

Subsec. (f). Pub. L. 112-90, § 11(b), added subsec. (f).

#### Statutory Notes and Related Subsidiaries

##### INFORMATION TO EMERGENCY RESPONSE AGENCIES

Pub. L. 112-90, § 6(b), Jan. 3, 2012, 125 Stat. 1910, provided that:

“(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act [Jan. 3, 2012], the Secretary shall issue guidance to owners and operators of pipeline facilities on the importance of providing system-specific information about their pipeline facilities to emergency response agencies of the communities and jurisdictions in which those facilities are located.

“(2) CONSULTATION.—Before issuing guidance under paragraph (1), the Secretary shall consult with owners and operators of pipeline facilities to determine the extent to which the owners and operators are already providing system-specific information about their pipeline facilities to emergency response agencies.”

[Terms used in section 6(b) 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.]

#### § 60133. Coordination of environmental reviews

(a) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

(A) The Secretary of Transportation.

(B) The Administrator of the Environmental Protection Agency.

(C) The Director of the United States Fish and Wildlife Service.

(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

(E) The Director of the Bureau of Land Management.

(F) The Director of the Minerals Management Service.

(G) The Assistant Secretary of the Army for Civil Works.

(H) The Chairman of the Federal Energy Regulatory Commission.

(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to

access, excavate, and restore the site of a pipeline repair.

(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

(2) to preempt applicable Federal, State, or local environmental law.

(d) INTERIM OPERATIONAL ALTERNATIVES.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.

(Added Pub. L. 107-355, §16(a), Dec. 17, 2002, 116 Stat. 3006.)

#### Editorial Notes

##### 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.

#### Executive Documents

##### 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