

(2) All claims for reimbursement shall be filed with the Administrator not later than ninety days after the closure or interruption which gives rise to the claim.

(3) Reimbursements made under this section shall be from funds appropriated by the Congress pursuant to the authorization contained in section 6916(g)¹ of this title.

(4) For purposes of judicial review, a determination by the Administrator under this subsection shall be considered final agency action.

(Pub. L. 89-272, title II, §9009, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3287; amended Pub. L. 109-58, title XV, §1532(b)(3), Aug. 8, 2005, 119 Stat. 1105.)

REFERENCES IN TEXT

Section 6916(g) of this title, referred to in subsec. (f)(3), probably means section 6916(f) of this title which authorizes appropriations for this subchapter. There is no subsec. (g) of section 6916.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, §1532(b)(3)(A), substituted “6991(7)(B)” for “6991(2)(B)”.

Subsec. (d). Pub. L. 109-58, §1532(b)(3)(B), substituted “subparagraphs (A) and (B) of section 6991(10)” for “section 6991(1)(A) and (B)”.

§ 6991i. Operator training

(a) Guidelines

(1) In general

Not later than 2 years after August 8, 2005, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

(2) Considerations

The guidelines described in paragraph (1) shall take into account—

(A) State training programs in existence as of the date of publication of the guidelines;

(B) training programs that are being employed by tank owners and tank operators as of August 8, 2005;

(C) the high turnover rate of tank operators and other personnel;

(D) the frequency of improvement in underground storage tank equipment technology;

(E) the nature of the businesses in which the tank operators are engaged;

(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

(G) such other factors as the Administrator determines to be necessary to carry out this section.

(b) State programs

(1) In general

Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1) of this section, each State that receives funding under this subchapter shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1) of this section.

(2) Requirements

State requirements described in paragraph (1) shall—

(A) be consistent with subsection (a) of this section;

(B) be developed in cooperation with tank owners and tank operators;

(C) take into consideration training programs implemented by tank owners and tank operators as of August 8, 2005; and

(D) be appropriately communicated to tank owners and operators.

(3) Financial incentive

The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subchapter, not more than \$200,000, to be used to carry out the requirements.

(c) Training

All persons that are subject to the operator training requirements of subsection (a) of this section shall—

(1) meet the training requirements developed under subsection (b) of this section; and

(2) repeat the applicable requirements developed under subsection (b) of this section, if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

(A) a requirement or standard promulgated by the Administrator under section 6991b of this title; or

(B) a requirement or standard of a State program approved under section 6991c of this title.

(Pub. L. 89-272, title II, §9010, as added Pub. L. 98-616, title VI, §601(a), Nov. 8, 1984, 98 Stat. 3287; amended Pub. L. 109-58, title XV, §1524(a), Aug. 8, 2005, 119 Stat. 1095.)

REFERENCES IN TEXT

August 8, 2005, referred to in subsec. (b)(2)(C), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-58, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2005—Pub. L. 109-58 amended section catchline and text generally. Prior to amendment, text read as follows: “For authorization of appropriations to carry out this subchapter, see section 6916(g) of this title.”

§ 6991j. Use of funds for release prevention and compliance

Funds made available under section 6991m(2)(D) of this title from the Trust Fund

¹ See References in Text note below.

may be used to conduct inspections, issue orders, or bring actions under this subchapter—

(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of¹ State regulations pertaining to underground storage tanks regulated under this subchapter; and

(2) by the Administrator, for tanks regulated under this subchapter (including under a State program approved under section 6991c of this title).

(Pub. L. 89–272, title II, §9011, as added Pub. L. 109–58, title XV, §1526(a), Aug. 8, 2005, 119 Stat. 1097.)

§ 6991k. Delivery prohibition

(a) Requirements

(1) Prohibition of delivery or deposit

Beginning 2 years after August 8, 2005, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for such delivery, deposit, or acceptance.

(2) Guidance

Within 1 year after August 8, 2005, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance;

(D) one or more processes for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; and

(E) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

(3) Compliance

States that receive funding under this subchapter shall, at a minimum, comply with the processes and procedures published under paragraph (2).

(4) Consideration

(A) Rural and remote areas

Subject to subparagraph (B), the Administrator or a State may consider not treating

an underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated substance if such treatment would jeopardize the availability of, or access to, fuel in any rural and remote areas unless an urgent threat to public health, as determined by the Administrator, exists.

(B) Applicability

Subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State under subparagraph (A).

(b) Effect on State authority

Nothing in this section shall affect or preempt the authority of a State to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank.

(c) Defense to violation

A person shall not be in violation of subsection (a)(1) of this section if the person has not been provided with notice pursuant to subsection (a)(2)(D) of this section of the ineligibility of a facility for delivery, deposit, or acceptance of a regulated substance as determined by the Administrator or a State, as appropriate, under this section.

(Pub. L. 89–272, title II, §9012, as added Pub. L. 109–58, title XV, §1527(a), Aug. 8, 2005, 119 Stat. 1098; amended Pub. L. 109–168, §1(a)(1), Jan. 10, 2006, 119 Stat. 3580.)

AMENDMENTS

2006—Subsec. (a)(2)(D). Pub. L. 109–168 substituted “of a regulated” for “or a regulated”.

§ 6991I. Tanks on tribal lands

(a) Strategy

The Administrator, in coordination with Indian tribes, shall, not later than 1 year after August 8, 2005, develop and implement a strategy—

(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

(A) an Indian reservation; or

(B) any other area under the jurisdiction of an Indian tribe; and

(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

(A) an Indian reservation; or

(B) any other area under the jurisdiction of an Indian tribe.

(b) Report

Not later than 2 years after August 8, 2005, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subchapter in areas located wholly within—

(1) the boundaries of Indian reservations; and

(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

¹ So in original.