C35, §8338-f15; C39, §8338.23; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.2; C77, 79, 81, §479.2]

88 Acts, ch 1074, §28; 95 Acts, ch 192, §6

Referred to in §352.6

#### **479.3 Conditions attending operation.**

No pipeline company shall construct, maintain or operate any pipeline or lines under, along, over or across any public or private highways, grounds, waters or streams of any kind in this state except in accordance with the provisions of [this chapter](#).

[C31, §8338-d2; C35, §8338-f16; C39, §8338.24; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.3; C77, 79, 81, §479.3]

#### **479.4 Dangerous construction — inspection.**

The board is vested with power and authority and it shall be its duty to supervise all pipelines and underground storage and pipeline companies and shall from time to time inspect and examine the construction, maintenance and the condition of said pipelines and underground storage facilities and whenever said board shall determine that any pipeline and underground storage facilities or any apparatus, device or equipment used in connection therewith is unsafe and dangerous it shall immediately in writing notify said pipeline company, constructing or operating said pipeline and underground storage facilities, device, apparatus or other equipment to repair or replace any defective or unsafe part or portion of said pipeline and underground storage facilities, device, apparatus or equipment.

All faulty construction, as determined by the inspector, shall be repaired immediately by the contractor operating for the pipeline company and the cost of such repairs shall be paid by said contractor. If such repairs are not made by contractor, the board shall proceed to collect under the provisions of [section 479.26](#).

[C31, §8338-d29; C35, §8338-f17; C39, §8338.25; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.4; C77, 79, 81, §479.4]

See also §479.29

#### **479.5 Application for permit.**

1. A pipeline company doing business in this state shall file with the board its verified petition asking for a permit to construct, maintain and operate its pipeline or lines along, over or across the public or private highways, grounds, waters and streams of any kind of this state. Any pipeline company now owning or operating a pipeline in this state shall be issued a permit by the board upon supplying the information as provided for in [section 479.6](#).

2. A pipeline company doing business in this state and proposing to engage in underground storage of gas within this state shall file with the board its verified petition asking for a permit to construct, maintain and operate facilities for the underground storage of gas to include the construction, placement, maintenance and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance and operation of the gas underground storage facilities.

3. a. A pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board or a person designated by the board shall serve as the presiding officer at each meeting, shall present an agenda for the meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under [section 6B.2A](#). A formal record of the meeting shall not be required.

b. The meeting shall be held at a location reasonably accessible to all persons, companies, or corporations which may be affected by the granting of the permit.

4. a. The pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each person determined to be a landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, “*landowner*” means a person listed on the tax assessment rolls

as responsible for the payment of real estate taxes imposed on the property and “pipeline” means a line transporting a solid, liquid, or gaseous substance, except water, under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

b. The notice shall set forth the name of the applicant; the applicant’s principal place of business; the general description and purpose of the proposed project; the general nature of the right-of-way desired; the possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; a map showing the route of the proposed project; a description of the process used by the utilities board in making a decision on whether to approve a permit including the right to take property by eminent domain; that the landowner has a right to be present at such meeting and to file objections with the board; and a designation of the time and place of the meeting. The notice shall be served by certified mail with return receipt requested not less than thirty days previous to the time set for the meeting, and shall be published once in a newspaper of general circulation in the county. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

5. A pipeline company seeking rights under [this chapter](#) shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

[C31, §8338-d3; C35, §8338-f18; C39, **§8338.26**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.5; C77, 79, 81, §479.5]

[88 Acts, ch 1074, §29](#); [95 Acts, ch 192, §7](#); [2000 Acts, ch 1179, §24, 30](#); [2014 Acts, ch 1026, §109](#)

Referred to in [§6B.2A, §479.30](#)

#### **479.6 Petition.**

Said petition shall state:

1. The name of the individual, firm, corporation, company, or association asking for said permit.

2. The applicant’s principal office and place of business.

3. A legal description of the route of said proposed line or lines, together with a map thereof.

4. A general description of the public or private highways, grounds and waters, streams and private lands of any kind along, over or across which said proposed line or lines will pass.

5. The specifications of material and manner of construction.

6. The maximum and normal operating pressure under which it is proposed to transport any solid, liquid, or gaseous substance, except water.

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

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

b. Maps showing the location of proposed machinery, appliances, fixtures, wells and stations necessary for the construction, maintenance and operation of such gas underground storage facilities.

8. The possible use of alternative routes.

9. The relationship of the proposed project to the present and future land use and zoning ordinances.

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

11. By affidavit, that informational meetings were held in each county which the proposed project will affect and the time and place of each meeting.

[C31, §8338-d4; C35, §8338-f19; C39, **§8338.27**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.6; C77, 79, 81, §479.6]

Referred to in [§479.5, §479.23](#)

**479.7 Hearing — notice.**

Upon the filing of said petition the board shall fix a date for hearing thereon and shall cause notice thereof to be published in some newspaper of general circulation in each county through which said proposed line or lines or gas storage facilities will extend; said notice to be published for two consecutive weeks.

Where a petition seeks the use of the right of eminent domain over specific parcels of real property, the board shall prescribe the notice to be served upon the owners of record and parties in possession of the property over which the use of the right of eminent domain is sought. The notice shall include the statement of individual rights required pursuant to [section 6B.2A](#).

[C31, §8338-d5; C35, §8338-f20; C39, **§8338.28**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.7; C77, 79, 81, §479.7]

[2000 Acts, ch 1179, §25, 30](#)

**479.8 Time and place.**

The hearing shall not be less than ten days nor more than thirty days from the date of the last publication and where the proposed new pipeline would operate under pressure exceeding one hundred fifty pounds per square inch and exceed five miles in length, shall be held in the county seat of the county located at the midpoint of the proposed line or lines or the county in which the proposed gas storage facility would be located.

[C31, §8338-d6; C35, §8338-f21; C39, **§8338.29**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.8; C77, 79, 81, §479.8; [81 Acts, ch 159, §10](#)]

**479.9 Objections.**

Any person, corporation, company or city whose rights or interests may be affected by said pipeline or lines or gas storage facilities may file written objections to said proposed pipeline or lines or gas storage facilities or to the granting of said permit.

[C31, §8338-d7; C35, §8338-f22; C39, **§8338.30**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.9; C77, 79, 81, §479.9]

**479.10 Filing.**

All such objections shall be on file in the office of said board not less than five days before the date of hearing on said application but said board may permit the filing of said objections later than five days before said hearing, in which event the applicant must be granted a reasonable time to meet said objections.

[C31, §8338-d8; C35, §8338-f23; C39, **§8338.31**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.10; C77, 79, 81, §479.10]

**479.11 Examination — testimony.**

The said board may examine the proposed route of said pipeline or lines and location of said gas storage area, or may cause such examination to be made by an engineer selected by it. At said hearing the said board shall consider said petition and any objections filed thereto and may in its discretion hear such testimony as may aid it in determining the propriety of granting such permit.

[C31, §8338-d9; C35, §8338-f24; C39, **§8338.32**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.11; C77, 79, 81, §479.11]

**479.12 Final order — condition.**

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is granted to a pipeline company, the board, after a public hearing as provided in [this chapter](#), shall determine whether the services proposed to be rendered will

promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

[C31, §8338-d10; C35, §8338-f25; C39, §8338.33; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.12; C77, 79, 81, §479.12]

[88 Acts, ch 1074, §30](#)

Referred to in [§479.18](#)

#### **479.13 Costs and fees.**

The applicant shall pay all costs of the informational meetings, hearing, and necessary preliminary investigation including the cost of publishing notice of hearing, and shall pay the actual unrecovered costs directly attributable to construction inspections conducted by the board or the board's designee.

[C31, §8338-d11, -d12; C35, §8338-f26; C39, §8338.34; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.13; C77, 79, 81, §479.13]

[88 Acts, ch 1074, §31](#)

#### **479.14 Inspection fee.**

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

[C31, §8338-d13; C35, §8338-f27; C39, §8338.35; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.14; C77, 79, 81, §479.14]

[88 Acts, ch 1074, §32](#)

#### **479.15 Failure to pay.**

It shall be the duty of the board to collect all inspection fees provided in [this chapter](#), and failure to pay any such inspection fee within thirty days after the time the same shall become due shall be cause for revocation of the permit.

[C35, §8338-f28; C39, §8338.36; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.15; C77, 79, 81, §479.15]

#### **479.16 Receipt of funds.**

All moneys received under [this chapter](#) shall be remitted monthly to the treasurer of state and credited to the department of commerce revolving fund created in [section 546.12](#) as provided in [section 476.10](#).

[C31, §8338-d14; C35, §8338-f29, -f30; C39, §8338.37, 8338.38; C46, 50, 54, 58, 62, 66, 71, §490.16, 490.17; C73, 75, §490.17; C77, 79, 81, §479.16]

[87 Acts, ch 234, §432; 94 Acts, ch 1107, §83; 2009 Acts, ch 181, §54](#)

Referred to in [§476.10](#)

#### **479.17 Rules.**

The said board shall have full authority and power to promulgate such rules as it deems proper and expedient to insure the orderly conduct of the hearings herein provided for and also to prescribe rules for the enforcement of [this chapter](#).

[C31, §8338-d15; C35, §8338-f31; C39, §8338.39; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.18; C77, 79, 81, §479.17]

#### **479.18 Permit.**

The board shall prepare and issue any permit granted in accordance with [section 479.12](#). Said permit shall show the name and address of the pipeline company to which it is issued and identify by reference thereto the decision and order of the board under which said permit is issued. It shall be signed by the chairperson of the board and the official seal of the board shall be affixed thereto.

[C31, §8338-d16; C35, §8338-f32; C39, §8338.40; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.19; C77, 79, 81, §479.18]

**479.19 Limitation on grant.**

No exclusive right shall ever be granted to any pipeline company to construct, maintain, and operate its pipeline or lines along, over or across any public highway, grounds or waters and no such permit shall ever be granted for a longer period than twenty-five years.

[C31, §8338-d17; C35, §8338-f33; C39, §8338.41; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.20; C77, 79, 81, §479.19]

**479.20 Sale of permit.**

No permit shall be sold until the sale is approved by the board.

[C35, §8338-f34; C39, §8338.42; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.21; C77, 79, 81, §479.20]

**479.21 Transfer of permit.**

If a transfer of such permit is made before the construction for which it was issued is completed in whole or in part such transfer shall not be effective until the person, company or corporation to whom it was issued shall file in the office of said board a notice in writing stating the date of such transfer and the name and address of said transferee.

[C31, §8338-d11; C35, §8338-f35; C39, §8338.43; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.22; C77, 79, 81, §479.21]

**479.22 Records.**

The board shall keep a record of all permits granted and issued by it, showing when and to whom issued and the location and route of said pipeline or lines or gas storage area covered thereby. When any transfer of such permit has been made as provided in [this chapter](#) the said board shall also note upon its record the date of such transfer and the name and address of such transferee.

[C31, §8338-d20; C35, §8338-f36; C39, §8338.44; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.23; C77, 79, 81, §479.22]

**479.23 Extension of permit.**

A pipeline company may petition the board for the extension of a permit granted under [this chapter](#) by filing a petition containing the information required by [section 479.6, subsections 1 through 4, 6, and 7, and section 479.26](#).

[C31, §8338-d22; C35, §8338-f37; C39, §8338.45; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.24; C77, 79, 81, §479.23]

[95 Acts, ch 192, §8](#)

**479.24 Eminent domain.**

A pipeline company granted a pipeline permit under [this chapter](#) shall be vested with the right of eminent domain\* to the extent necessary and as prescribed and approved by the board, not exceeding seventy-five feet in width for right-of-way and not exceeding one acre in any one location in addition to right-of-way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

A pipeline company having secured a permit for underground storage of gas shall be vested with the right of eminent domain to the extent necessary and as prescribed and approved by the board in order to appropriate for its use for the underground storage of gas any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of gas, and may appropriate other interests in property, as may be required to adequately examine, prepare, maintain, and operate the underground gas storage facilities. [This chapter](#) does not authorize the construction of a pipeline longitudinally on, over or under any railroad right-of-way or public highway, or

at other than an approximate right angle to a railroad track or public highway without the consent of the railroad company, the state department of transportation, or the county board of supervisors, and [this chapter](#) does not authorize or give the right of condemnation or eminent domain for such purposes.

[C31, §8338-d23; C35, §8338-f38; C39, §**8338.46**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.25; C77, 79, 81, §479.24]

[95 Acts, ch 192, §9](#)

\*See 253 Iowa 1143

Eminent domain, chapters 6A and 6B

#### **479.25 Damages.**

A pipeline company operating a pipeline or a gas storage area shall have reasonable access to the pipeline or gas storage area for the purpose of constructing, operating, maintaining, or locating pipes, pumps, pressure apparatus or other stations, wells, devices, or equipment used in or upon the pipeline or gas storage area; shall pay the owner of the land for the right of entry and the owner of crops for all damages caused by entering, using, or occupying the land; and shall pay to the owner all damages caused by the completion of construction of the pipeline due to wash or erosion of the soil at or along the location of the pipeline and due to the settling of the soil along and above the pipeline. However, [this section](#) shall not prevent the execution of an agreement between the pipeline company and the owner of land or crops with reference to the use of the land.

[C31, §8338-d26; C35, §8338-f39; C39, §**8338.47**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.26; C77, 79, 81, §479.25]

[95 Acts, ch 192, §10](#)

#### **479.26 Financial condition of permittee — bond.**

Before any permit is granted under [this chapter](#) the applicant must satisfy the board that the applicant has property within this state other than pipelines, subject to execution of a value in excess of two hundred fifty thousand dollars, or the applicant must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the applicant will pay any and all damages legally recovered against it growing out of the construction or operation of its pipeline and gas storage facilities in the state of Iowa. When the pipeline company deposits with the board security satisfactory to the board as a guaranty for the payment of the damages, or furnishes to the board satisfactory proofs of its solvency and financial ability to pay the damages, the pipeline company is relieved of the provisions requiring bond.

[C31, §8338-d27; C35, §8338-f40; C39, §**8338.48**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.27; C77, 79, 81, §479.26; [81 Acts, ch 159, §11](#)]

Referred to in [§479.4](#), [§479.23](#)

#### **479.27 Venue.**

In all cases arising under [this chapter](#), the district court of any county in which property of a pipeline company is located shall have jurisdiction.

[C31, §8338-d28; C35, §8338-f41; C39, §**8338.49**; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.28; C77, 79, 81, §479.27]

[95 Acts, ch 192, §11](#)

#### **479.28 Orders — enforcement.**

If said pipeline company fails to obey an order within a time prescribed by the said board the said board may commence an equitable action in the district court of the county where said defective, unsafe, or dangerous portion of said pipeline, device, apparatus or equipment is located to compel compliance with its said order. If, after due trial of said action the court finds that said order is reasonable, equitable and just, it shall decree a mandatory injunction compelling obedience to and compliance with said order and may grant such other relief as

may be just and proper. Appeal from said decree may be taken in the same manner as in other actions.

[C31, §8338-d30; C35, §8338-f42; C39, §8338.50; C46, 50, 54, 58, 62, 66, 71, 73, 75, §490.29; C77, 79, 81, §479.28]

Appeal in civil actions, chapter 625A

#### **479.29 Land restoration.**

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

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

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under [this section](#) to be performed at any pipeline construction project in the county. A professional engineer familiar with the standards adopted under [this section](#) and licensed under [chapter 542B](#) shall be responsible for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

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

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

5. If the pipeline company or its contractor does not comply with the requirements of [this section](#), with the land restoration plan, or with an independent agreement on land restoration or line location executed in accordance with [subsection 10](#), the county board of supervisors may petition the board for an order requiring corrective action to be taken. In addition, the

county board of supervisors may file a complaint with the board seeking imposition of civil penalties pursuant to [section 479.31](#).

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

7. An inspector may temporarily halt the construction if the construction is not in compliance with [this chapter](#) and the standards adopted pursuant to [this chapter](#), the land restoration plan, or the terms of an independent agreement with the pipeline company regarding land restoration or line location executed in accordance with [subsection 10](#), until the inspector consults with the supervisory personnel of the pipeline company.

8. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspectors' responsibility to require construction conforming with the standards provided by [this chapter](#).

9. Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of [this section](#), and of rules adopted pursuant to [this section](#), will be met. The petitioners shall provide copies of the plan to all landowners of property that will be disturbed by the construction.

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

11. For purposes of [this section](#), "construction" includes the removal of a previously constructed pipeline.

12. The requirements of [this section](#) shall apply only to pipeline construction projects commenced on or after June 1, 1999.

[C73, 75, 77, 79, §479.4; C81, §479.29; 81 Acts, ch 159, §12, 13]

95 Acts, ch 192, §12; 99 Acts, ch 85, §1, 11; 2007 Acts, ch 126, §85; 2008 Acts, ch 1032, §64  
Referred to in [§331.303](#)

#### **479.30 Entry for land surveys.**

After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of surveying and examining the land to determine the direction or depth of a pipeline by giving ten days' written notice by restricted certified mail to the landowner as defined in [section 479.5](#) and to any person residing on or in possession of the land. The entry for land surveys authorized in [this section](#) shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, survey, and examination.

[C81, §479.30]

95 Acts, ch 192, §13

#### **479.31 Civil penalty.**

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

2. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon

in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

[C71, 73, 75, §490.31; C77, 79, §479.29; C81, §479.31]

91 Acts, ch 112, §3; 95 Acts, ch 192, §14; 2013 Acts, ch 2, §1

Referred to in §479.29

#### **479.32 Rehearing — judicial review.**

Rehearing procedure for any person, company or corporation aggrieved by the action of the board in granting or failing to grant a permit under the provisions of [this chapter](#) shall be as provided in [section 476.12](#). Judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act, [chapter 17A](#).

[C71, 73, 75, §490.32; C77, 79, §479.30; C81, §479.32]

2003 Acts, ch 44, §114

#### **479.33 Authorized federal aid.**

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by Pub. L. No. 103-272, as codified in 49 U.S.C. §60101 – 60125.

[C71, 73, 75, §490.33; C77, 79, §479.31; C81, §479.33]

88 Acts, ch 1074, §33; 95 Acts, ch 49, §13

#### **479.34 Cancellation.**

A person seeking to acquire an easement or other property interest for the construction, maintenance or operation of a pipeline shall:

1. Allow the landowner or a person serving in a fiduciary capacity in the landowner's behalf to cancel an agreement granting an easement or other interest by certified mail with return requested to the company's principal place of business if received by the company within seven days, excluding Saturday and Sunday, of the date of the contract and inform the landowner or such fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or such fiduciary.

2. Provide the landowner or a person serving in a fiduciary capacity in the landowner's behalf with a form in duplicate for the notice of cancellation.

3. Not record any agreement until after the period for cancellation has expired.

4. Not include in the agreement any waiver of the right to cancel in accordance with [this section](#). The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

[C81, §479.34]

**479.35 through 479.40** Reserved.

#### **479.41 Arbitration agreements.**

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

magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other party under the agreement.

For purposes of [this section](#) only, “landowner” means the persons who signed the easement or other written agreement, their heirs, successors, and assigns.

[81 Acts, ch 159, §2, 3]

95 Acts, ch 192, §15

#### **479.42 Subsequent pipelines.**

A pipeline company shall not install a subsequent pipeline upon its existing easement when a damage claim from the installation of its previous pipeline on that easement has not been resolved, unless the damage claim is under litigation, arbitration, or a proceeding pursuant to [section 479.46](#).

With the exception of claims for damage to drain tile and future crop deficiency, for [this section](#) to apply, landowners and tenants must submit in writing their claims for damages caused by installation of the pipeline within one year of final cleanup on the real property.

[81 Acts, ch 159, §2, 4]

95 Acts, ch 192, §16

#### **479.43 Damage agreement.**

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

[81 Acts, ch 159, §2, 5]

#### **479.44 Negotiated fee.**

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

[81 Acts, ch 159, §2, 6]

#### **479.45 Particular damage claims.**

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

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

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

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

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

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

f. Erosion on lands attributable to pipeline construction.

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

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

[81 Acts, ch 159, §2, 7]

99 Acts, ch 85, §2, 11

**479.46 Determination of installation damages.**

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

2. *a.* If the board of supervisors by resolution approves the petition, the landowner or pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district of the county for the appointment of a compensation commission as provided in [section 6B.4](#).

*b.* The application shall contain the following:

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

(2) A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

(3) The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

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

(1) That a compensation commission has been appointed to determine the damages caused by the installation of the pipeline.

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

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

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

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

5. [Chapter 6B](#) applies to [this section](#) to the extent it is applicable and consistent with [this section](#).

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

the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in [this section](#), “damages” means compensation for damages to the land, crops, and other personal property caused by the construction activity of installing a pipeline and its attendant structures but does not include compensation for a property interest, and “landowner” includes a farm tenant.

8. The provisions of [this section](#) do not apply if the easement provides for any other means of negotiation or arbitration.

[81 Acts, ch 159, §2, 8]

95 Acts, ch 192, §17; 2000 Acts, ch 1179, §26, 30; 2011 Acts, ch 25, §143

Referred to in §479.42

#### **479.47 Subsequent tiling.**

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

[81 Acts, ch 159, §2, 9]

83 Acts, ch 128, §1, 2; 87 Acts, ch 23, §56; 92 Acts, ch 1103, §9; 95 Acts, ch 192, §18

Referred to in §479.48

#### **479.48 Reversion on nonuse.**

1. If a pipeline right-of-way, or any part of a pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in [this section](#) to the person who, at the time of the abandonment or nonuse, is the owner of the tract from which such right-of-way was taken. For purposes of [this section](#), a pipeline or a pipeline right-of-way is not considered abandoned or unused if it is transporting product or is being actively maintained with reasonable anticipation of a future use.

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

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

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property. Provisions of [this chapter](#) relating to damages shall apply when the pipeline is removed.

5. Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to [section 479.49](#), shall remain

responsible for the additional costs of subsequent tiling as provided for in [section 479.47](#), shall mark the location of the line in response to a notice of proposed excavation in accordance with [chapter 480](#), and shall remain subject to the damage provisions of [this chapter](#) in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of [this subsection](#).

[99 Acts, ch 85, §3, 11; 2000 Acts, ch 1139, §1](#)

Manner of service, R.C.P. 1.302 – 1.315

#### **479.49 Farmland improvements.**

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

[2000 Acts, ch 1139, §2](#)

Referred to in [§479.48](#)

CHAPTER 9  
RESTORATION OF AGRICULTURAL LANDS  
DURING AND AFTER PIPELINE CONSTRUCTION

**199—9.1(479,479B) General information.**

**9.1(1) Authority.** The standards contained herein are prescribed by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29 and 479B.20, relating to land restoration standards for pipelines. The requirements of this chapter do not apply to land located within city boundaries, unless the land is used for agricultural purposes, or to interstate natural gas pipelines.

**9.1(2) Purpose.** The purpose of this chapter is to establish standards for the restoration of agricultural lands during and after pipeline construction. Agricultural lands disturbed by pipeline construction shall be restored in compliance with these rules. The rules in this chapter shall constitute the minimum land restoration standards for any pipeline construction for which a project-specific plan is not required. When a project-specific land restoration plan is required, following notice and comment, the board may impose additional or more stringent standards as necessary to address issues specific to the nature and location of the particular pipeline project.

**9.1(3) Definitions.** The following words and terms, when used in these rules, shall have the meanings indicated below:

*a. "Agricultural land" shall mean:*

(1) Land which is presently under cultivation, or

(2) Land which has previously been cultivated and not subsequently developed for nonagricultural purposes, or

(3) Cleared land capable of being cultivated.

*b. "Drainage structures" or "underground improvements" means any permanent structure used for draining agricultural lands, including tile systems and buried terrace outlets.*

*c. "Landowner" means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property.*

*d. "Pipeline" means any pipe, pipes, or pipelines used for the transportation or transmission of any solid, liquid, or gaseous substance, except water, in intrastate or interstate commerce.*

*e. "Pipeline company" means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines.*

*f. "Pipeline construction" means a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.*

*g. "Proper notice" to the county inspector means that the pipeline company or its contractor shall keep the person responsible for the inspection continually informed of the work schedule and any schedule changes, and shall provide at least 24 hours' written notice before trenching, permanent tile repair, or backfilling is undertaken at any specific location. The pipeline company may request that the county inspector designate a person to receive such notices.*

*h. "Soil conservation practices" means any land conservation practice recognized by federal or state soil conservation agencies including, but not limited to, grasslands and grassed waterways, hay land planting, pasture, and tree plantings.*

*i. "Soil conservation structures" means any permanent structure recognized by federal or state soil conservation agencies including but not limited to toe walls, drop inlets, grade control works, terraces, levees, and farm ponds.*

*j. "Till" means to loosen the soil in preparation for planting or seeding by plowing, chiseling, discing, or similar means. For the purposes of this chapter, agricultural land planted using no-till planting practices is also considered tilled.*

*k. "Topsoil" means the upper part of the soil which is the most favorable material for plant growth and which can ordinarily be distinguished from subsoil by its higher organic content and darker color.*

**199—9.2(479,479B) Filing of land restoration plans.** For intrastate natural gas and all hazardous liquid pipeline projects, land restoration plans shall be prepared and filed with the appropriate petition pursuant to Iowa Code section 479.29(9) or 479B.20(9) and this chapter for pipeline construction projects which require a pipeline permit from the Iowa utilities board, or for amendments to permits that propose pipeline construction or relocation.

**9.2(1) Content of plan.** A land restoration plan shall include but not be limited to the following:

- a. A brief description of the purpose and nature of the pipeline construction project.
- b. A description of the sequence of events that will occur during pipeline construction.
- c. A description of how compliance with subrules 9.4(1) to 9.4(10) will be accomplished.
- d. The point of contact for landowner inquiries or claims as provided for in rule 9.5(479,479B).

**9.2(2) Plan variations.** The board may by waiver accept variations from this chapter in such plans if the pipeline company is able to satisfy the standards set forth in 199 IAC 1.3(17A,474,476) and if the alternative methods would restore the land to a condition as good as or better than provided for in this chapter.

**9.2(3) Mitigation plans and agreements.** Preparation of a separate land restoration plan may be waived by the board if an agricultural impact mitigation or similar agreement is reached by the pipeline company and the appropriate agencies of the state of Iowa and the requirements of this chapter are substantively satisfied therein. If a mitigation plan or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and shall be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

**199—9.3(479,479B) Procedure for review of plan.**

**9.3(1)** An intrastate natural gas pipeline company, or a hazardous liquid pipeline company, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.

**9.3(2)** After the board has accepted the plan, but prior to construction, the pipeline company shall provide copies of the plan to all landowners of property that will be disturbed by the construction, and to the county board of supervisors and the county engineer of each affected county.

**199—9.4(479,479B) Restoration of agricultural lands.**

**9.4(1) Topsoil separation and replacement.**

a. *Removal.* Topsoil removal and replacement in accordance with this rule is required for any open excavation associated with the construction of a pipeline unless otherwise provided in these rules. The actual depth of the topsoil, not to exceed 36 inches, will first be stripped from the area to be excavated above the pipeline and, to a maximum of 12 inches, from the adjacent subsoil storage area. Topsoil shall also be removed and replaced in accordance with these rules at any location where land slope or contour is significantly altered to facilitate construction. A pipeline company shall, upon a landowner's request, measure topsoil depth at selected locations before and after construction.

b. *Soil storage.* The topsoil and subsoil shall be segregated, stockpiled, and preserved separately during subsequent construction operations. The stored topsoil and subsoil shall have sufficient separation to prevent mixing during the storage period. Topsoil shall not be used to construct field entrances or drives, or be otherwise removed from the property, without the written consent of the landowner. Topsoil shall not be stored or stockpiled at locations that will be used as a traveled way by construction equipment without the written consent of the landowner.

c. *Topsoil removal not required.* Topsoil removal is not required where the pipeline is installed by plowing, jacking, boring, or other methods which do not require the opening of a trench. If provided for in a written agreement with the landowner, topsoil removal is not required if the pipeline can be installed in a trench with a top width of 18 inches or less.

*d. Backfill.* The topsoil shall be replaced so the upper portion of the pipeline excavation and the crowned surface, and the cover layer of the area used for subsoil storage, contain only the topsoil originally removed. The depth of the replaced topsoil shall conform as nearly as possible to the depth removed. Where excavations are made for road, stream, drainage ditch, or other crossings, the original depth of topsoil shall be replaced as nearly as possible.

**9.4(2) Temporary and permanent repair of drain tile.**

*a. Pipeline clearance from drain tile.* Where underground drain tile is encountered, the pipeline shall be installed in such a manner that the permanent tile repair can be installed with at least 12 inches of clearance from the pipeline.

*b. Temporary repair.* The following standards shall be used to determine if temporary repair of agricultural drainage tile lines encountered during pipeline construction is required.

(1) Any underground drain tile damaged, cut, or removed and found to be flowing or which subsequently begins to flow shall be temporarily repaired as soon as practicable, and the repair shall be maintained as necessary to allow for its proper function during construction of the pipeline. The temporary repairs shall be maintained in good condition until permanent repairs are made.

(2) If tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repair is made within ten days of the time the damage occurred.

(3) Temporary repair is not required if the angle between the trench and the tile lines places the tile end points too far apart for temporary repair to be practical.

(4) If temporary repair of the line is not made, the upstream exposed tile line shall not be obstructed but shall nonetheless be screened or otherwise protected to prevent the entry of foreign materials and small animals into the tile line system, and the downstream tile line entrance shall be capped or filtered to prevent entry of mud or foreign material into the line if the water level rises in the trench.

*c. Marking.* Any underground drain tile damaged, cut, or removed shall be marked by placing a highly visible flag in the trench spoil bank directly over or opposite such tile. This marker shall not be removed until the tile has been permanently repaired and the repairs have been approved and accepted by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

*d. Permanent repairs.* Tile disturbed or damaged by pipeline construction shall be repaired to its original or better condition. Permanent repairs shall be completed as soon as is practical after the pipeline is installed in the trench and prior to backfilling of the trench over the tile line. Permanent repair and replacement of damaged drain tile shall be performed in accordance with the following requirements:

(1) All damaged, broken, or cracked tile shall be removed.

(2) Only unobstructed tile shall be used for replacement.

(3) The tile furnished for replacement purposes shall be of a quality, size and flow capacity at least equal to that of the tile being replaced.

(4) Tile shall be replaced so that its original gradient and alignment are restored, except where relocation or rerouting is required for angled crossings. Tile lines at a sharp angle to the trench shall be repaired in the manner shown on Drawing No. IUB PL-1 at the end of this chapter.

(5) The replaced tile shall be firmly supported to prevent loss of gradient or alignment due to soil settlement. The method used shall be comparable to that shown on Drawing No. IUB PL-1 at the end of this chapter.

(6) Before completing permanent tile repairs, all tile lines shall be examined visually, by probing, or by other appropriate means on both sides of the trench within any work area to check for tile that might have been damaged by construction equipment. If tile lines are found to be damaged, they must be repaired to operate as well after construction as before construction began.

*e. Inspection.* Prior to backfilling of the applicable trench area, each permanent tile repair shall be inspected for compliance by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

*f. Backfilling.* The backfill surrounding the permanently repaired drain tile shall be completed at the time of the repair and in a manner that ensures that any further backfilling will not damage or misalign the repaired section of the tile line. The backfill shall be inspected for compliance by the county inspector.

If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

*g. Subsurface drainage.* Subsequent to pipeline construction and permanent repair, if it becomes apparent the tile line in the area disturbed by construction is not functioning correctly or that the land adjacent to the pipeline is not draining properly, which can reasonably be attributed to the pipeline construction, the pipeline company shall make further repairs or install additional tile as necessary to restore subsurface drainage.

**9.4(3) Removal of rocks and debris from the right-of-way.**

*a. Removal.* The topsoil, when backfilled, and the easement area shall be free of all rock larger than three inches in average diameter not native to the topsoil prior to excavation. Where rocks over three inches in size are present, their size and frequency shall be similar to adjacent soil not disturbed by construction. The top 24 inches of the trench backfill shall not contain rocks in any greater concentration or size than exist in the adjacent natural soils. Consolidated rock removed by blasting or mechanical means shall not be placed in the backfill above the natural bedrock profile or above the frost line. In addition, the pipeline company shall examine areas adjacent to the easement and along access roads and shall remove any large rocks or debris which may have rolled or blown from the right-of-way or fallen from vehicles.

*b. Disposal.* Rock which cannot remain in or be used as backfill shall be disposed of at locations and in a manner mutually satisfactory to the company and the landowner. Soil from which excess rock has been removed may be used for backfill. All debris attributable to the pipeline construction and related activities shall be removed and disposed of properly. For the purposes of this rule, debris shall include spilled oil, grease, fuel, or other petroleum or chemical products. Such products and any contaminated soil shall be removed for proper disposal or treated by appropriate in situ remediation.

**9.4(4) Restoration after soil compaction and rutting.**

*a. Agricultural restoration.* Agricultural land, including off right-of-way access roads traversed by heavy construction equipment that will be removed, shall be deep tilled to alleviate soil compaction upon completion of construction on the property. If the topsoil was removed from the area to be tilled, the tillage shall precede replacement of the topsoil. At least three passes with the deep tillage equipment shall be made. Tillage shall be at least 18 inches deep in land used for crop production and 12 inches deep on other lands and shall be performed under soil moisture conditions which permit effective working of the soil. Upon agreement, this tillage may be performed by the landowners or tenants using their own equipment.

*b. Rutted land restoration.* Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. On land from which topsoil was removed, the rutting shall be remedied before the topsoil is replaced.

**9.4(5) Restoration of terraces, waterways, and other erosion control structures.** Existing soil conservation practices and structures damaged by the construction of a pipeline shall be restored to the elevation and grade existing prior to the time of pipeline construction. Any drain lines or flow diversion devices impacted by pipeline construction shall be repaired or modified as needed. Soil used to repair embankments intended to retain water shall be well compacted. Disturbed vegetation shall be reestablished, including a cover crop when appropriate. Restoration of terraces shall be in accordance with Drawing No. IUB PL-2 at the end of this chapter. Such restoration shall be inspected for compliance by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

**9.4(6) Revegetation of untilled land.**

*a. Crop production.* Agricultural land not in row crop or small grain production at the time of construction, including hay ground and land in conservation or set-aside programs, shall be reseeded, including use of a cover crop when appropriate, following completion of deep tillage and replacement of the topsoil. The seed mix used shall restore the original or a comparable ground cover unless otherwise requested by the landowner. If the land is to be placed in crop production the following year, paragraph "b" below shall apply.

*b. Delayed crop production.* Agricultural land used for row crop or small grain production which will not be planted in that calendar year due to the pipeline construction shall be seeded with an appropriate cover crop following replacement of the topsoil and completion of deep tillage. However, cover crop seeding may be delayed if construction is completed too late in the year for a cover crop to become established and in such instances is not required if the landowner or tenant proposes to till the land the following year. The landowner may request ground cover where the construction is completed too late in the year for a cover crop to become established to prevent soil erosion.

**9.4(7) Future installation of drain tile or soil conservation structures.**

*a. Future drain tile.* At locations where the proposed installation of underground drain tile is made known in writing to the company prior to the securing of an easement on the property and has been defined by a qualified technician, the pipeline shall be installed at a depth which will permit proper clearance between the pipeline and the proposed tile installation. The pipeline company shall consult with the landowner concerning the landowner's plans for future drain tile installation.

*b. Future practices and structures.* At locations where the proposed installation of soil conservation practices and structures is made known in writing to the company prior to the securing of an easement on the property and has been defined by a qualified technician, the pipeline shall be installed at a depth which will allow for future installation of such soil conservation practices and structures and retain the integrity of the pipeline. The pipeline company shall consult with the landowner concerning the landowner's plans for future installation of soil conservation practices and structures.

**9.4(8) Restoration of land slope and contour.** Upon completion of construction, the slope, contour, grade, and drainage pattern of the disturbed area shall be restored as nearly as possible to its preconstruction condition. However, the trench may be crowned to allow for anticipated settlement of the backfill. Excessive or insufficient settlement of the trench area, which visibly affects land contour or undesirably alters surface drainage, shall be remediated by means such as regrading and, if necessary, import of appropriate fill material. Disturbed areas in which erosion causes formation of rills or channels, or areas of heavy sediment deposition, shall be regraded as needed. On steep slopes, methods such as sediment barriers, slope breakers, or mulching shall be used as necessary to control erosion until vegetation can be reestablished.

**9.4(9) Restoration of areas used for field entrances and temporary roads.** Upon completion of construction and land restoration, field entrances or temporary roads built as part of the construction project shall be removed and the land made suitable for return to its previous use. Areas affected shall be regraded as required by subrule 9.4(8) and deep tilled as required by subrule 9.4(4). If by agreement or at landowner request, and subject to any necessary approval by local public road authorities, a field entrance or road is to be left in place, it shall be left in a graded and serviceable condition.

**9.4(10) Construction in wet conditions.** Construction in wet soil conditions shall not commence or continue at times when or locations where the passage of heavy construction equipment may cause rutting to the extent that the topsoil and subsoil are mixed, or underground drainage structures may be damaged. To facilitate construction in soft soils, the pipeline company may elect to remove and stockpile the topsoil from the traveled way, install mats or padding, or use other methods acceptable to the county inspector. Topsoil removal, storage, and replacement shall comply with subrule 9.4(1).

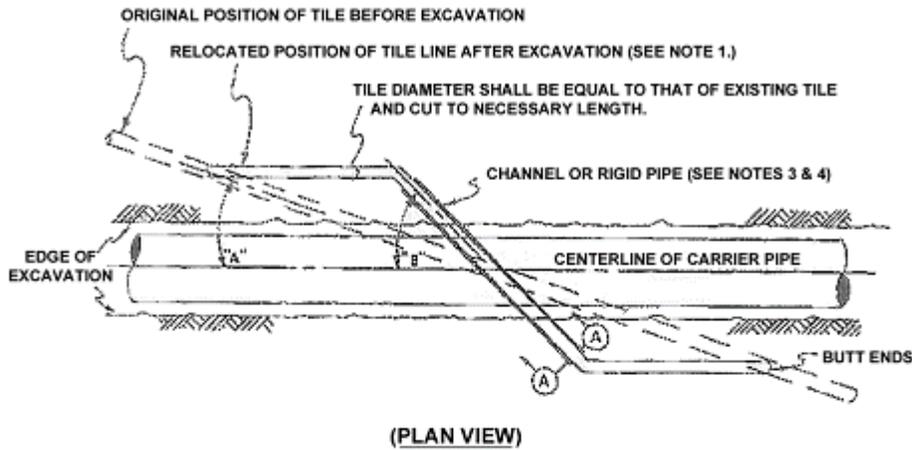
**199—9.5(479,479B) Designation of a pipeline company point of contact for landowner inquiries or claims.** For each pipeline construction project subject to this chapter, the pipeline company shall designate a point of contact for landowner inquiries or claims. The designation shall include the name of an individual to contact and a toll-free telephone number and address through which that person can be reached. This information shall be provided to all landowners of property that will be disturbed by the pipeline project prior to commencement of construction. Any change in the point of contact shall be promptly communicated in writing to landowners. A designated point of contact shall remain available for all landowners for at least one year following completion of construction and for landowners with unresolved damage claims until such time as those claims are settled.

**199—9.6(479,479B) Separate agreements.** This chapter does not preclude the application of provisions for protecting or restoring property that are different from those contained in this chapter, or in a land restoration plan, which are contained in easements or other agreements independently executed by the pipeline company and the landowner. The alternative provision shall not be inconsistent with state law or these rules. The agreement shall be in writing and a copy provided to the county inspector. The pipeline company may request that the county designate a specific person to receive the agreements.

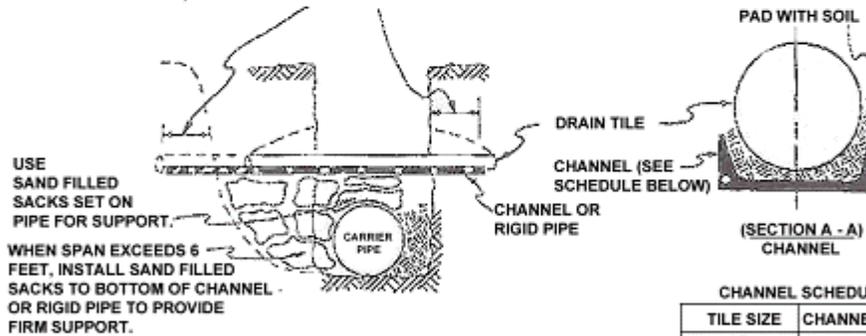
**199—9.7(479,479B) Enforcement.** A pipeline company shall fully cooperate with county inspectors in the performance of their duties under Iowa Code sections 479.29 and 479B.20, including giving proper notice of trenching, permanent tile repair, or backfilling. If the pipeline company or its contractor does not comply with the requirements of Iowa Code section 479.29 or 479B.20, with the land restoration plan, or with an independent agreement on land restoration or line location, the county board of supervisors may petition the utilities board for an order requiring corrective action to be taken or seeking imposition of civil penalties, or both. Upon receipt of a petition from the county board of supervisors, the board will schedule a hearing and such other procedures as appropriate. The county will be responsible for investigation and for prosecution of the case before the board.

Drawing No. IUB PL-1

**RESTORATION OF DRAIN TILE**



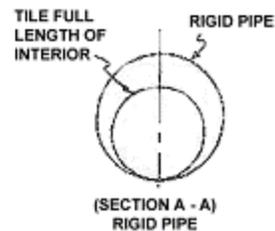
20" MINIMUM LENGTH OF CHANNEL OR RIGID PIPE SUPPORT ON SOLID SOIL, EACH SIDE OF EXCAVATION.



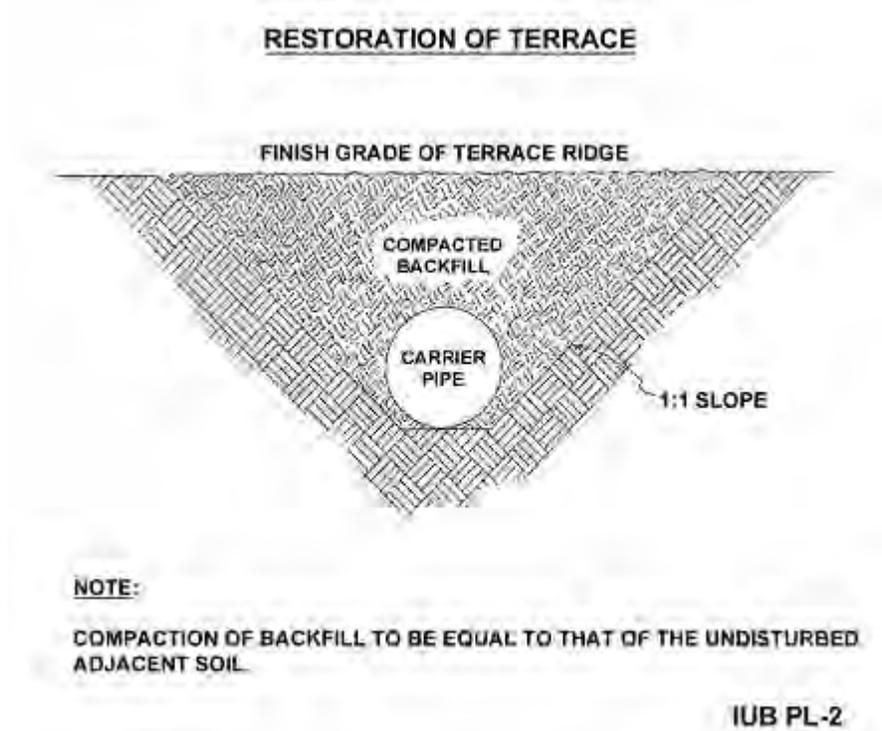
CHANNEL SCHEDULE

TILE SIZE	CHANNEL SIZE
3"	4" AT 5.4#
4" - 5"	5" AT 6.7#
6" - 9"	7" AT 9.8#
10" & LARGER	10" AT 15.3#

- NOTES:
1. TILE SHALL BE RELOCATED AS SHOWN WHEN ANGLE "A" BETWEEN PIPELINE AND ORIGINAL TILE IS LESS THAN 20° UNLESS OTHERWISE AGREED TO BY LANDOWNER AND COMPANY.
  2. ANGLE "B" SHALL BE 45° FOR USUAL WIDTHS OF TRENCH. FOR EXTRA WIDTHS, IT MAY BE GREATER.
  3. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
  4. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF THE ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL SECTIONS SHOWN AND IF APPROVED BY THE LANDOWNER.



Drawing No. IUB PL-2



These rules are intended to implement Iowa Code sections 479.29 and 479B.20.

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