ACTION: No Change

DATE: 10/02/2014 12:31 PM

MEMORANDUM

TO: Tom Sico, Bureau of Workers' Compensation

FROM: Paula Steele, Regulatory Policy Advocate

DATE: July 2, 2014

RE: **CSI Review –Specific Safety Requirements of the Ohio Bureau of Workers' Compensation -** (OAC Chapters 4123:1-1, 4123:1-3, 4123:1-7, 4123:1-9, 4123:1-11, 4123:1-13 and 4123:1-17)

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 Ohio Bureau of Workers' Compensation (Bureau) rule package contains fifty-seven no-change and six amended draft rules being analyzed as part of a five-year review as required by ORC 119.032. The proposed rules reflect federal Occupational Safety and Health Administration (OSHA) requirements as they address construction, elevators, laundering/dry cleaning, metal casting, rubber and plastics, steel mills and window cleaning safety standards. The rule packages were submitted to the CSI Office on April 22, 2014 (4123:1-3 – Construction) and May 20, 2014, and the comment periods closed on May 9, 2014 and June 4, 2014, respectively. No comments were received during the public comment period.

The amendments to the proposed rules were to correct, to clarify language or to update rules to comply with industry standards. The most substantive changes occurred in the construction chapter with OAC 4123:1-3-07 *Cranes, Hoists and Derricks* and OAC 4123:1-3-08 *Ropes, Chains and Slings.* The CSI Office followed up with the Bureau and confirmed the proposed changes were necessary because of industry standard updates.

According to the BIA, the Bureau conducted a comprehensive stakeholder outreach which included the regulated industries and the Department of Commerce, Division of Industrial Compliance. Stakeholders provided input including a specific comment concerning elevator rules. The comment suggested clarification as to the extent of "contribution" to a worker's death. The Bureau concluded that the suggested change could result in more potentially negative and automatic presumptions. Ultimately, the Bureau and the stakeholder group concluded that the changes were not necessary.

The CSI Office followed up with the Bureau after the initial review of multiple BIAs provided with each chapter to request significant revisions with additional information. The Bureau requested, and the CSI Office agreed, that all the proposed rules could be analyzed within one BIA. After reviewing the proposed rules, appendices, and the revised BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact identified in the BIA.

Recommendations

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

Conclusion

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

cc: Stephen Buehrer, Administrator/CEO, Ohio Bureau of Workers' Compensation
Mark Hamlin, Lt. Governor's Office