

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 123:2-14-05

Rule Type: New

Rule Title/Tagline: Joint venture.

Agency Name: Department of Administrative Services

Division: Division of EEO for Construction

Address: 30 East Broad Street Suite 4023 Columbus OH 43215

Contact: Paul A. Russell **Phone:** 614-644-1773

Email: paul.russell@das.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 494 - 132
- Representative Niraj Antani
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** R.C. 123.151, 123.152, 123.154
5. **What statute(s) does the rule implement or amplify?** R.C. 122.71(E), R.C. 123.151, 123.152, 123.154
6. **What are the reasons for proposing the rule?**

As the result of a review of the existing Minority Business Enterprise program and the Encouraging Diversity, Growth and Equity program, and in order to implement the new Women-owned Business Enterprise program, the Agency is adopting new rules that will govern all three programs. The new rules address issues within the existing rules that were identified by the Agency and by stakeholders. One of the goals was consistency in the regulation of all three programs. Another goal was to strengthen

the agency's ability to ensure that certified businesses perform a commercially useful function and are not simply pass-thru entities that allow non-eligible individuals or businesses to receive the economic benefits of the certification. The Agency also seeks to improve its ability to conduct business compliance reviews during the entire certification period to ensure that certified businesses remain in compliance with all rules throughout the entire certification time period.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

Ohio Adm. Code 123:2-14-05 details the requirements for two or more businesses joining together to form an MBE, EDGE, or WBE joint venture.

8. Does the rule incorporate material by reference? No

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

To set the public hearing on an earlier date.

II. Fiscal Analysis

11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

0.00

Not Applicable

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The rule impacts businesses and business owners applying to become an MBE, EDGE, and/or WBE-certified joint venture.

To apply for certification as a joint venture, two or more businesses request certification under this rule. The businesses collect and submit documents. The time to complete these processes will vary, primarily depending upon the organization of the businesses' records. The Agency estimates that the average time to complete a joint venture application ranges from five to ten hours. This is the average time commitment based on businesses and business owners that have applied for MBE and EDGE certification. The actual cost to a specific business owner would then depend upon the cost attributable to the time of that particular owner and/or staff.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? Yes**
17. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
 - B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

To be certified as a joint venture, businesses submit specified documents.
 - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding? 8

123:2-14-05 (A)(1) One of the businesses must be certified.

123:2-14-05 (A)(2) The business relationship must benefit all parties to the JV.

123:2-14-05 (A)(3) The eligible owner of the Ohio certified business must control the JV.

123:2-14-05 (A)(4) The Ohio certified business must have a proportional interest in the capital, assets, and profits of the JV.

123:2-14-05 (A)(4) The contributions to acquire ownership shall be real and substantial.

123:2-14-05 (A)(6) The JV must have its own federal tax id.

123:2-14-05(B) All JV owners must sign a JV agreement, which includes the listed information. 123:2-14-02(L) A business must be in business for at least twelve months prior to certification.

123:2-14-05(C)(2) A JV must submit its JV Agreement each year for re-certification.

B. How many existing regulatory restrictions do you propose removing? 0