

1994—Subsecs. (a)(2), (b). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health, Education, and Welfare”.

1986—Subsec. (a)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1981—Subsec. (a)(1). Pub. L. 97-119 substituted “section 9501(d) of title 26” for “section 934 of this title”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1973

§ 931. Benefits under State workmen’s compensation laws

(a) Filing

On and after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen’s compensation law, except that during any period when miners or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen’s compensation law which provides adequate coverage for pneumoconiosis, and in any case in which benefits based upon eligibility under paragraph (5) of section 921(c) of this title are involved,¹ they shall be entitled to claim benefits under this part.

(b) Adequacy of compensation; listing of States providing adequate compensation; requisites for listing

(1) For purposes of this section, a State workmen’s compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1972, publish in the Federal Register a list of State workmen’s compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen’s compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis, except that (i) such law shall not be required to provide such benefits where the miner’s last employment in a coal mine terminated before the Secretary’s approval of the State law pursuant to this section; and (ii) each operator of a coal mine shall secure the payment of bene-

fits pursuant to section 933 of this title with respect to any miner whose last employment in a coal mine terminated before the Secretary’s approval of the State law pursuant to this section;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 922(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to section 902(f) of this title and to those standards established under this part, and by the regulations of the Secretary promulgated under this part;

(D) any claim for benefits on account of total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 932(i) of this title; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended [33 U.S.C. 901 et seq.], which are applicable under section 932(a) of this title, but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen’s compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

(c) Publication in Federal Register; review of listings

Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the sixth month following the month in which such amendments are enacted.

(Pub. L. 91-173, title IV, § 421, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§ 1(c)(1), 4(e), 5(3), (5), May 19, 1972, 86 Stat. 151, 154, 155; Pub. L. 95-239, §§ 3(b)(3), 6, Mar. 1, 1978, 92 Stat. 97, 98.)

REFERENCES IN TEXT

Public Law 803, 69th Congress, referred to in subsec. (b)(2)(F), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, popularly known as the Longshore and Harbor Workers’ Compensation Act, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

¹ So in original. The period probably should be a comma.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-239, §3(b)(3), inserted reference to cases in which benefits based upon eligibility under par. (5) of section 921(c) of this title are involved.

Subsec. (b)(2)(A). Pub. L. 95-239, §6(a), added the exceptions set out in cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 95-239, §6(b), substituted “established under this part, and by the regulations of the Secretary promulgated under this part” for “established under part B of this subchapter, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder”.

Subsec. (b)(2)(D). Pub. L. 95-239, §6(c), substituted “total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis” for “total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of the discovery of total disability due to pneumoconiosis, or the date of such death, as the case may be”.

1972—Subsec. (a). Pub. L. 92-303, §§1(c)(1), 5(3), substituted “widows, children, parents, brothers, or sisters, as the case may be,” for “widows” and “1974” for “1973”.

Subsec. (b)(2)(C). Pub. L. 92-303, §4(e), substituted “section 902(f) of this title and to those standards established under part B of this subchapter” for “those established by section 921 of this title”.

Subsec. (c). Pub. L. 92-303, §5(5), added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 4(e) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as a note under section 921 of this title.

§ 932. Failure to meet workmen's compensation requirements

(a) Benefits; applicability of Longshore and Harbor Workers' Compensation Act; promulgation of regulations

Subject to section 28(h)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984, during any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title, the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended [33 U.S.C. 901 et seq.], and as it may be amended from time to time (other than the provisions contained in sections 1, 2, 3, 4,¹ 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, and 51 thereof) [33 U.S.C. 901, 902, 903, 904, 908, 909, 910, 912, 913, 929, 930, 931, 932, 933, 937, 938, 941, 943, 944, 945, 946, 947, 948, 948a, 949, 950], shall (except as otherwise provided in this subsection or by regulations of the Secretary and except that references in such Act to the employer shall be considered to refer to the trustees of the fund, as the Secretary considers appropriate and as is consistent with the provisions of section 9501(d) of title 26), be applicable to each operator of a coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine, or with respect to entitlements es-

tablished in paragraph (5) of section 921(c) of this title. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

(b) Liability of operators

During any such period each such operator shall be liable for and shall secure the payment of benefits, as provided in this section and section 933 of this title. An employer, other than an operator of a coal mine, shall not be required to secure the payment of such benefits with respect to any employee of such employer to the extent such employee is engaged in the transportation of coal or in coal mine construction. Upon determination by the Secretary of the eligibility of the employee, the Secretary may require such employer to secure a bond or otherwise guarantee the payment of such benefits to the employee.

(c) Persons entitled to benefits

Benefits shall be paid during such period by each such operator under this section to the categories of persons entitled to benefits under section 922(a) of this title in accordance with the regulations of the Secretary applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefit shall be payable by any operator on account of death or total disability due to pneumoconiosis (1) which did not arise, at least in part, out of employment in a mine during a period after December 31, 1969, when it was operated by such operator; or (2) which was the subject of a claim denied before March 1, 1978, and which is or has been approved in accordance with the provisions of section 945² of this title.

(d) Monthly payments; amounts; accrual of interest

Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 922(a) of this title. If payment is not made within the time required, interest shall accrue to such amounts at the rates set forth in section 934(b)(5) of this title for interest owed to the fund. With respect to payments withheld pending final adjudication of liability, in the case of claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981, such interest shall commence to accumulate 30 days after the date of the determination that such an award should be made.

(e) Conditions upon payment

No payment of benefits shall be required under this section:

- (1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe; or

¹ So in original.

² See References in Text note below.

(2) for any period prior to January 1, 1974.

(f) Limitation on filing of claims

Any claim for benefits by a miner under this section shall be filed within three years after whichever of the following occurs later—

- (1) a medical determination of total disability due to pneumoconiosis; or
- (2) March 1, 1978.

(g) Reduction of monthly benefits

The amount of benefits payable under this section shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis. In addition, the amount of benefits payable under this section with respect to any claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981 shall be reduced, on a monthly or other appropriate basis, by the amount by which such benefits would be reduced on account of excess earnings of such miner under section 403(b) through (l) of title 42 if the amount paid were a benefit payable under section 402 of title 42.

(h) Promulgation of regulations

The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether pneumoconiosis arose out of employment in a particular coal mine or mines. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one operator, where such apportionment is appropriate.

(i) Subsequent operators' liability for benefit payments

(1) During any period in which this section is applicable to the operator of a coal mine who on or after January 1, 1970, acquired such mine or substantially all the assets thereof, from a person (hereinafter in this subsection referred to as a "prior operator") who was an operator of such mine, or owner of such assets on or after January 1, 1970, such operator shall be liable for and shall, in accordance with section 933 of this title, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed by such prior operator as if the acquisition had not occurred and the prior operator had continued to be an operator of a coal mine.

(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

(3)(A) For purposes of paragraph (1) of this subsection, the provisions of this paragraph shall apply to corporate reorganizations, liquidations, and such other transactions as are specified in this paragraph.

(B) If an operator ceases to exist by reason of a reorganization or other transaction or series of transactions which involves a change in identity, form, or place of business or organization, however effected, the successor operator or other corporate or business entity resulting from such reorganization or other change shall

be treated as the operator to whom this section applies.

(C) If an operator ceases to exist by reason of a liquidation into a parent or successor corporation, the parent or successor corporation shall be treated as the operator to whom this section applies.

(D) If an operator ceases to exist by reason of a sale of substantially all his or her assets, or as the result of a merger, consolidation, or division, the successor operator, corporation, or other business entity shall be treated as the operator to whom this section applies.

(4) In any case in which there is a determination under section 9501(d) of title 26 that no operator is liable for the payment of benefits to a claimant, nothing in this subsection may be construed to require the payment of benefits to a claimant by or on behalf of any operator.

(j) Failure of operators to secure benefits

Notwithstanding the provisions of this section, section 9501 of title 26 shall govern the payment of benefits in cases—

- (1) described in section 9501(d)(1) of title 26;
- (2) in which the miner's last coal mine employment was before January 1, 1970; or
- (3) in which there was a claim denied before March 1, 1978, and such claim is or has been approved in accordance with the provisions of section 945² of this title.

(k) Secretary as party in claim proceedings

The Secretary shall be a party in any proceeding relative to a claim for benefits under this part.

(l) Filing of new claims or refiling or revalidation of claims of miners already determined eligible at time of death

In no case shall the eligible survivors of a miner who was determined to be eligible to receive benefits under this subchapter at the time of his or her death be required to file a new claim for benefits, or refile or otherwise revalidate the claim of such miner, except with respect to a claim filed under this part on or after the effective date of the Black Lung Benefits Amendments of 1981.³

(Pub. L. 91-173, title IV, §422, Dec. 30, 1969, 83 Stat. 796; Pub. L. 92-303, §§3(a), (b), 5(2)-(4), (9), 8, May 19, 1972, 86 Stat. 153, 155-157; Pub. L. 95-239, §§3(b)(4), 7(a)-(h), Mar. 1, 1978, 92 Stat. 97-99; Pub. L. 97-119, title I, §104(b)(3)-(5), title II, §§203(a)(6), (b), 204, 205(a), Dec. 29, 1981, 95 Stat. 1639, 1644, 1645; Pub. L. 98-426, §28(h)(2), Sept. 28, 1984, 98 Stat. 1655; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Section 28(h)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984, referred to in subsec. (a), is section 28(h)(1) of Pub. L. 98-426, which is set out as a note under section 907 of Title 33, Navigation and Navigable Waters.

Public Law 803, 69th Congress, referred to in subsec. (a), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, popularly known as the Longshore and Harbor Workers' Compensation Act, which is classified generally to chapter 18 (§901 et seq.) of Title 33. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

³ So in original.

Section 42 of Public Law 803, referred to in subsec. (a), was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 647.

Section 43 of Public Law 803, referred to in subsec. (a), was repealed by Pub. L. 89-348, §1(15), Nov. 8, 1965, 79 Stat. 1311.

Sections 45, 46, and 47 of Public Law 803, referred to in subsec. (a), were repealed by Pub. L. 98-426, §25, Sept. 28, 1984, 98 Stat. 1654.

Section 945 of this title, referred to in subsecs. (c), (j)(3), was repealed by Pub. L. 107-275, §2(c)(1), Nov. 2, 2002, 116 Stat. 1926.

The effective date of the Black Lung Benefits Amendments of 1981, referred to in subsecs. (d), (g), and (l), is Jan. 1, 1982, except as otherwise provided. See section 206(a) of Pub. L. 97-119, set out as an Effective Date of 1981 Amendment note under section 901 of this title.

AMENDMENTS

1986—Subsecs. (a), (i)(4), (j). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1984—Subsec. (a). Pub. L. 98-426 substituted “Subject to section 28(h)(1) of the Longshore and Harbor Workers’ Compensation Act Amendments of 1984, during” for “During”.

1981—Subsec. (a). Pub. L. 97-119, §104(b)(3), substituted “section 9501(d) of title 26” for “section 934 of this title”.

Subsec. (c). Pub. L. 97-119, §205(a)(1), substituted “due to pneumoconiosis (1)” for “due to pneumoconiosis” and added cl. (2).

Subsec. (d). Pub. L. 97-119, §204, inserted provision relating to accrual of interest if payment is not made within the time required and accumulation of interest with respect to payments withheld pending final adjudication of liability in the case of claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

Subsec. (g). Pub. L. 97-119, §203(b), inserted provision reducing the amount of benefits payable under this section with respect to any claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

Subsec. (i)(4). Pub. L. 97-119, §104(b)(4), substituted “section 9501(d) of title 26” for “section 934 of this title”.

Subsec. (j). Pub. L. 97-119, §§104(b)(5), 205(a)(2), substituted in provision preceding par. (1) “section 9501 of title 26” for “section 934 of this title” and in par. (1) “section 9501(d)(1) of title 26” for “section 934(a)(1) of this title” and added par. (3).

Subsec. (l). Pub. L. 97-119, §203(a)(6), inserted before period at end “, except with respect to a claim filed under this part on or after the effective date of the Black Lung Benefits Amendments of 1981.”

1978—Subsec. (a). Pub. L. 95-239, §§3(b)(4), 7(a), inserted “, and as it may be amended from time to time” after “as amended”, inserted a comma after “and 51 thereof”, substituted “or by regulations of the Secretary and except that references in such Act to the employer shall be considered to refer to the trustees of the fund, as the Secretary considers appropriate and as is consistent with the provisions of section 934 of this title” for “and except as the Secretary shall by regulation otherwise provide”, and inserted “, or with respect to entitlements established in paragraph (5) of section 921(c) of this title” after “with respect to death or total disability due to pneumoconiosis arising out of employment in such mine”.

Subsec. (b). Pub. L. 95-239, §7(b), provided that an employer, other than an operator of a coal mine, shall not be required to secure the payment of benefits with respect to any employee of that employer to the extent that the employee is engaged in the transportation of coal or in coal mine construction and authorized the Secretary to require an employer to secure a bond or otherwise guarantee the payment of benefits.

Subsec. (c). Pub. L. 95-239, §7(c), struck out reference to regulations of the Secretary of Health, Education, and Welfare and substituted “employment in a mine during a period after December 31, 1969, when it was operated” for “employment in a mine during the period when it was operated”.

Subsec. (e)(3). Pub. L. 95-239, §7(d), struck out par. (3) which had provided that no payment of benefits could be required under this section for any period after twelve years after Dec. 30, 1969.

Subsec. (f). Pub. L. 95-239, §7(e), provided that any claim for benefits by a miner under this section be filed within three years after the later of either a medical determination of total disability due to pneumoconiosis or March 1, 1978, and struck out provisions which had set special limitations on the filing of a claim by a widow.

Subsec. (h). Pub. L. 95-239, §7(f), struck out provision under which the regulations of the Secretary of Health, Education, and Welfare promulgated under section 921 of this title had also been applicable to claims under this section.

Subsec. (i)(1). Pub. L. 95-239, §7(g), imposed claim liability on operators who acquired a mine from a prior operator on or after Jan. 1, 1970, with respect to benefits to miners previously employed by a prior operator, as if the acquisition had not occurred.

Subsec. (i)(2). Pub. L. 95-239, §7(g), reenacted par. (2) without change.

Subsec. (i)(3), (4). Pub. L. 95-239, §7(g), added pars. (3) and (4).

Subsecs. (j) to (l). Pub. L. 95-239, §7(h), added subsecs. (j) to (l).

1972—Subsec. (a). Pub. L. 92-303, §§3(b), 5(2), (9), substituted “a coal mine” for “an underground coal mine”, “1973” for “1972” and struck out reference to section 7 of Pub. L. 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), respectively.

Subsec. (e)(2). Pub. L. 92-303, §5(3), substituted “January 1, 1974” for “January 1, 1973”.

Subsec. (e)(3). Pub. L. 92-303, §5(4), substituted “twelve years” for “seven years”.

Subsec. (f). Pub. L. 92-303, §8, designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 92-303, §3(a), substituted “coal mine” for “underground coal mine”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after such date and to claims pending on such date, see section 28(a) of Pub. L. 98-426, set out as a note under section 901 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by sections 203(a)(6), (b), 204, 205(a) of Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 3(a), (b) of Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

§ 932a. Appointment of qualified individuals to hear and determine claims for benefits

Qualified individuals appointed by the Secretary of Labor may hear and determine claims for benefits under part B or part C of title IV of the Federal Coal Mine Health and Safety Act of 1969¹ [30 U.S.C. 921 et seq., 931 et seq.] and under

¹ See References in Text note below.

section 415 of such Act [30 U.S.C. 925]. For purposes of this section, the term “qualified individual” means such an individual, regardless of whether that individual is a hearing examiner appointed under section 3105 of title 5. Nothing in this section shall be deemed to imply that there is or is not in effect any authority for such individuals to hear and determine such claims under any provision of law other than this section.

(Pub. L. 94-504, Oct. 15, 1976, 90 Stat. 2428; Pub. L. 107-275, §2(b)(5), Nov. 2, 2002, 116 Stat. 1926.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in text, is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended, which was renamed the Federal Mine Safety and Health Act of 1977 by Pub. L. 95-164, title I, §101, Nov. 9, 1977, 91 Stat. 1290. Parts B and C of title IV of the Federal Mine Safety and Health Act of 1977 are classified generally to part B (§921 et seq.) of this subchapter and to this part (§931 et seq.), respectively. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Federal Mine Safety and Health Act of 1977 which comprises this chapter or the Black Lung Benefits Act which comprises this subchapter.

AMENDMENTS

2002—Pub. L. 107-275 substituted “under part B or part C” for “under part C”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EXTENSION OF ADJUDICATION PERIOD THROUGH MARCH 1, 1979

Pub. L. 95-239, §7(i), Mar. 1, 1978, 92 Stat. 100, authorized individuals appointed to hear and determine claims for benefits under this part and under section 925 of this title pursuant to this section, notwithstanding the provisions of section 932(a) of this title, to continue to adjudicate such claims during the one-year period following Mar. 1, 1978.

§ 933. Duties of operators in States not qualifying under workmen’s compensation laws

(a) Securing of benefits for miners; self-insurers; mutual companies

During any period in which a State workmen’s compensation law is not included on the list published by the Secretary under section 931(b) of this title each operator of a coal mine in such State shall secure the payment of benefits for which he is liable under section 932 of this title by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person or fund is authorized under the laws of any State to insure workmen’s compensation.

(b) Required provisions of insurance contracts

In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 932 of this title, notwithstanding the provisions of the State workmen’s compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

(c) Cancellation of insurance contracts

No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection¹ shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business.

(d) Penalties for failure to secure payment of benefits

(1) Any employer required to secure the payment of benefits under this section who fails to secure such benefits shall be subject to a civil penalty assessed by the Secretary of not more than \$1,000 for each day during which such failure occurs. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable to such civil penalty as provided in this subsection for the failure of such corporation to secure the payment of benefits. Such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any benefit which may accrue under this subchapter in respect to any disability which may occur to any employee of such corporation while it shall so fail to secure the payment of benefits as required by this section.

(2) Any employer of a miner who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secrets,² or destroys any property belonging to such employer, after any miner employed by such employer has filed a claim under this subchapter, and with intent to avoid the payment of benefits under this subchapter to such miner or his or her dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable for such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(3) This subsection shall not affect any other liability of the employer under this part.

(Pub. L. 91-173, title IV, §423, Dec. 30, 1969, 83 Stat. 797; Pub. L. 92-303, §3(b), May 19, 1972, 86 Stat. 153; Pub. L. 95-239, §8, Mar. 1, 1978, 92 Stat. 100.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-239 added subsec. (d).

¹ So in original. Probably should be “section”.

² So in original. Probably should be “secretes.”

1972—Subsec. (a). Pub. L. 92-303 substituted “a coal mine” for “an underground coal mine”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as a note under section 901 of this title.

§ 934. “Fund” defined; liability of operators to United States for repayments to fund; procedures applicable; rate of interest

(a) For purposes of this section, the term “fund” has the meaning set forth in section 902(h) of this title.

(b)(1) If—

(A) an amount is paid out of the fund to an individual entitled to benefits under section 932 of this title, and

(B) the Secretary determines, under the provisions of sections 932 and 933 of this title, that an operator was required to secure the payment of all or a portion of such benefits,

then the operator is liable to the United States for repayment to the fund of the amount of such benefits the payment of which is properly attributed to him plus interest thereon. No operator or representative of operators may bring any proceeding, or intervene in any proceeding, held for the purpose of determining claims for benefits to be paid by the fund, except that nothing in this section shall affect the rights, duties, or liabilities of any operator in proceedings under section 932 or section 933 of this title. In a case where no operator responsibility is assigned pursuant to sections 932 and 933 of this title, a determination by the Secretary that the fund is liable for the payment of benefits shall be final.

(2) If any operator liable to the fund under paragraph (1) refuses to pay, after demand, the amount of such liability (including interest), then there shall be a lien in favor of the United States for such amount upon all property and rights to property, whether real or personal, belonging to such operator. The lien arises on the date on which such liability is finally determined, and continues until it is satisfied or becomes unenforceable by reason of lapse of time.

(3)(A) Except as otherwise provided under this subsection, the priority of the lien shall be determined in the same manner as under section 6323 of title 26. That section shall be applied for such purposes—

(i) by substituting “lien imposed by section 424(b)(2) of the Federal Mine Safety and Health Act of 1977” for “lien imposed by section 6321”; “operator liability lien” for “tax lien”; “operator” for “taxpayer”; “lien arising under section 424(b)(2) of the Federal Mine Safety and Health Act of 1977” for “assessment of the tax”; “payment of the liability is made to the Black Lung Disability Trust Fund” for “satisfaction of a levy pursuant to section 6332(b)”; and “satisfaction of operator liability” for “collection of any tax under this title” each place such terms appear; and

(ii) by treating all references to the “Secretary” as references to the Secretary of Labor.

(B) In the case of a bankruptcy or insolvency proceeding, the lien imposed under paragraph (2) shall be treated in the same manner as a lien for taxes due and owing to the United States for purposes of the Bankruptcy Act or section 3713(a) of title 31.

(C) For purposes of applying section 6323(a) of title 26 to determine the priority between the lien imposed under paragraph (2) and the Federal tax lien, each lien shall be treated as a judgment lien arising as of the time notice of such lien is filed.

(D) For purposes of this subsection, notice of the lien imposed under paragraph (2) shall be filed in the same manner as under subsections (f) and (g) of section 6323 of title 26.

(4)(A) In any case where there has been a refusal or neglect to pay the liability imposed under paragraph (2), the Secretary may bring a civil action in a district court of the United States to enforce the lien of the United States under this section with respect to such liability or to subject any property, of whatever nature, of the operator, or in which he has any right, title, or interest, to the payment of such liability.

(B) The liability imposed by paragraph (1) may be collected at a proceeding in court if the proceeding is commenced within 6 years after the date on which the liability was finally determined, or before the expiration of any period for collection agreed upon in writing by the operator and the United States before the expiration of such 6-year period. The running of the period of limitation provided under this subparagraph shall be suspended for any period during which the assets of the operator are in the custody or control of any court of the United States, or of any State, or the District of Columbia, and for 6 months thereafter, and for any period during which the operator is outside the United States if such period of absence is for a continuous period of at least 6 months.

(5) The rate of interest under this subsection—

(A) for any period during calendar year 1982, shall be 15 percent, and

(B) for any period after calendar year 1982, shall be the rate established by section 6621 of title 26 which is in effect for such period.

(Pub. L. 91-173, title IV, § 424, Dec. 30, 1969, 83 Stat. 798; Pub. L. 92-303, § 1(c)(1), May 19, 1972, 86 Stat. 151; Pub. L. 95-227, § 3(d), Feb. 10, 1978, 92 Stat. 13; Pub. L. 96-222, title I, § 108(b)(2)(A), Apr. 1, 1980, 94 Stat. 226; Pub. L. 97-119, title I, § 104(a)(1), (2), (b)(6), Dec. 29, 1981, 95 Stat. 1639; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Section 424(b)(2) of the Federal Mine Safety and Health Act of 1977, referred to in subsec. (b)(3)(A)(i), is subsec. (b)(2) of this section.

Section 6321, referred to in subsec. (b)(3)(A)(i), means section 6321 of Title 26, Internal Revenue Code.

Section 6332(b), referred to in subsec. (b)(3)(A)(i), means section 6332(b) of Title 26.

The Bankruptcy Act, referred to in subsec. (b)(3)(B), is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11, Bankruptcy. The Act was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11.

CODIFICATION

In subsec. (b)(3)(B), “section 3713(a) of title 31” substituted for “section 3466 of the Revised Statutes (31 U.S.C. 191)” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1986—Subsec. (b)(3)(A), (C), (D), (5)(B). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1981—Subsec. (a). Pub. L. 97-119, §104(b)(6), substituted provision defining “fund” as used in this section for provision specifying payments, repayments, and reimbursements which funds from the Black Lung Disability Trust Fund would be available to pay.

Subsec. (b)(1). Pub. L. 97-119, §104(a)(2), inserted “plus interest thereon” after “attributed to him”.

Subsec. (b)(5). Pub. L. 97-119, §104(a)(1), added par. (5). 1980—Subsec. (b)(3)(A)(i). Pub. L. 96-222 substituted “Federal Mine Safety and Health Act of 1977” for “Federal Coal Mine Health and Safety Act of 1969”.

1978—Pub. L. 95-227 added subsec. (a), redesignated existing provisions constituting entire section as subsec. (b) and expanded applicability and set out procedures for enforcement of rights of United States against operators liable to the Fund.

1972—Pub. L. 92-303 substituted “widow, child, parent, brother, or sister” for “widow” wherever appearing.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 104(a)(3) of Pub. L. 97-119 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 1982, and shall apply to amounts outstanding on such date or arising thereafter.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective as if included in the provisions of Pub. L. 95-227, which amended this section effective Apr. 1, 1978, see section 108(b)(4) of Pub. L. 96-222, set out as a note under section 192 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 3(e) of Pub. L. 95-227 provided that: “This section [enacting section 934a of this title and amending this section] shall take effect on April 1, 1978.”

§ 934a. Repealed. Pub. L. 97-119, title I, § 103(b), Dec. 29, 1981, 95 Stat. 1638

Section, Pub. L. 95-227, §3(a)-(c), Feb. 10, 1978, 92 Stat. 12; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96-222, title I, §108(b)(2)(A), (3)(A), Apr. 1, 1980, 94 Stat. 226, established a Black Lung Disability Trust Fund, designated trustees for the fund, and provided for operation of the fund. See section 9501 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1982, see section 103(d)(1) of Pub. L. 97-119, set out as an Effective Date note under section 9501 of Title 26, Internal Revenue Code.

PROVISIONS RELATING TO PAYMENT OF BENEFITS TO MINERS AND ELIGIBLE SURVIVORS OF MINERS TO TAKE EFFECT AS RULES AND REGULATIONS OF SECRETARY OF LABOR

Pub. L. 95-239, §20(b), Mar. 1, 1978, 92 Stat. 106, provided that in the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits Revenue Act of 1977 [former subsec. (a) of this section], the provisions of the Act relating to the payment of

benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act [Mar. 1, 1978], shall take effect, as rules and regulations of the Secretary of Labor until such provisions are revoked, amended, or revised by law, and that the Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.

§ 935. Utilization of services of State and local agencies

With the consent and cooperation of State agencies charged with administration of State workmen's compensation laws, the Secretary may, for the purpose of carrying out his functions and duties under section 932 of this title, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may advance funds to or reimburse such State and local agencies and their employees for services rendered for such purposes.

(Pub. L. 91-173, title IV, §425, Dec. 30, 1969, 83 Stat. 798.)

§ 936. Regulations and reports**(a) Promulgation; applicability of section 553 of title 5**

The Secretary of Labor and the Secretary of Health and Human Services are authorized to issue such regulations as each deems appropriate to carry out the provisions of this subchapter. Such regulations shall be issued in conformity with section 553 of title 5, notwithstanding subsection (a) thereof.

(b) Annual reports to Congress

At the end of fiscal year 2003 and each succeeding fiscal year, the Secretary of Labor shall submit to the Congress an annual report on the subject matter of this part and part B of this subchapter. Each such report shall be prepared and submitted to Congress in accordance with the requirement with respect to submission under section 942 of title 33.

(c) Compliance with State workmen's compensation laws; conflicts between State and Federal provisions

Nothing in this subchapter shall relieve any operator of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this subchapter and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this subchapter shall not thereby be construed or held to be in conflict with the provisions of this subchapter.

(Pub. L. 91-173, title IV, §426, Dec. 30, 1969, 83 Stat. 798; Pub. L. 92-303, §5(3), May 19, 1972, 86 Stat. 155; Pub. L. 103-296, title I, §108(i)(3), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 104-66, title I, §1102(b)(2), Dec. 21, 1995, 109 Stat. 723; Pub. L. 107-275, §2(b)(4), Nov. 2, 2002, 116 Stat. 1926.)

REFERENCES IN TEXT

Section 942 of title 33, referred to in subsec. (b), was in the original “section 42 of the Longshore Harbor

Worker's Compensation Act" and was translated as reading "section 42 of the Longshore and Harbor Workers' Compensation Act" to reflect the probable intent of Congress.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-275, §2(b)(4)(A), struck out "the Commissioner of Social Security," after "The Secretary of Labor".

Subsec. (b). Pub. L. 107-275, §2(b)(4)(B), amended first sentence generally. Prior to amendment, first sentence read as follows: "At the end of each fiscal year, the Commissioner of Social Security shall submit to the Congress an annual report upon the subject matter of part B of this subchapter, and, after January 1, 1974, the Secretary of Labor shall also submit such a report upon the subject matter of this part."

1995—Subsec. (b). Pub. L. 104-66 substituted "At the end of each fiscal year, the" for "Within 120 days following the convening of each session of Congress the" and inserted at end "Each such report shall be prepared and submitted to Congress in accordance with the requirement with respect to submission under section 942 of title 33."

1994—Subsec. (a). Pub. L. 103-296, §108(i)(3)(A), substituted "the Commissioner of Social Security, and the Secretary of Health and Human Services" for "and the Secretary of Health, Education, and Welfare".

Subsec. (b). Pub. L. 103-296, §108(i)(3)(B), substituted "Commissioner of Social Security" for "Secretary of Health, Education, and Welfare".

1972—Subsec. (b). Pub. L. 92-303 substituted "January 1, 1974" for "January 1, 1973".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-275 effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

§ 937. Contracts and grants

(a) Construction, purchase, and operation of fixed-site and mobile clinical facilities

The Secretary of Health and Human Services is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

(b) Research activities

The Secretary of Health and Human Services shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory and pulmonary impairments in active and inactive coal miners. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions

and limitations as the Secretary of Health and Human Services may deem necessary in the public interest.

(c) Authorization of appropriations

There is hereby authorized to be appropriated for the purpose of subsection (a) of this section \$10,000,000 for each fiscal year. There are hereby authorized to be appropriated for the purposes of subsection (b) of this section such sums as are necessary.

(Pub. L. 91-173, title IV, §427, as added Pub. L. 92-303, §5(6), May 19, 1972, 86 Stat. 155; amended Pub. L. 95-239, §9, Mar. 1, 1978, 92 Stat. 100; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-239 substituted "\$10,000,000 for each fiscal year" for "\$10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975".

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsecs. (a) and (b) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

§ 938. Miners suffering from pneumoconiosis; discrimination prohibited

(a) Mine operators

No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Determination by Secretary; procedure

Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Each administrative law judge presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate determined under section 5372 of title 5. Upon receiving the report of such investigation,

the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Costs and penalties

Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

(Pub. L. 91-173, title IV, § 428, as added Pub. L. 92-303, § 5(7), May 19, 1972, 86 Stat. 155; amended Pub. L. 95-251, § 2(a)(9), Mar. 27, 1978, 92 Stat. 183; Pub. L. 101-509, title V, § 529 [title I, § 104(d)(3)], Nov. 5, 1990, 104 Stat. 1427, 1447.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-509 amended seventh sentence generally, substituting “determined under section 5372 of title 5” for “not less than that prescribed for GS-16 under section 5332 of title 5”.

1978—Subsec. (b). Pub. L. 95-251 substituted “administrative law judge” for “hearing examiner”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, § 305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

§ 939. Authorization of appropriations

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this subchapter. Such sums shall remain available until expended.

(Pub. L. 91-173, title IV, § 429, as added Pub. L. 92-303, § 5(8), May 19, 1972, 86 Stat. 156.)

§ 940. Applicability of amendments to part B of this subchapter to this part

The amendments made by the Black Lung Benefits Act of 1972, the Black Lung Benefits Reform Act of 1977 and the Black Lung Benefits Amendments of 1981 to part B of this subchapter shall, to the extent appropriate, also apply to this part.

(Pub. L. 91-173, title IV, § 430, as added Pub. L. 92-303, § 5(10), May 19, 1972, 86 Stat. 156; amended Pub. L. 95-239, § 10, Mar. 1, 1978, 92 Stat. 100; Pub. L. 97-119, title II, § 202(d), Dec. 29, 1981, 95 Stat. 1643.)

REFERENCES IN TEXT

The Black Lung Benefits Act of 1972, referred to in text, is Pub. L. 92-303, May 19, 1972, 86 Stat. 150, as

amended, which is classified generally to sections 901, 902, 921 to 925, 931 to 934, and 936 to 941 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

The Black Lung Benefits Reform Act of 1977, referred to in text, is Pub. L. 95-239, Mar. 1, 1978, 92 Stat. 95. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Black Lung Benefits Amendments of 1981, referred to in text, is Pub. L. 97-119, title II, Dec. 29, 1981, 95 Stat. 1643, which amended this section and sections 901, 902, 921, 922, 923, and 932 of this title and enacted provisions set out as notes under section 901 of this title. For complete classification of this Act to the Code, see Short Title of 1981 Amendment note set out under section 801 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97-119 inserted “, and the Black Lung Benefits Amendments of 1981”.

1978—Pub. L. 95-239 inserted reference to amendments made by the Black Lung Benefits Reform Act of 1977 and struck out provision that, for the purpose of determining the applicability of the presumption established by 921(c)(4) of this title to claims filed under this part, no period of employment after June 30, 1971, could be considered in determining whether a miner was employed at least fifteen years in one or more underground mines.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97-119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

§ 941. Penalty for false statements or representations

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this subchapter shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both.

(Pub. L. 91-173, title IV, § 431, as added Pub. L. 92-303, § 6, May 19, 1972, 86 Stat. 156; amended Pub. L. 95-239, § 12(a), Mar. 1, 1978, 92 Stat. 101.)

AMENDMENTS

1978—Pub. L. 95-239 substituted provisions setting the penalty for making false or misleading statements or representations for the purpose of obtaining benefits or payments for provisions relating to the Secretary's duty to disseminate to all persons who filed claims under this subchapter prior to May 19, 1972, information on the review provisions under the Black Lung Benefits Act of 1972.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

§ 942. Miner benefit entitlement reports; penalty for failure or refusal to file

(a) The Secretary may by regulation require employers to file reports concerning miners who

may be or are entitled to benefits under this part, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to pneumoconiosis of any miner to which such report relates.

(b) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than \$500 for each such failure or refusal.

(Pub. L. 91-173, title IV, § 432, as added Pub. L. 95-239, § 12(b), Mar. 1, 1978, 92 Stat. 101.)

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

§ 943. Black lung insurance program

(a) Authorization to establish and carry out

The Secretary is authorized to establish and carry out a black lung insurance program which will enable operators of coal mines to purchase insurance covering their obligations under section 932 of this title.

(b) Non-availability of other insurance coverage

The Secretary may exercise his or her authority under this section only if, and to the extent that, insurance coverage is not otherwise available, at reasonable cost, to operators of coal mines.

(c) Agreements with coal mine operators; reinsurance agreements

(1) The Secretary may enter into agreements with operators of coal mines who may be liable for the payment of benefits under section 932 of this title, under which the Black Lung Compensation Insurance Fund established under subsection (a) of this section (hereinafter in this section referred to as the "insurance fund") shall assume all or part of the liability of such operator in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund. During any period in which such agreement is in effect the operator shall be deemed in compliance with the requirements of section 933 of this title with respect to the risks covered by such agreement.

(2) The Secretary may also enter into reinsurance agreements with one or more insurers or pools of insurers under which, in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund, the insurance fund shall provide reinsurance coverage for benefits required to be paid under section 932 of this title.

(d) Terms and conditions of insurability

The Secretary may by regulation provide for general terms and conditions of insurability as applicable to operators of coal mines or insurers eligible for insurance or reinsurance under this section, including—

(1) the types, classes, and locations of operators or facilities which shall be eligible for such insurance or reinsurance;

(2) the classification, limitation, and rejection of any operator or facility which may be advisable;

(3) appropriate premiums for different classifications of operators or facilities;

(4) appropriate loss deductibles;

(5) experience rating; and

(6) any other terms and conditions relating to insurance or reinsurance coverage or exclusion which may be appropriate to carry out the purposes of this section.

(e) Premium schedule studies and investigations

The Secretary may undertake and carry out such studies and investigations, and receive or exchange such information, as may be necessary to formulate a premium schedule which will enable the insurance and reinsurance authorized by this section to be provided on a basis which is (1) in accordance with accepted actuarial principles; and (2) fair and equitable.

(f) Regulations relating to premium rates

(1) On the basis of estimates made by the Secretary in formulating a premium schedule under subsection (e) of this section, and such other information as may be available, the Secretary shall from time to time prescribe by regulation the chargeable premium rates for types and classes of insurers, operators of coal mines, and facilities for which insurance or reinsurance coverage shall be available under this section and the terms and conditions under which, and the area within which, such insurance or reinsurance shall be available and such rates shall apply.

(2) Such premium rates shall be (A) based on a consideration of the risks involved, taking into account differences, if any, in risks based on location, type of operations, facilities, type of coal, experience, and any other matter which may be considered under accepted actuarial principles; and (B) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses.

(3) All premiums received by the Secretary shall be paid into the insurance fund.

(g) Black Lung Compensation Insurance Fund

(1) The Secretary may establish in the Department of Labor a Black Lung Compensation Insurance Fund which shall be available, without fiscal year limitation—

(A) to pay claims of miners for benefits covered by insurance or reinsurance issued under this section;

(B) to pay the administrative expenses of carrying out the black lung compensation insurance program under this section; and

(C) to repay to the Secretary of the Treasury such sums as may be borrowed in accordance with the authority provided in subsection (i) of this section.

(2) The insurance fund shall be credited with—

(A) premiums, fees, or other charges which may be collected in connection with insurance or reinsurance coverage provided under this section;

(B) such amounts as may be advanced to the insurance fund from appropriations in order to maintain the insurance fund in an operative condition adequate to meet its liabilities; and

(C) income which may be earned on investments of the insurance fund pursuant to paragraph (3).

(3) If, after all outstanding current obligations of the insurance fund have been liquidated and any outstanding amounts which may have been advanced to the insurance fund from appropriations authorized under subsection (i) of this section have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the insurance fund are in excess of current needs, he or she may request the investment of such amounts as he or she deems advisable by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the insurance fund and bearing interest at prevailing market rates.

(h) Omitted

(i) Authorization of appropriations

There are authorized to be appropriated to the insurance fund, as repayable advances, such sums as may be necessary to meet obligations incurred under subsection (g) of this section. All such sums shall remain available without fiscal year limitation. Advances made pursuant to this subsection shall be repaid, with interest, to the general fund of the Treasury when the Secretary determines that moneys are available in the insurance fund for such repayments. Interest on such advances shall be computed in the same manner as provided in subsection (b)(2) of section 934a¹ of this title.

(Pub. L. 91-173, title IV, § 433, as added Pub. L. 95-239, § 13, Mar. 1, 1978, 92 Stat. 101.)

REFERENCES IN TEXT

Section 934a of this title, referred to in subsec. (i), was repealed by Pub. L. 97-119, title I, § 103(b), Dec. 29, 1981, 95 Stat. 1638. See section 9501(c) of Title 26, Internal Revenue Code.

CODIFICATION

Subsec. (h) of this section, which required the Secretary to report to Congress not later than April 1 of each year on the financial condition and operation of the insurance fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 124 of House Document No. 103-7.

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

§ 944. Statement of reasons for denial of claim

Any individual whose claim for benefits under this subchapter is denied shall receive from the Secretary a written statement of the reasons for denial of such claim, and a summary of the administrative hearing record or, upon good cause shown, a copy of any transcript thereof.

(Pub. L. 91-173, title IV, § 434, as added Pub. L. 95-239, § 14, Mar. 1, 1978, 92 Stat. 103.)

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

¹ See References in Text note below.

§ 945. Repealed. Pub. L. 107-275, § 2(c)(1), Nov. 2, 2002, 116 Stat. 1926

Section, Pub. L. 91-173, title IV, § 435, as added Pub. L. 95-239, § 15, Mar. 1, 1978, 92 Stat. 103; amended Pub. L. 103-296, title I, § 108(i)(4), Aug. 15, 1994, 108 Stat. 1488, related to review of claims pending on, or denied on or before, Mar. 1, 1978.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107-275, set out as an Effective Date of 2002 Amendment note under section 902 of this title.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

§ 951. Studies and research

(a) Appropriate projects

The Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, shall conduct such studies, research, experiments, and demonstrations as may be appropriate—

(1) to improve working conditions and practices in coal or other mines, and to prevent accidents and occupational diseases originating in the coal or other mining industry;

(2) to develop new or improved methods of recovering persons in coal or other mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground area of a coal or other mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal or other mine;

(5) to develop epidemiological information to (A) identify and define positive factors involved in occupational diseases of miners, (B) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of miners, and (C) improve mandatory health standards;

(6) to develop techniques for the prevention and control of occupational diseases of miners, including tests for hypersusceptibility and early detection;

(7) to evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease;

(8) to prepare and publish from time to time, reports on all significant aspects of occupational diseases of miners as well as on the medical aspects of injuries, other than diseases, which are revealed by the research carried on pursuant to this subsection;

(9) to study the relationship between coal or other mine environments and occupational diseases of miners;

(10) to develop new and improved underground equipment and other sources of power for such equipment which will provide greater safety;

(11) to determine, upon the written request by any operator or authorized representative of miners, specifying with reasonable particularity the grounds upon which such request is made, whether any substance normally found in a coal or other mine has potentially toxic