

(3) STATE.—The term “State” means a State, the District of Columbia, and Puerto Rico.

(4) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 478.)

**§ 6103. Minimum standards for State one-call notification programs**

(a) MINIMUM STANDARDS.—

(1) IN GENERAL.—In order to qualify for a grant under section 6106, a State one-call notification program, at a minimum, shall provide for—

(A) appropriate participation by all underground facility operators, including all government operators;

(B) appropriate participation by all excavators, including all government and contract excavators; and

(C) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

(2) EXEMPTIONS PROHIBITED.—In order to qualify for a grant under section 6106, a State one-call notification program may not exempt municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.

(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

(1) damage to types of underground facilities; and

(2) activities of types of excavators.

(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for and document—

(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

(2) increased penalties for parties that repeatedly damage underground facilities be-

cause they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

(4) equitable relief; and

(5) citation of violations.

(Added Pub. L. 105–178, title VII, § 7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107–355, § 2(a), Dec. 17, 2002, 116 Stat. 2985; Pub. L. 112–90, § 3(a), Jan. 3, 2012, 125 Stat. 1906.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–90, § 3(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

“(1) appropriate participation by all underground facility operators, including all government operators;

“(2) appropriate participation by all excavators, including all government and contract excavators; and

“(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.”

2002—Subsec. (a)(1). Pub. L. 107–355, § 2(a)(1)(A), inserted “, including all government operators” before semicolon at end.

Subsec. (a)(2). Pub. L. 107–355, § 2(a)(1)(B), inserted “, including all government and contract excavators” before semicolon.

Subsec. (c). Pub. L. 107–355, § 2(a)(2), substituted “provide for and document” for “provide for” in introductory provisions.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–90, § 3(c), Jan. 3, 2012, 125 Stat. 1906, provided that: “The amendments made by this section [amending this section and section 60134 of this title] shall take effect 2 years after the date of enactment of this Act [Jan. 3, 2012].”

**§ 6104. Compliance with minimum standards**

(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall submit to the Secretary a grant application under subsection (b). The State shall submit the application not later than 2 years after the date of enactment of this chapter.

(b) APPLICATION.—

(1) Upon application by a State, the Secretary shall review that State’s one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

(2) Based on the review under paragraph (1), the Secretary shall determine whether the State’s one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program