

AMENDMENTS

2016—Pub. L. 114-183, §2(c)(2), June 22, 2016, 130 Stat. 516, substituted “Funding” for “Authorization of appropriations” in item 6107.

2006—Pub. L. 109-468, §3(b), Dec. 29, 2006, 120 Stat. 3490, added item 6109.

2002—Pub. L. 107-355, §2(c)(2), Dec. 17, 2002, 116 Stat. 2986, substituted “Implementation of best practices guidelines” for “Review of one-call system best practices” in item 6105.

§ 6101. Purposes

The purposes of this chapter are—

- (1) to enhance public safety;
- (2) to protect the environment;
- (3) to minimize risks to excavators; and
- (4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the voluntary adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

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

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108-426, set out as a note under section 108 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 105-178, title VII, §7301, June 9, 1998, 112 Stat. 477, provided that: “Congress finds that—

“(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

“(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate or untimely marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

“(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.”

§ 6102. Definitions

In this chapter, the following definitions apply:

(1) **ONE-CALL NOTIFICATION SYSTEM.**—The term “one-call notification system” means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

(2) **STATE ONE-CALL NOTIFICATION PROGRAM.**—The term “State one-call notification program” means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

(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 notifi-

cation 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 because 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 would result in a positive determination under paragraph (2).

(4) The Secretary shall prescribe the form and manner of filing an application under this section that shall provide sufficient information about a State’s one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

(c) **ALTERNATIVE PROGRAM.**—A State is eligible to receive a grant under section 6106 if the State maintains an alternative one-call notification program that provides protection for public safety, excavators, and the environment that is equivalent to, or greater than, protection provided under a program that meets the minimum standards set forth in section 6103.

(d) **REPORT.**—The Secretary shall include the following information in reports submitted under section 60124 of this title—

(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

(2) an analysis by the Secretary of the overall effectiveness of each State’s one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

(3) the impact of each State’s decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

(4) areas where improvements are needed in one-call notification systems in operation in each State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

(Added Pub. L. 105-178, title VII, § 7302(a), June 9, 1998, 112 Stat. 479; amended Pub. L. 107-355, § 2(b), Dec. 17, 2002, 116 Stat. 2985.)

REFERENCES IN TEXT

The date of the enactment of this chapter, referred to in subsec. (a), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-355 substituted “The Secretary shall” for “Within 3 years after the date of