



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2008 –16S

Immediate Adoption of Rule to Authorize the Transfer of Funds from the Coal Workers' Pneumoconiosis Fund to the Mine Safety Fund

- 1. Creation of the Mine Safety Fund.** Ohio law recently created the Mine Safety Fund (the "Safety Fund") in the State Treasury. The purpose of the Safety Fund is to promote mine safety through measures including, but not limited to, the purchase and maintenance of mine rescue and inspection equipment, training for miners concerning mine safety, and certification of mine officials. The Safety Fund will also to establish a new rescue center that will facilitate quicker response times to mine incidents.
- 2. Transfer of Funds from the Coal Workers' Pneumoconiosis Fund to the Mine Safety Fund.** The Coal Workers' Pneumoconiosis Fund (the "CWP Fund") is designed to provide relief to injured mine workers who are entitled to benefits under federal law. Ohio law authorizes the Administrator of the Bureau of Workers' Compensation (BWC) to transfer a portion of the investment earnings credited to the CWP Fund to the Safety Fund, as long as the transfer of funds does not allow the CWP Fund to become insolvent.
- 3. Making the New Rule Effective on July 1, 2008.** In order to give the Safety Fund an operating budget, to ensure that funds are available in the Safety Fund as quickly as possible, and to maintain the solvency of the CWP Fund, adoption of a rule in the Ohio Administrative Code governing the transfer of funds to the Safety Fund must occur immediately.

4. **Procedure for Immediate Enactment of Rule Changes.** Section 119.03(F) of the Ohio Revised Code authorizes the Governor, on the request of a state agency, to suspend the normal rulemaking procedures with respect to a specific rule when an emergency exists necessitating the immediate adoption of the rule. When such a determination is made, the agency may immediately adopt that rule, but the rule is valid for only ninety (90) days.
5. **Determination of an Emergency.** I believe that an emergency exists justifying the suspension of the normal rulemaking process when the failure to act immediately would negatively impact the citizens of Ohio. BWC has asked me to determine, and I have determined, that the failure to immediately adopt a rule prescribing the transfer of funds from the CWP Fund to the Safety Fund will negatively affect Ohioans who will benefit from the important safety measures that will be created and financed by the Safety Fund. Therefore, an emergency exists necessitating the immediate adoption of a new administrative rule in this regard.
6. **Authorization for Immediate Rule Implementation.** Accordingly, the normal rulemaking procedures are suspended with respect to the adoption of Rule 4123-21-03.1 of the Ohio Administrative Code, which will establish requirements for the transfer of funds from the Coal Workers' Pneumoconiosis Fund to the Mine Safety Fund. BWC may, therefore, adopt this rule immediately by electronically filing the rule with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.
7. I signed this Executive Order on July 1, 2008. It will expire at the end of the ninetieth day it is in effect, September 29, 2008.



Ted Strickland
Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State