

**(g) Inapplicability to certain employments**

(1) The provisions of this section shall not apply in the case of any employment relating to the operations for the exploration, production, or transportation by pipeline of mineral resources upon the navigable waters of the United States, nor under the authority of the Act of August 7, 1953 (ch. 345, 67 Stat. 462) [43 U.S.C. 1331 et seq.], nor in the case of any employment in connection with lands (except filled in, made or reclaimed lands) beneath the navigable waters as defined in the Act of May 22, 1953 (ch. 65, 67 Stat. 29) [43 U.S.C. 1301 et seq.], nor in the case of any employment for which compensation in case of disability or death is provided for employees under the authority of the Act of May 17, 1928 (ch. 612, 45 Stat. 600), as amended, nor under the authority of the Act of August 16, 1941 (ch. 357, 55 Stat. 622), as amended [42 U.S.C. 1651 et seq.].

(2) The provisions of this section, with the exception of paragraph (1) of subsection (b), shall not be applied under the authority of subchapter I of chapter 81 of title 5.

(Mar. 4, 1927, ch. 509, §41, 44 Stat. 1444; Pub. L. 85-742, §1, Aug. 23, 1958, 72 Stat. 835; Pub. L. 97-375, title I, §110(b), Dec. 21, 1982, 96 Stat. 1820.)

## REFERENCES IN TEXT

Title 52 of the Revised Statutes, referred to in subsec. (a), consisted of R.S. §§4399 to 4500, which were classified to sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 371 to 373, 375 to 382, 384, 385, 391, 391a, 392 to 394, 399 to 404, 405 to 416, 435 to 440, 451 to 453, 460, 461 to 463, 464, 466, 467 to 482, and 489 to 498 of former Title 46, Shipping. For complete classification of R.S. §§4399 to 4500 to the Code, see Tables. A majority of such sections of the Revised Statutes were repealed and various provisions thereof were reenacted in Title 46, Shipping, by Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 500. For disposition of sections of former Title 46 into revised Title 46, see Disposition Table preceding section 101 of Title 46.

Act of June 15, 1917, referred to in subsec. (a), is act June 15, 1917, ch. 30, 40 Stat. 217, as amended. For complete classification of this Act to the Code, see Tables.

Act of August 7, 1953, referred to in subsec. (g)(1), is known as the Outer Continental Shelf Lands Act, and is classified to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of May 22, 1953, referred to in subsec. (g)(1), is known as the Submerged Lands Act, and is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

Act of May 17, 1928, referred to in subsec. (g)(1), extended the applicability of this chapter in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia.

Act of August 16, 1941, referred to in subsec. (g)(1), is known as the Defense Base Act and is classified generally to chapter 11 (§1651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 42 and Tables.

## CODIFICATION

In subsec. (b)(5), “subsections (b) to (f) of section 6507 of title 41” substituted for “section 5 of the Act of June 30, 1936 (ch. 881, 49 Stat. 2036), as amended,” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (d) “section 552 of title 5” substituted for “section 3 of the Administrative Procedure Act (ch. 324, 60 Stat. 237), as amended”, and in subsec. (g)(2) “subchapter I of chapter 81 of title 5” substituted for “the Act of September 7, 1916 (ch. 458, 39 Stat. 742), as amended”, on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Said section 3 of the Administrative Procedure Act had been classified to section 1002 of former Title 5, Executive Departments and Government Officers and Employees. Said act of Sept. 7, 1916, was known as the “Federal Employees’ Compensation Act” and had been classified to section 751 et seq. of former Title 5.

As originally enacted, subsec. (e) contained the phrase “, together with the District Court for the Territory of Alaska,” following “the United States district courts”. The phrase has been deleted as superfluous in view of Pub. L. 85-508, July 7, 1958, 72 Stat. 339 (set out as a note preceding section 21 of Title 48, Territories and Insular Possessions) which admitted Alaska into the union and enacted section 81A of Title 28, Judiciary and Judicial Procedure, constituting Alaska as one judicial district and in view of section 132 of Title 28 which provides that: “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.”

## AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97-375 struck out “and from time to time make to Congress such recommendations as he may deem proper as to the best means of preventing such injuries” after “by this chapter”.

1958—Pub. L. 85-742 amended section generally and, among other changes, empowered the Secretary of Labor to prescribe, by regulation or order, safety rules for the furnishing and maintenance of safe places of employment and for the installation, furnishing and maintenance of safety devices and safeguards, authorized the Secretary to provide for the establishment and supervision of safety programs, permitted the inspection of places of employment and investigation of employment conditions and practices, granted jurisdiction to the district courts to restrain violations of this section or of any rules, regulations or orders of the Secretary, and to prescribe penalties for violations.

## “SECRETARY” DEFINED

Pub. L. 85-742, §2, Aug. 23, 1958, 72 Stat. 837, provided that: “The term ‘Secretary’ as used in this Act and in amendments made by this Act [to this section] means the Secretary of Labor.”

**§ 942. Annual report**

The Secretary shall make to Congress at the end of each fiscal year,<sup>1</sup> a report of the administration of this chapter for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the fund established in section 944 of this title, together with such recommendations as the Secretary deems advisable. Such report shall include the annual report required under section 936(b) of title 30 and shall be identified as the Annual Report of the Office of Workers’ Compensation Programs.

(Mar. 4, 1927, ch. 509, §42, as added Pub. L. 98-426, §23, Sept. 28, 1984, 98 Stat. 1653; amended Pub. L. 104-66, title I, §1102(b)(1), Dec. 21, 1995, 109 Stat. 722.)

## PRIOR PROVISIONS

A prior section 942, act Mar. 4, 1927, ch. 509, §42, 44 Stat. 1444, related to travel and subsistence expenses.

<sup>1</sup> So in original. The comma probably should not appear.

See section 5701 et seq. of Title 5, Government Organization and Employees.

#### AMENDMENTS

1995—Pub. L. 104-66 substituted “end of each fiscal year” for “beginning of each regular session, commencing at the beginning of the second regular session after September 28, 1984” and inserted at end “Such report shall include the annual report required under section 936(b) of title 30 and shall be identified as the Annual Report of the Office of Workers’ Compensation Programs.”

#### EFFECTIVE DATE

Section effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98-426, set out as an Effective Date of 1984 Amendment note under section 901 of this title.

#### § 943. Repealed. Pub. L. 89-348, § 1(15), Nov. 8, 1965, 79 Stat. 1311

Section, act Mar. 4, 1927, ch. 509, § 43, 44 Stat. 1444, required Secretary to make a report to Congress at beginning of each regular session of the administration of this chapter for preceding fiscal year, including a detailed statement of receipts of and expenditures from funds established in sections 944 and 945 of this title.

#### § 944. Special fund

##### (a) Establishment; administration; custody, trust

There is established in the Treasury of the United States a special fund. Such fund shall be administered by the Secretary. The Treasurer of the United States shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be money or property of the United States.

##### (b) Disbursements; bond of custodian

The Treasurer is authorized to disburse moneys from such fund only upon order of the Secretary. He shall be required to give bond in an amount to be fixed and with securities to be approved by the Secretary of the Treasury and the Comptroller General of the United States conditioned upon the faithful performance of his duty as custodian of such fund.

##### (c) Payments into fund

Payments into such fund shall be made as follows:

(1) Whenever the Secretary determines that there is no person entitled under this chapter to compensation for the death of an employee which would otherwise be compensable under this chapter, the appropriate employer shall pay \$5,000 as compensation for the death of such an employee.

(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and the amount of payments required (and the schedule therefor) to maintain adequate reserves in the fund. Each carrier and self-insurer shall make payments into the fund on a prorated assessment by the Secretary determined by—

(A) computing the ratio (expressed as a percent) of (i) the carrier’s or self-insured’s workers’ compensation payments under this chapter during the preceding calendar year, to (ii) the total of such payments by all carriers and self-insureds under this chapter during such year;

(B) computing the ratio (expressed as a percent) of (i) the payments under section 908(f) of this title during the preceding calendar year which are attributable to the carrier or self-insured, to (ii) the total of such payments during such year attributable to all carriers and self-insureds;

(C) dividing the sum of the percentages computed under subparagraphs (A) and (B) for the carrier or self-insured by two; and

(D) multiplying the percent computed under subparagraph (C) by such probable expenses of the fund (as determined under the first sentence of this paragraph).

(3) All amounts collected as fines and penalties under the provisions of this chapter shall be paid into such fund.

##### (d) Investigations; records, availability; record-keeping; provisions of sections 49 and 50 of title 15 applicable to Secretary

(1) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 49 and 50 of title 15 (relating to the attendance of witnesses and the production of books, papers, and documents) are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

##### (e) Depositories; investments

The Treasurer of the United States shall deposit any moneys paid into such fund into such depository banks as the Secretary may designate and may invest any portion of the funds which, in the opinion of the Secretary, is not needed for current requirements, in bonds or notes of the United States or of any Federal land bank.

##### (f) Limitation of liability

Neither the United States nor the Secretary shall be liable in respect of payments authorized under section 908 of this title in an amount greater than the money or property deposited in or belonging to such fund.

##### (g) Audit by Comptroller General; finality of payment determinations; credits of disbursing officers

The Comptroller General of the United States shall audit the account for such fund, but the action of the Secretary in making payments from such fund shall be final and not subject to