



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Eva Dixon, Ohio Bureau of Workers' Compensation

FROM: Caleb White, Business Advocate

DATE: December 18, 2024

RE: **CSI Review – Marine Industry Fund Rules (OAC 4123-20-01, 4123-20-02, 4123-20-03, 4123-20-04, 4123-20-05, 4123-20-06, and 4123-20-07)**

On behalf of Lt. Governor Jon Husted, 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 Bureau as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule, one rescinded rule, and six amended rules proposed by the Ohio Bureau of Workers' Compensation (BWC). This rule package was submitted to the CSI Office on November 6, 2024, and the public comment period was held open through November 20, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 6, 2024.

Ohio Administrative Code (OAC) 4123-20-01 establishes how an employer can apply for a subscription to the BWC's Marine Industry Fund. This rule is amended to update and streamline language. OAC 4123-20-02 governs the issuance and duration of a subscription to the Marine Industry Fund. This rule is amended to update and streamline language and add a provision related to the cancelation of a policy which includes a payroll reporting requirement. OAC 4123-20-03 contains the process and requirements related to the payment of premiums. This rule is amended to update and streamline language and to allow employers to pay premiums in annual installments in addition to semi-annual installments. OAC 4123-20-04 establishes payroll reporting requirements. This rule is to be rescinded and replaced with a new rule of the same number and covering largely

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the same content. This new rule differs from the rescinded version to update the title and reflect the change of collecting premiums from retrospectively to prospectively which will only require employers to report payroll annually rather than semi-annually as is currently required. OAC 4123-20-05 contains requirements surrounding the type of payroll that is required to be reported. This rule is amended to update and streamline language. OAC 4123-20-06 allows the BWC to conduct audits and inspections of Marine Industry Fund subscribers, allows the BWC to cancel the subscription of a subscriber that refuses to permit an audit or inspection, and allows the BWC to adjust accounts to account for audit findings. This rule is amended to update and streamline language. OAC 4123-20-07 governs the controversion of claims under the Marine Industry Fund. This rule is amended to update and streamline language.

During early stakeholder outreach, the BWC sent the proposed rules via email to the subscribers to the Marine Industry Fund. No comments were received during this period or during the CSI public comment period.

The business community impacted by the rules includes the 124 current employers that subscribe to the BWC Marine Industry Fund and any other employer in the state that engages employees that work on navigable waters and are required to have coverage by the Federal Longshoreman and Harbor Workers' Act. The adverse impacts created by the rules are reporting requirements, the requirement to make a place of business, records, payrolls, account books, ledgers, and contracts available to the BWC for audits or inspections, and the potential cancellation of a policy for a failure to adhere to the requirements in the rules. The BWC notes that one of the changes in the rules will reduce the adverse impact to business by changing the payroll reporting requirement from a semi-annual requirement to an annual requirement. The BWC states that the adverse impacts to business are justified as this program is voluntary and the adverse impacts are balanced by providing an effective and economical option for employers to satisfy their requirement to offer coverage under the Federal Longshoreman and Harbor Workers' Compensation Act.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the BWC should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.