

paragraph (2) that no error occurred, the Commissioner shall notify the assigned operator.

**(4) Determinations**

Any determination by the Commissioner of Social Security under paragraph (2) or (3) shall be final.

**(5) Payment pending review**

An assigned operator shall pay the premiums under section 9704 pending review by the Commissioner of Social Security or by a court under this subsection.

**(6) Private actions**

Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Commissioner.

**(g) Confidentiality of information**

Any person to which information is provided by the Commissioner of Social Security under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

**(h) Assignments as of October 1, 2007**

**(1) In general**

Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and

(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

**(2) Reassignment upon purchase**

This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

**(3) Liability of persons during three fiscal years beginning on and after October 1, 2007**

In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

(A) For the fiscal year beginning on October 1, 2007, 55 percent.

(B) For the fiscal year beginning on October 1, 2008, 40 percent.

(C) For the fiscal year beginning on October 1, 2009, 15 percent.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3047; amended Pub. L. 103-296,

title I, § 108(h)(9)(B), Aug. 15, 1994, 108 Stat. 1487; Pub. L. 109-432, div. C, title II, § 212(a)(3), Dec. 20, 2006, 120 Stat. 3025.)

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as added by section 19143(a) of Pub. L. 102-486, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2006—Subsec. (h). Pub. L. 109-432 added subsec. (h).

1994—Subsecs. (a), (c) to (g). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”, “Commissioner” for “Secretary”, and “Commissioner’s” for “Secretary’s”, wherever appearing in text.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable to plan years of the Combined Fund beginning after Sept. 30, 2006, see section 212(a)(4) of Pub. L. 109-432, set out as a note under section 9704 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 III—ENFORCEMENT

Sec.  
9707. Failure to pay premium.

**§ 9707. Failure to pay premium**

**(a) Failures to pay**

**(1) Premiums for eligible beneficiaries**

There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

**(2) Contributions required under the mining laws**

There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.

**(b) Amount of penalty**

The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be \$100 per day in the noncompliance period with respect to any such failure.

**(c) Noncompliance period**

For purposes of this section, the term “noncompliance period” means, with respect to any failure to pay any premium or installment thereof, the period—

(1) beginning on the due date for such premium or installment, and