

GAO@100 Highlights

Highlights of [GAO-22-105546](#), a testimony before the Committee on Education and Labor, Subcommittee on Workforce Protections, House of Representatives

Why GAO Did This Study

The Trust Fund, which pays benefits to coal miners disabled due to black lung, faces financial challenges. It has borrowed from the U.S. Treasury's general fund almost every year since 1979 to make needed expenditures. In February 2020, GAO found that DOL's limited oversight of coal mine operator insurance exposed the Trust Fund to additional financial risk.

This testimony is based on reports GAO issued in [2020](#) and [2018](#). GAO found in 2020 that in overseeing coal operator self-insurance DOL did not (1) estimate future benefit liability when setting the amount of collateral required to self-insure, (2) regularly review operators to assess whether the required amount of collateral should change, or (3) always take action to protect the Trust Fund by revoking an operator's ability to self-insure as appropriate.

To obtain updated information for this hearing statement, GAO interviewed DOL officials in November 2021 and reviewed agency documentation.

What GAO Recommends

DOL agreed with the recommendations made in GAO's 2020 report that DOL should establish procedures for self-insurance renewals and coal operator appeals. Doing so could better position DOL to take action to protect the Trust Fund should an operator not submit its renewal application or comply with DOL's collateral requirements. In addition, appeals procedures could help ensure that DOL is able to revoke an operator's ability to self-insure, when warranted. Both recommendations remain open.

View [GAO-22-105546](#). For more information, contact Thomas Costa at (202) 512-4769 or costat@gao.gov.

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BLACK LUNG BENEFITS PROGRAM

Continued Inaction on Coal Operator Self-Insurance Increases Financial Risk to Trust Fund

What GAO Found

The Department of Labor (DOL) took initial steps to implement GAO's recommendations to improve its oversight of self-insured coal mine operators, but its reform effort was hindered by the COVID-19 pandemic and a review of the program by the current administration, according to DOL officials. Black lung benefits are generally paid by liable coal mine operators, and federal law generally requires coal mine operators to secure their black lung benefit liability. Operators are allowed to self-insure if they meet certain DOL conditions. The federal government's Black Lung Disability Trust Fund (Trust Fund) pays benefits when no responsible mine operator can be identified or the liable mine operator does not pay. This can happen, for example, when an operator goes bankrupt.

As GAO reported in 2020, the bankruptcies of some self-insured operators that occurred from 2014 through 2016 led to the transfer of \$865 million in estimated benefit responsibility to the Trust Fund, according to DOL. This occurs when the amount of collateral DOL requires from a self-insured coal operator does not fully cover the operator's benefit responsibility should the operator become insolvent. Since 2016, several other self-insured operators have also filed for bankruptcy, according to DOL.

In February 2020, DOL sent letters to 14 self-insured operators asking them to provide about \$251 million in total collateral. Half of the coal operators provided the collateral DOL requested and the other half appealed, according to DOL. DOL officials said their ability to resolve the appeals was hindered by the COVID-19 pandemic and they suspended reviews of coal operator appeals.

In December 2020, DOL issued a preliminary bulletin for coal operator self-insurance that described significant changes and included actions that would have addressed GAO's recommendations. For instance, DOL set a goal to resolve coal operator appeals within 90 days after receiving supporting documents or meeting with the operator to discuss their concerns.

However, in February 2021, DOL rescinded the preliminary bulletin due to a program review by the current administration, according to DOL officials. DOL officials said they have taken no further actions to resolve appeals or to collect any additional collateral or other information from self-insured operators. As a result, DOL has not obtained about \$186 million in requested collateral from self-insured operators that appealed DOL's requested collateral. In addition, one of these operators, Lighthouse Resources, filed for bankruptcy in December 2020; this could result in a transfer of about \$2.4 million in estimated benefit responsibility to the Trust Fund, according to DOL. In addition, two operators DOL said no longer met their requirements to self-insure almost two years ago remain self-insured.

In November 2021, DOL officials said the current administration's program review is complete, but could not describe any anticipated changes to coal operator self-insurance going forward. Given that the Trust Fund had to borrow about \$2.3 billion from the U.S. Treasury in fiscal year 2021 to make needed expenditures, we reiterate that DOL should take action to address our previous recommendations to help prevent additional benefit liabilities from transferring to the Trust Fund.