

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(1), (4) and (d)(1), is the date of enactment of Pub. L. 107-355, which was approved Dec. 17, 2002.

TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

§ 60134. State damage prevention programs

(a) IN GENERAL.—The Secretary may make a grant to a State authority (including a municipality with respect to intrastate gas pipeline transportation) to assist in improving the overall quality and effectiveness of a damage prevention program of the State authority under subsection (e) if the State authority—

(1) has in effect an annual certification under section 60105 or an agreement under section 60106;

(2)(A) has in effect an effective damage prevention program that meets the requirements of subsection (b); or

(B) demonstrates that it has made substantial progress toward establishing such a program, and that such program will meet the requirements of subsection (b); and

(3) does not provide any exemptions to municipalities, State agencies, or their contractors from the one-call notification system requirements of the program.

(b) DAMAGE PREVENTION PROGRAM ELEMENTS.—An effective damage prevention program includes the following elements:

(1) Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.

(2) A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program.

(3) A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs.

(4) Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one-call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.

(5) A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.

(6) A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.

(7) Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.

(8) A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

(9) A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

(c) FACTORS TO CONSIDER.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to ensuring the effectiveness of its damage prevention program, including legislative and regulatory actions taken by the State.

(d) APPLICATION.—If a State authority files an application for a grant under this section not later than September 30 of a calendar year and demonstrates that the Governor (or chief executive) of the State has designated it as the appropriate State authority to receive the grant, the Secretary shall review the State's damage prevention program to determine its effectiveness.

(e) USE OF FUNDS.—A grant under this section to a State authority may only be used to pay the cost of the personnel, equipment, and activities that the State authority reasonably requires for the calendar year covered by the grant to develop or carry out its damage prevention program in accordance with subsection (b).

(f) NONAPPLICABILITY OF LIMITATION.—A grant made under this section is not subject to the section 60107(a) limitation on the maximum percentage of funds to be paid by the Secretary.

(g) LIMITATION ON USE OF FUNDS.—Funds provided to carry out this section may not be used for lobbying or in direct support of litigation.

(h) DAMAGE PREVENTION PROCESS DEFINED.—In this section, the term "damage prevention process" means a process that incorporates the principles described in sections 60114(b), 60114(d), and 60114(e).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to provide grants under this section \$1,500,000 for each of fiscal years 2012 through 2015. Such funds shall remain available until expended.

(Added Pub. L. 109-468, §2(b)(2), Dec. 29, 2006, 120 Stat. 3487; amended Pub. L. 112-90, §§3(b), 32(d), Jan. 3, 2012, 125 Stat. 1906, 1923.)

AMENDMENTS

2012—Subsec. (a)(3). Pub. L. 112-90, §3(b), added par. (3).

Subsec. (i). Pub. L. 112-90, §32(d), added subsec. (i).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by section 3(b) of Pub. L. 112-90 effective 2 years after Jan. 3, 2012, see section 3(c) of Pub. L. 112-90, set out as a note under section 6103 of this title.

§ 60135. Enforcement transparency

(a) IN GENERAL.—Not later than December 31, 2007, the Secretary shall—

(1) provide a monthly updated summary to the public of all gas and hazardous liquid pipeline enforcement actions taken by the Secretary or the Pipeline and Hazardous Materials Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final;

(2) include in each such summary identification of the operator involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

(3) provide a mechanism by which a pipeline operator named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

(b) ELECTRONIC AVAILABILITY.—Each summary under this section shall be made available to the public by electronic means.

(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.

(Added Pub. L. 109-468, §6(a), Dec. 29, 2006, 120 Stat. 3491.)

§ 60136. Petroleum product transportation capacity study

(a) IN GENERAL.—The Secretaries of Transportation and Energy shall conduct periodic analyses of the domestic transport of petroleum products by pipeline. Such analyses should identify areas of the United States where unplanned loss of individual pipeline facilities may cause shortages of petroleum products or price disruptions and where shortages of pipeline capacity and reliability concerns may have or are anticipated to contribute to shortages of petroleum products or price disruptions. Upon identifying such areas, the Secretaries may determine if the current level of regulation is sufficient to minimize the potential for unplanned losses of pipeline capacity.

(b) CONSULTATION.—In preparing any analysis under this section, the Secretaries may consult with the heads of other government agencies and public- and private-sector experts in pipeline and other forms of petroleum product transportation, energy consumption, pipeline capacity, population, and economic development.

(c) REPORT TO CONGRESS.—Not later than June 1, 2008, the Secretaries shall submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources of the Senate a report setting forth their recommendations to reduce the likelihood of the shortages and price disruptions referred to in subsection (a).

(d) ADDITIONAL REPORTS.—The Secretaries shall submit additional reports to the congres-

sional committees referred to in subsection (c) containing the results of any subsequent analyses performed under subsection (a) and any additional recommendations, as appropriate.

(e) PETROLEUM PRODUCT DEFINED.—In this section, the term “petroleum product” means oil of any kind or in any form, gasoline, diesel fuel, aviation fuel, fuel oil, kerosene, any product obtained from refining or processing of crude oil, liquefied petroleum gases, natural gas liquids, petrochemical feedstocks, condensate, waste or refuse mixtures containing any of such oil products, and any other liquid hydrocarbon compounds.

(Added Pub. L. 109-468, §8(a), Dec. 29, 2006, 120 Stat. 3492.)

§ 60137. Pipeline control room management

(a) IN GENERAL.—Not later than June 1, 2008, the Secretary shall issue regulations requiring each operator of a gas or hazardous liquid pipeline to develop, implement, and submit to the Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, to the head of the appropriate State authority, a human factors management plan designed to reduce risks associated with human factors, including fatigue, in each control center for the pipeline. Each plan must include, among the measures to reduce such risks, a maximum limit on the hours of service established by the operator for individuals employed as controllers in a control center for the pipeline.

(b) REVIEW AND APPROVAL OF THE PLAN.—The Secretary or, in the case of an operator of an intrastate pipeline located within the boundaries of a State that has in effect an annual certification under section 60105, the head of the appropriate State authority, shall review and approve each plan submitted to the Secretary or the head of such authority under subsection (a). The Secretary and the head of such authority may not approve a plan that does not include a maximum limit on the hours of service established by the operator of the pipeline for individuals employed as controllers in a control center for the pipeline.

(c) ENFORCEMENT OF THE PLAN.—If the Secretary or the head of the appropriate State authority determines that an operator’s plan submitted to the Secretary or the head of such authority under subsection (a), or implementation of such a plan, does not comply with the regulations issued under this section or is inadequate for the safe operation of a pipeline, the Secretary or the head of such authority may take action consistent with this chapter and enforce the requirements of such regulations.

(d) COMPLIANCE WITH THE PLAN.—Each operator of a gas or hazardous liquid pipeline shall document compliance with the plan submitted by the operator under subsection (a) and the reasons for any deviation from compliance with such plan. The Secretary or the head of the appropriate State authority, as the case may be, shall review the reasonableness of any such deviation in considering whether to take enforcement action or discontinue approval of the operator’s plan under subsection (b).