Amend

4123-21-01 Procedures for subscription to the coal-workers' pneumoconiosis fund.

(A) As used in sections 4131.01 to 4131.06 of the Revised Code, "operator" and "operator of a coal mine" have the same meaning as "operator" as defined in the "Federal Coal Mine Health and Safety Act of 1969," 83 Stat. 742, 30 U.S.C. 801 et seq., as now or hereafter amended, and as implemented by the regulations of the secretary of labor under Title IV of the act, who, by reason of operations within the territorial boundaries of Ohio is amenable to Title IV of the act, including claims reviewed and allowed under 30 U.S.C. 945. Any operator as herein defined may elect to become a subscriber as defined in division (D) of section 4131.01 of the Revised Code by applying for coverage and paying the premiums required in this chapter.

(B) An employer wishing to subscribe to the coal-workers' pneumoconiosis fund shall complete an application for subscription, which shall be provided by the bureau of workers' compensation. No disposition shall be made of any such application until the same is complete, and no such application shall be deemed complete until all information requested by the bureau in connection therewith is supplied. On reasonable advance notice, the applicant shall provide the bureau with access to all records pertinent to the application for subscription. The administrator of workers' compensation has the authority to accept or reject an application for subscription to the coal-workers' pneumoconiosis fund.

(C) Employers who are active subscribers to the coal-workers' pneumoconiosis fund on the date of adoption of these rules shall not be required to reapply for coverage. However, renewal of the subscription to the fund thereafter shall be deemed acceptance of the terms, conditions and duties contained in ~~these rules~~ Chapter 4123-21 of the Administrative Code.

Amend

4123-21-02 Determination of coverage.

(A) An employer whose application for subscription to the coal-workers' pneumoconiosis fund has been approved by the administrator of workers' compensation shall be issued a coal-workers' pneumoconiosis fund insurance policy upon payment of the initial premium required for such policy.

(B) Coverage under a coal-workers' pneumoconiosis fund insurance policy shall not be effective until the initial premium is received by the bureau of workers' compensation or its designee.

(C) Any policy of insurance issued by the coal-workers' pneumoconiosis fund shall expire at midnight on the expiration date stated on the face of the policy. Any such policy may be renewed by payment of the renewal premium. Payment of renewal premium ~~within sixty days after the stated expiration date~~ in accordance with rule 4123-21-03 of the Administrative Code shall be effective to continue the coverage of the insured.

(D) Coverage with respect to claims filed on or after the effective date of this rule will be afforded in claims where the claimant's last exposure to the conditions causing the disease occurs both while in the employment of the subscriber and during a period of active subscription to the coal-workers' pneumoconiosis fund.

Amend

4123-21-03 Premium payment.

(A) ~~Premiums for coal-workers' pneumoconiosis insurance coverage shall be payable in semiannual installments.~~ When the initial application for coverage is received and accepted, the applicant shall be billed initial premium based upon its estimated gross annual payroll reported to the bureau of workers' compensation for state insurance fund purposes in all appropriate job classifications. For the policy year commencing July 1, 2019, premiums for coal workers' pneumoconiosis insurance coverage shall be payable in annual installments. An employer whose premiums are above the minimum administrative charge may change to semi-annual installments upon request. An employer must make the request no later than April first preceding the policy year.

(B) The initial premium required for issuance of a new coal-workers' pneumoconiosis fund insurance policy shall be an advance deposit sufficient to cover premiums for ~~an eight-month~~ a twelve-month period, unless semi-annual installments were selected. ~~After every payroll reporting period, this advance premium deposit shall be reviewed for adequacy. If the current deposit is not sufficient, the company shall be billed for the difference. If the current deposit is more than required, a refund shall be made to the subscriber for the difference~~. If an employer elects semi-annual installments, the premium required for issuance shall be an advance deposit equal to one-half of the premium for a twelve-month period.

(C) ~~Renewal~~ Annual renewal premiums shall be due and payable ~~sixty days after the expiration of the last semiannual period for which prepaid premium has been submitted~~ no later than April thirtieth of each year. Semi-annual installment renewal premiums shall be due and payable by April thirtieth and October thirty-first of each year. ~~Provided, however, that to prevent~~ Where applicable, the coal workers' pneumoconiosis fund shall provide the notice of impending cancellation required by paragraph (B) of rule 4123-21-07 of the Administrative Code~~, payment must be received no later than thirty days after the expiration date referred to above~~ on or before May twenty-sixth of each year, for annual installments and on or before November twenty-sixth where an employer fails to make its semi-annual installment payment. The premium required for renewal for the next ~~semiannual~~ annual period shall be determined in accordance with the provisions of paragraphs (A) and (B) of this rule. However, the administrator of workers' compensation, subject to the approval of the bureau of workers' compensation board of directors, may by ~~resolution~~ rule establish a minimum ~~semiannual~~ annual premium, payment of which shall be a condition to continuation of coverage.

(D) A subscriber whose required advance premium deposit is over ~~three~~ ten thousand dollars may satisfy the provisions of this rule by submitting a ~~surety bond~~ letter of credit for the amount over ~~three~~ ten thousand dollars. The first ~~three~~ ten thousand dollars, however, must be deposited in cash. ~~Surety bonds~~ A letter of credit provided for in this rule shall be renewed annually, based upon the subscriber's current requirements.

(E) Upon cancellation of coverage other than by default, any premiums due through the date of cancellation shall be deducted from the advance premium deposit and the balance shall be refunded to the former subscriber.

(F) ~~A subscriber to the coal-workers' pneumoconiosis fund who ceases operations in the extraction, transportation, or processing of coal but continues as a business entity, may retain coal-workers' pneumoconiosis fund coverage by the continued payments of premiums at reduced rates, depending on the number of years of non-operating subscription. The administrator, subject to the approval of the bureau of workers' compensation board of directors, shall periodically fix the method of computation of such reduced~~

~~premiums by rule.~~

DRAFT - NOT FOR FILING

4123-21-04 ~~Payroll~~ Notice of estimated premium, payroll reporting and reconciliation of premium due.

(A) ~~All employers insured by the coal workers' pneumoconiosis fund shall, at such intervals as may be required by the bureau of workers' compensation, submit payroll showing the number of persons employed in occupations covered by the coal workers' pneumoconiosis fund insurance policy and the total payroll for each manual classification in use by the coal workers' pneumoconiosis fund applicable to the insured~~The bureau shall provide employers a notice of estimated premium due no later than March first preceding the policy year for all policy years commencing on or after July 1, 2019 . BWC will estimate annual premium based on payroll from the most recently completed policy year.

The notice shall include all the following:

(1) The estimated payroll used by the coal workers' pneumoconiosis fund to calculate the employer's estimated premium due;

(2) The manual classification(s) in use by the coal workers' pneumoconiosis fund in which the employer's payroll is segregated and the base rates for each of the manual classifications identified;

(3) The employer's estimated premium due for the applicable policy year.

The employer may revise the estimated payroll amount used to calculate estimated premium due for the policy year for good cause shown, as determined by bureau policy specific to the coal workers pneumoconiosis fund. Requests will not be accepted to revise payroll after April first preceding the policy year.

(B) ~~Prior to the expiration of the then current coverage period the bureau or its designee shall mail the insured a report form. The insured shall return the report form, which shall include a statement of the insured's actual payroll in each appropriate manual classification for the prior six months, together with the premium due thereon~~At the conclusion of each policy year, the bureau or its designee shall mail the insured a payroll report. The insured shall return the payroll report, which shall include a statement of the insured's actual payroll and the number of employees employed within each of the insured's assigned manual classifications for the prior policy period.

(1) The report shall contain the premium payment total based on the estimated gross payroll;

(2) The payroll report shall reconcile the premium difference between the estimated payroll and the actual payroll;

(3) The payroll report must be filed by and any balance due the coal workers' pneumoconiosis fund paid by August fifteenth following the conclusion of the policy year. Any balance due the employer shall be credited to the insured;

(4) If the employer fails to submit the final payroll report, the bureau will not lapse the employer's coverage. The bureau will increase by ten percent the estimated premium and bill the employer. The bureau will certify the premium balance to the Attorney General (AG) seventy-five days after the due date if not paid. The bureau may cancel coverage for the subsequent renewal period for failure to submit the final payroll report.

(C) Officers of a corporation, partners, or sole proprietors who engage in work activity directly related to the extraction, processing or transportation of coal shall report their remuneration to the coal-workers' pneumoconiosis fund. Reporting of officers', partners' or proprietors' remuneration shall be a condition precedent to the extension of coal-workers' pneumoconiosis fund coverage to such individuals as claimants.

(D) No provision of this rule shall be construed to limit in any way the right of the bureau or its designee to audit the payroll records of the insured or to make adjustments based upon the findings of such audits.

No Change

4123-21-05 Audit and inspections.

(A) At any time during the term of any coal-workers' pneumoconiosis fund insurance policy, and for a period of two years after the termination of any such policy, the bureau of workers' compensation shall have the right to make reasonable inspections of any records, payrolls, books of account, ledgers or contracts which reflect upon the payroll expenditures of the insured, or the allocation of such payroll expenditures to the appropriate manual classifications.

(B) Refusal on the part of the insured to permit reasonable audits, or willful interference by the insured with the bureau carrying out any audit or inspection, shall be sufficient reason for cancellation of the coal-workers' pneumoconiosis fund coverage of the insured.

(C) If any audit or inspection reveals a discrepancy in the amount of premium paid by the insured for any period, the bureau shall adjust the account of the insured in accordance with the audit findings.

Amend

4123-21-06 Default, retroactive coverage.

(A) Payment of a renewal premium received ~~more than sixty days~~ after the expiration date shall be ineffective to continue the coverage of the insured employer.

(B) The administrator of workers' compensation may, upon request, and for good cause shown:

(1) Approve the original black lung coverage to take effect retroactively, upon payment of past due premiums, interest thereon, and such other terms, conditions or exclusions as the administrator may find appropriate; or

(2) Approve retroactive coverage for cancelled periods, upon payment of past due premiums, interest thereon, and with such other terms, conditions, or exclusions as the administrator may find appropriate.

(C) Such request shall be in writing. It shall be properly signed in handwriting by the employer concerned or by its duly authorized representative. The reason for the relief sought shall be fully explained. Unsigned requests shall be held in abeyance until they are properly completed, and the applicant shall be notified accordingly.

(D) The administrator may refer all such requests to the adjudicating committee, appointed by the administrator of workers' compensation, for a determination pursuant to rule 4123-14-06 of the Administrative Code.

No Change

4123-21-07 Effect of cancelled subscription.

(A) No coverage will be extended to an operator whose subscription has been cancelled, except:

(1) In the case of a successor operator who immediately applies for coverage effective the day following cancellation of the prior operator's coverage pursuant to rule 4123-21-01 of the Administrative Code, and

(2) In the case described in paragraph (E) of rule 4123-21-02 of the Administrative Code.

(B) Thirty days prior to cancellation of an operator's subscription, the bureau shall notify the defaulting operator and the United States department of labor of the impending cancellation.

(C) An operator whose subscription has been cancelled may apply for reinstatement at any time, provided that such application shall be governed by rules 4123-21-01 and 4123-21-02 of the Administrative Code.

No Change

4123-21-08 Controversion of claims.

(A) The bureau of workers' compensation is authorized under regulations promulgated by the United States department of labor to act as an insurance carrier with respect to liabilities created by Title IV of the "Federal Coal Mine Health and Safety Act of 1969," as amended. In this capacity, it is recognized under applicable provisions of federal law and regulations as a party in interest to all proceedings regarding claims filed against employers insured by said fund.

(B) All notices of claims received from employers insured by the coal-workers' pneumoconiosis fund, and all notices of claims received from the department of labor shall be promptly reviewed by the bureau. The administrator or the administrator's designee shall be authorized to file notices of controversion in the name of the coal-workers' pneumoconiosis fund, in all cases wherein such action is warranted by the facts of the case or the law applicable to such facts.

(C) In any controverted claim, the administrator or designee is authorized to represent the interest of the coal-workers' pneumoconiosis fund in all proceedings pertinent to the controverted claim. This rule shall not be construed to limit or preclude a subscriber from obtaining private counsel to represent it in such claims and expenses thereby incurred shall be the responsibility of the subscriber.

(D) Expenses in connection with the controversion of claims by the coal-workers' pneumoconiosis fund shall be charged to the coal-workers' pneumoconiosis fund.