

**MEMORANDUM**

**TO:** Aniko Nagy, Ohio Bureau of Workers' Compensation

**FROM:** Tess Eckstein, Regulatory Policy Advocate

**DATE:** March 27, 2017

**RE:** **CSI Review – Marine Industry Fund Rules (OAC 4123-20-01 to 4123-20-07)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of seven no-change rules being proposed by the Ohio Bureau of Workers' Compensation (BWC) for review under the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on February 23, 2017, and the comment period remained open until March 17, 2017.

The proposed rules outline the administrative process and requirements for applying for and maintaining insurance coverage through the Bureau's Marine Industry Fund, which provides voluntary coverage to Ohio employers with employees who work on or about navigable waters, as required by the Federal Longshoremen and Harbor Workers' Act. Ohio employers in the marine industry may choose to purchase this coverage through BWC or through a private carrier, or they may choose to be self-insured.

The rules impact any employers who subscribe to the BWC Marine Industry Fund, as well as any other Ohio employers who engage employees who work on or about navigable waters. At the end of Fiscal Year 2016, there were approximately 150 subscribers to Ohio's Marine Industry Fund. Potential adverse impacts of the rules include a requirement for the employer to complete and submit a payroll report form to BWC that shows the number of persons employed in occupations covered by the Fund and the total payroll allocable to each manual classification in use by the

Fund and applicable to the employer. These reports take approximately one hour to complete and involve minimal effort, according to BWC. In addition, those seeking coverage through BWC must complete an application for subscription, as well as permit reasonable audits and inspections. There are no additional adverse impacts associated with the rules. If an employer is late on a payment, there may be a lapse in coverage, but BWC maintains the authority to waive the lapse if it grants an employer's request for retroactive coverage and forgiveness of the lapse.

BWC indicated in the BIA that the rules' adverse impacts are justified because purchasing coverage through BWC is voluntary; the coverage is an economical and competitive option for employers seeking coverage for marine-related risks; and the impact of the minimum administrative cost is commensurate with the cost to BWC of servicing the employer's Marine Industry Fund account.

BWC sought comment on the drafted rules from the 150 current subscribers to the Fund. No comments were submitted in response to these email distributions. Similarly, no comments were submitted during the CSI public comment period. Therefore, the CSI Office has determined the purpose of the rules to be justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Bureau of Workers' Compensation should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office