

Employment Standards Administration, Labor

§ 726.2

- 726.6 The Office of Workers' Compensation Programs.
- 726.7 Forms, submission of information.
- 726.8 Definitions.

Subpart B—Authorization of Self-Insurers

- 726.101 Who may be authorized to self-insure.
- 726.102 Application for authority to become a self-insurer; how filed; information to be submitted.
- 726.103 Application for authority to self-insure; effect of regulations contained in this part.
- 726.104 Action by the Office upon application of operator.
- 726.105 Fixing the amount of security.
- 726.106 Type of security.
- 726.107 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; authority to sell such securities; interest thereon.
- 726.108 Withdrawal of negotiable securities.
- 726.109 Increase or reduction in the amount of security.
- 726.110 Filing of agreement and undertaking.
- 726.111 Notice of authorization to self-insure.
- 726.112 Reports required of self-insurer; examination of accounts of self-insurer.
- 726.113 Disclosure of confidential information.
- 726.114 Period of authorization as self-insurer; reauthorization.
- 726.115 Revocation of authorization to self-insure.

Subpart C—Insurance Contracts

- 726.201 Insurance contracts—generally.
- 726.202 Who may underwrite an operator's liability.
- 726.203 Federal Coal Mine Health and Safety Act endorsement.
- 726.204 Statutory policy provisions.
- 726.205 Other forms of endorsement and policies.
- 726.206 Terms of policies.
- 726.207 Discharge by the carrier of obligations and duties of operator.

REPORTS BY CARRIER

- 726.208 Report by carrier of issuance of policy or endorsement.
- 726.209 Report; by whom sent.
- 726.210 Agreement to be bound by report.
- 726.211 Name of one employer only shall be given in each report.
- 726.212 Notice of cancellation.
- 726.213 Reports by carriers concerning the payment of benefits.

Subpart D—Civil Money Penalties

- 726.300 Purpose and scope.

- 726.301 Definitions.
- 726.302 Determination of penalty.
- 726.303 Notification; investigation.
- 726.304 Notice of initial assessment.
- 726.305 Contents of notice.
- 726.306 Finality of administrative assessment.
- 726.307 Form of notice of contest and request for hearing.
- 726.308 Service and computation of time.
- 726.309 Referral to the Office of Administrative Law Judges.
- 726.310 Appointment of Administrative Law Judge and notification of hearing date.
- 726.311 Evidence.
- 726.312 Burdens of proof.
- 726.313 Decision and Order of Administrative Law Judge.
- 726.314 Review by the Secretary.
- 726.315 Contents.
- 726.316 Filing and service.
- 726.317 Discretionary review.
- 726.318 Final decision of the Secretary.
- 726.319 Retention of official record.
- 726.320 Collection and recovery of penalty.

AUTHORITY: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 30 U.S.C. 901 *et seq.*, 902(f), 925, 932, 933, 934, 936, 945; 33 U.S.C. 901 *et seq.*, Secretary's Order 7-87, 52 FR 48466, Employment Standards Order No. 90-02.

SOURCE: 65 FR 80097, Dec. 20, 2000, unless otherwise noted.

Subpart A—General

§ 726.1 Statutory insurance requirements for coal mine operators.

Section 423 of title IV of the Federal Coal Mine Health and Safety Act as amended (hereinafter the Act) requires each coal mine operator who is operating or has operated a coal mine in a State which is not included in the list published by the Secretary (see part 722 of this subchapter) to secure the payment of benefits for which he may be found liable under section 422 of the Act and the provisions of this subchapter by either:

- (a) Qualifying as a self-insurer, or
- (b) By subscribing to and maintaining in force a commercial insurance contract (including a policy or contract procured from a State agency).

§ 726.2 Purpose and scope of this part.

- (a) This part provides rules directing and controlling the circumstances under which a coal mine operator shall fulfill his insurance obligations under the Act.

§ 726.3

20 CFR Ch. VI (4-1-10 Edition)

(b) This Subpart A sets forth the scope and purpose of this part and generally describes the statutory framework within which this part is operative.

(c) Subpart B of this part sets forth the criteria a coal mine operator must meet in order to qualify as a self-insurer.

(d) Subpart C of this part sets forth the rules and regulations of the Secretary governing contracts of insurance entered into by coal mine operators and commercial insurance sources for the payment of black lung benefits under part C of the Act.

(e) Subpart D of this part sets forth the rules governing the imposition of civil money penalties on coal mine operators that fail to secure their liability under the Act.

§ 726.3 Relationship of this part to other parts in this subchapter.

(a) This part 726 implements and effectuates responsibilities for the payment of black lung benefits placed upon coal mine operators by sections 415 and 422 of the Act and the regulations of the Secretary in this subchapter, particularly those set forth in part 725 of this subchapter. All definitions, usages, procedures, and other rules affecting the responsibilities of coal mine operators prescribed in part 725 of this subchapter are hereby made applicable, as appropriate, to this part 726.

(b) If the provisions of this part appear to conflict with any provision of any other part in this subchapter, the apparently conflicting provisions should be read harmoniously to the fullest extent possible. If a harmonious interpretation is not possible, the provisions of this part should be applied to govern the responsibilities and obligations of coal mine operators to secure the payment of black lung benefits as prescribed by the Act. The provisions of this part do not apply to matters falling outside the scope of this part.

§ 726.4 Who must obtain insurance coverage.

(a) Section 423 of part C of title IV of the Act requires each operator of a coal mine or former operator in any State which does meet the requirements pre-

scribed by the Secretary pursuant to section 411 of part C of title IV of the Act to self-insure or obtain a policy or contract of insurance to guarantee the payment of benefits for which such operator may be adjudicated liable under section 422 of the Act. In enacting sections 422 and 423 of the Act Congress has unambiguously expressed its intent that coal mine operators bear the cost of providing the benefits established by part C of title IV of the Act. Section 3 of the Act defines an "operator" as any owner, lessee, or other person who operates, controls, or supervises a coal mine.

(b) Section 422(i) of the Act clearly recognizes that any individual or business entity who is or was a coal mine operator may be found liable for the payment of pneumoconiosis benefits after December 31, 1973. Within this framework it is clear that the Secretary has wide latitude for determining which operator shall be liable for the payment of part C benefits. Comprehensive standards have been promulgated in subpart G of part 725 of this subchapter for the purpose of guiding the Secretary in making such determination. It must be noted that pursuant to these standards any parent or subsidiary corporation, any individual or corporate partner, or partnership, any lessee or lessor of a coal mine, any joint venture or participant in a joint venture, any transferee or transferor of a corporation or other business entity, any former, current, or future operator or any other form of business entity which has had or will have a substantial and reasonably direct interest in the operation of a coal mine may be determined liable for the payment of pneumoconiosis benefits after December 31, 1973. The failure of any such business entity to self-insure or obtain a policy or contract of insurance shall in no way relieve such business entity of its obligation to pay pneumoconiosis benefits in respect of any case in which such business entity's responsibility for such payments has been properly adjudicated. Any business entity described in this section shall take appropriate steps to insure that any liability imposed by part C of the Act on such business entity shall be dischargeable.