

**(d) Requests for advice; variations from safety rules and regulations**

Any employer may request the advice of the Secretary or his authorized representative, in complying with the requirements of any rule or regulation adopted to carry out the provisions of this section. In case of practical difficulties or unnecessary hardships, the Secretary in his discretion may grant variations from any such rule or regulation, or particular provisions thereof, and permit the use of other or different devices if he finds that the purpose of the rule or regulation will be observed by the variation and the safety of employees will be equally secured thereby. Any person affected by such rule or regulation, or his agent, may request the Secretary to grant such variation, stating in writing the grounds on which his request is based. Any authorization by the Secretary of a variation shall be in writing, shall describe the conditions under which the variation shall be permitted, and shall be published as provided in section 552 of title 5. A properly indexed record of all variations shall be kept in the office of the Secretary and open to public inspection.

**(e) Jurisdiction to restrain violations**

The United States district courts shall have jurisdiction for cause shown, in any action brought by the Secretary, represented as provided in section 921a of this title, to restrain violations of this section or of any rule, regulation, or order of the Secretary adopted to carry out the provisions of this section.

**(f) Violations and penalties**

Any employer who, willfully, violates or fails or refuses to comply with the provisions of subsection (a) of this section, or with any lawful rule, regulation, or order adopted to carry out the provisions of this section, and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of this section by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of this section, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$100 nor more than \$3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than \$100 nor more than \$3,000. The liability hereunder shall not affect any other liability of the employer under this chapter.

**(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) of this section, 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 Table at beginning 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 1331 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. (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

Section 2 of Pub. L. 85-742 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.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 7902; title 30 section 932.

### § 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. 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 sec-

tion 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 944 of this title; title 5 section 8152; title 30 section 936.

### § 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 cal-

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