

estimate of the amount of the product released, an estimate of the number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 48 hours of the accident or incident, to the extent practicable.

“(c) UPDATING OF REPORTS.—After receiving revisions described in subsection (b)(3), the National Response Center shall update the initial report on an accident or incident instead of generating a new report.”

[Terms used in section 9 of Pub. L. 112-90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112-90, set out as a note under section 60101 of this title.]

GUIDANCE

Pub. L. 112-90, §13(b), Jan. 3, 2012, 125 Stat. 1914, provided that: “Not later than 1 year after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall issue guidance to clarify the meaning of the term ‘new or novel technologies or design’ as used in section 60117(n)(1)(B)(ii) of title 49, United States Code, as amended by subsection (a) of this section.”

PIPELINE SAFETY TRAINING FOR STATE AND LOCAL GOVERNMENT PERSONNEL

Pub. L. 112-90, §25, Jan. 3, 2012, 125 Stat. 1919, provided that:

“(a) IN GENERAL.—To further the objectives of chapter 601 of title 49, United States Code, the Secretary of Transportation may provide the services of personnel from the Pipeline and Hazardous Materials Safety Administration to provide training for State and local government personnel at a pipeline safety training facility that is established and operated by an agency or instrumentality of the United States, a unit of State or local government, or an educational institution.

“(b) REIMBURSEMENTS FOR TRAINING EXPENDITURES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may require reimbursement from sources other than the Federal Government for all expenses incurred by the Secretary in providing training for State and local government personnel under subsection (a), including salaries, expenses, transportation for Pipeline and Hazardous Materials Safety Administration personnel, and the cost of training materials.

“(2) AUTHORIZATION OF APPROPRIATIONS.—Amounts collected as reimbursement under paragraph (1) are authorized to be appropriated for the purposes set forth in chapter 601 of title 49, United States Code.” [Terms used in section 25 of Pub. L. 112-90, set out above, have the meaning given those terms in this chapter, see section 1(c)(1) of Pub. L. 112-90, set out as a note under section 60101 of this title.]

TRIBAL CONSULTATION FOR PIPELINE PROJECTS

Pub. L. 112-90, §30, Jan. 3, 2012, 125 Stat. 1921, provided that: “Not later than 1 year after the date of enactment of this Act [Jan. 3, 2012], the Secretary of Transportation shall develop and implement a protocol for consulting with Indian tribes to provide technical assistance for the regulation of pipelines that are under the jurisdiction of Indian tribes.”

INCIDENT REPORTING

Pub. L. 109-468, §15, Dec. 29, 2006, 120 Stat. 3496, provided that: “Not later than December 31, 2007, the Secretary of Transportation shall review the incident reporting requirements for operators of natural gas pipelines and modify the reporting criteria as appropriate to ensure that the incident data gathered accurately reflects incident trends over time, taking into consideration the recommendations from the Comptroller General in GAO report 06-946.”

ACCIDENT REPORTING FORM

Pub. L. 109-468, §20, Dec. 29, 2006, 120 Stat. 3498, provided that: “Not later than December 31, 2007, the Sec-

retary of Transportation shall amend accident reporting forms to require operators of gas and hazardous liquid pipelines to provide data related to controller fatigue.”

§ 60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section or in section 60126;

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title;

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title; and

(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).

(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter, an order under section 60126, or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) WAIVERS BY SECRETARY.—

(1) NONEMERGENCY WAIVERS.—

(A) IN GENERAL.—On application of an owner or operator of a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter with respect to such facility on terms the Secretary considers appropriate if the Secretary determines that the waiver is not inconsistent with pipeline safety.

(B) HEARING.—The Secretary may act on a waiver under this paragraph only after notice and an opportunity for a hearing.

(2) EMERGENCY WAIVERS.—

(A) IN GENERAL.—The Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate without prior notice and comment if the Secretary determines that—

(i) it is in the public interest to grant the waiver;

(ii) the waiver is not inconsistent with pipeline safety; and

(iii) the waiver is necessary to address an actual or impending emergency involving pipeline transportation, including an emergency caused by a natural or man-made disaster.

(B) PERIOD OF WAIVER.—A waiver under this paragraph may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) STATEMENT OF REASONS.—The Secretary shall state in an order issued under this subsection the reasons for granting the waiver.

(d) **WAIVERS BY STATE AUTHORITIES.**—If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

(e) **OPERATOR ASSISTANCE IN INVESTIGATIONS.**—

(1) **ASSISTANCE AND ACCESS.**—If the Secretary or the National Transportation Safety Board investigates an accident or incident involving a pipeline facility, the operator of the facility shall—

(A) make available to the Secretary or the Board all records and information that in any way pertain to the accident or incident, including integrity management plans and test results; and

(B) afford all reasonable assistance in the investigation of the accident or incident.

(2) **OPERATOR ASSISTANCE IN INVESTIGATIONS.**—

(A) **IN GENERAL.**—The Secretary may impose a civil penalty under section 60122 on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under this chapter.

(B) **OBSTRUCTS DEFINED.**—

(i) **IN GENERAL.**—In this paragraph, the term “obstructs” includes actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation without good cause.

(ii) **GOOD CAUSE.**—In clause (i), the term “good cause” may include actions such as restricting access to facilities that are not secure or safe for nonpipeline personnel or visitors.

(f) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1322; Pub. L. 104–304, §13, Oct. 12, 1996, 110 Stat. 3802; Pub. L. 107–355, §§10(a), (c), 14(c), Dec. 17, 2002, 116 Stat. 2995, 2996, 3005; Pub. L. 109–468, §10, Dec. 29, 2006, 120 Stat. 3494; Pub. L. 112–90, §2(b), Jan. 3, 2012, 125 Stat. 1905.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------|--|
| 60118(a) | 49 App.:1677(a). | Aug. 12, 1968, Pub. L. 90–481, §10(a), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96–129, §§105(b), 109(h)(4), 152(a), 93 Stat. 994, 996, 999. |
| | 49 App.:2006(a). | Nov. 30, 1979, Pub. L. 96–129, §§203(h), 207(a), (b)(1), 93 Stat. 1005, 1009. |
| 60118(b) | 49 App.:1677(b)(1). | Aug. 12, 1968, Pub. L. 90–481, 82 Stat. 720, §10(b)(1); added Nov. 30, 1979, Pub. L. 96–129, §§104(a)(1), 152(a), 93 Stat. 992, 999. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 60118(c) | 49 App.:2006(b)(1), 49 App.:1672(d) (1st, 2d sentences). | Aug. 12, 1968, Pub. L. 90–481, §3(d), 82 Stat. 721; Nov. 30, 1979, Pub. L. 96–129, §§104(d), 109(c), 152(b)(2), 93 Stat. 994, 996, 1001. |
| 60118(d) | 49 App.:2002(h) (1st, 2d sentences), 49 App.:1672(d) (3d–last sentences), 49 App.:2002(h) (3d–last sentences). | |

In subsection (a)(1), the words “at all times after the date . . . takes effect . . . the requirements of” are omitted as surplus. The words “except as provided in this section” are added for clarity.

In subsection (a)(2), the words “establish and” in 49 App.:2006(a)(2) and “and comply with such plan” are omitted as surplus.

In subsection (b), the word “prescribed” is substituted for “issued” for consistency in the revised title and with other titles of the United States Code. The word “particular” is omitted as surplus. The words “a person must take to comply” are substituted for “required of the person to whom the order is issued” for clarity and to eliminate unnecessary words.

In subsection (c), the words “any part of” are substituted for “in whole or in part” to eliminate unnecessary words. The words “and to such extent” and “he determines that . . . of compliance with such standard” are omitted as surplus.

In subsection (d), the words “to which the certification or agreement applies” are added for clarity. The words “to the granting of the waiver” and “any State agency action granting” are omitted as surplus. The words “shall provide a prompt opportunity for a hearing” are substituted for “shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing” to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112–90 amended subsec. (e) generally. Prior to amendment, text read as follows: “If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.”

2006—Subsec. (c). Pub. L. 109–468 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “On application of a person owning or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.”

2002—Subsec. (a)(4). Pub. L. 107–355, §14(c), added par. (4).

Subsec. (e). Pub. L. 107–355, §10(a), added subsec. (e). Subsec. (f). Pub. L. 107–355, §10(c), added subsec. (f).

1996—Subsec. (a). Pub. L. 104–304, §13(a)(1), struck out “transporting gas or hazardous liquid or” after “person” in introductory provisions.

Subsec. (a)(1). Pub. L. 104–304, §13(a)(2), added par. (1) and struck out former par. (1) which read as follows: “comply with applicable safety standards prescribed under this chapter, except as provided in this section;”.

Subsec. (b). Pub. L. 104-304, §13(b), reenacted subsec. heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.”

Subsec. (c). Pub. L. 104-304, §13(c), substituted “owning” for “transporting gas or hazardous liquid”.

§ 60119. Judicial review

(a) REVIEW OF REGULATIONS, ORDERS, AND OTHER FINAL AGENCY ACTIONS.—(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued under this chapter may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(3) A judicial review of agency action under this section shall apply the standards of review established in section 706 of title 5.

(b) REVIEW OF FINANCIAL RESPONSIBILITY ORDERS.—(1) A person adversely affected by an order issued under section 60111 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1323; Pub. L. 112-90, §§2(d), 20(b), Jan. 3, 2012, 125 Stat. 1905, 1917.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|------------------------------|--|
| 60119(a)(1) .. | 49 App.:1675(a). | Aug. 12, 1968, Pub. L. 90-481, §8(a), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96-129, §§104(e)(2), 152(a), 93 Stat. 994, 999; Jan. 14, 1983, Pub. L. 97-468, §102, 96 Stat. 2543. |
| | 49 App.:2005(a). | Nov. 30, 1979, Pub. L. 96-129, §206(a), 93 Stat. 1009; Jan. 14, 1983, Pub. L. 97-468, §103, 96 Stat. 2543. |
| 60119(a)(2) .. | 49 App.:1675(b), (c). | Aug. 12, 1968, Pub. L. 90-481, §8(b), (c), 82 Stat. 724; Nov. 30, 1979, Pub. L. 96-129, §§104(e)(3), 152(a), 93 Stat. 994, 999. |
| | 49 App.:1675(d), (e). | Aug. 12, 1968, Pub. L. 90-481, §8(d), (e), 82 Stat. 725; Nov. 30, 1979, Pub. L. 96-129, §152(a), 93 Stat. 999. |
| | 49 App.:2005(b)-(e). | Nov. 30, 1979, Pub. L. 96-129, §206(b)-(e), 93 Stat. 1009. |
| 60119(b)(1) .. | 49 App.:1674b(b)(4)(A), (B). | Aug. 12, 1968, Pub. L. 90-481, 82 Stat. 720, §7(b)(4); added Nov. 30, 1979, Pub. L. 96-129, §153, 93 Stat. 1002. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-------------------------|----------------------------|
| 60119(b)(2) .. | 49 App.:1674b(b)(4)(C). | |

In this section, the word “judicial” is omitted as surplus.

In subsection (a)(1), the words “Except as provided in subsection (b) of this section” are added for clarity. The words “who is or will be . . . or aggrieved” are omitted as surplus. The word “prescribed” is added for consistency in the revised title and with other titles of the United States Code. The word “Circuit” is added to complete the proper title of the Court. The word “resides” is substituted for “located” for clarity and for consistency in the revised title and with other titles of the Code. The words “or other officer designated by him for that purpose” are omitted as surplus because of 49:322(b).

In subsection (a)(2), the text of 49 App.:1675(b) and 2005(b) is omitted as surplus because of 28:1331 and because 5:ch. 7 applies in the absence of an exception. The text of 49 App.:1675(d) and 2005(d) is omitted as covered by rule 43 of the Federal Rules of Appellate Procedure (28 App. U.S.C.). The words “affirming or setting aside, in whole or in part, any such regulation or order of the Secretary” are omitted as surplus. The words “may be reviewed only” are substituted for “shall be final, subject to review” for consistency. The words “and not in substitution for” are omitted as surplus.

In subsection (b)(1), the words “adversely affected” are substituted for “aggrieved” for consistency in the revised title and with other titles of the Code. The word “only” is omitted as surplus. The text of 49 App.:1674b(b)(4)(B) (1st sentence) is omitted as surplus because 28:2112 applies in the absence of an exception. The text of 49 App.:1674b(b)(4)(B) (2d sentence) is omitted as surplus and because of 28:1651.

In subsection (b)(2), the words “and decree” are omitted as surplus. The words “may be reviewed only” are substituted for “shall be final, except that such judgment and decree shall be subject to review” for consistency and to eliminate unnecessary words. The words “upon certiorari” are omitted as surplus because of 28:1254(1).

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-90, §2(d)(1), substituted “, Orders, and Other Final Agency Actions” for “and Waiver Orders” in heading.

Subsec. (a)(1). Pub. L. 112-90, §2(d)(2), substituted “order issued under this chapter” for “order issued about an application for a waiver under section 60118(c) or (d) of this title”.

Subsec. (a)(3). Pub. L. 112-90, §20(b), added par. (3).

§ 60120. Enforcement

(a) CIVIL ACTIONS.—

(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—
At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122. The maximum amount of civil penalties for administrative enforcement actions under section 60122 shall not apply to enforcement actions under this section.

(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—