



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Development

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Regulation/Package Title (a general description of the rules' substantive content):

EDGE certification criteria

Rule Number(s): 123:2-14-02(T) / 122:15-3-02(T)

Date of Submission for CSI Review: January 29, 2025

Public Comment Period End Date: February 12, 2025

Rule Type/Number of Rules:

New 0 rules

No Change 0 rules

Amended 1 rules (FYR? 10/9/25)

Rescinded 0 rules

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

The proposed change will affect one part of the long list of certification criteria for EDGE. Specifically, the proposed change simply seeks to update the personal net worth threshold required for certification from \$850,000 to \$2,047,000 by changing the federal statute mentioned from 13 C.F.R. 124.104 (2020) to 49 C.F.R. 26.68 (2024). The proposed change would have no other effect on the rest of the certification criteria.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority. O.R.C. § 122.922**
4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?** The proposed change doesn't implement a federal requirement, but it does reference a federal statute for the purpose of setting a minimum threshold inline with the federal statute.
5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** N/A – the proposed changes put the statute better inline with federal regulations but does not exceed them.
6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?** To expand the number of businesses that can apply for certification under this program.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** The agency will measure the success of the proposed change based on the change in applications that wouldn't have otherwise been able to apply under the previous personal net worth threshold.
8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**
No.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.** MDFAB board
10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** Yes, this was shared with the MDFAB Board, and they were pleased with the change.
11. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?** No scientific data was used. MBDD seeks to stay inline with certain federal regulations/rules, and this change keeps MBDD more in line with newer federal regulations.
12. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?** The agency considered not changing the regulation and keeping the personal net worth threshold lower. However, due to inflation since 2020 and the agency's desire to increase the pool of applicants, it was decided that the personal net worth threshold should be increased.
13. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** The listed regulation is the only area in the OAC that speaks to EDGE certification criteria, specifically the personal net worth requirement.
14. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.** Since the proposed change is part of a set of criteria, the new personal net worth threshold will apply to all applicants consistently. Since this change increases the number of businesses that could apply for certification, it will not have an adverse impact on any businesses that have applications pending after this regulation is made into law since increasing the personal net worth requirement is a loosening of the criteria.

Adverse Impact to Business

15. **Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**
 - a. **Identify the scope of the impacted business community, and**

The impacted business community consists of prospective suppliers seeking to obtain certification to qualify for certain state projects.

- b. **Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).** The certification rule as a whole could have an adverse impact on businesses in terms of compliance costs, fees for applying, and could restrict certain businesses who do not obtain certification for bidding on certain projects. The proposed change to this regulation, however, will not have an adverse impact on businesses and should not lead to any increased compliance costs since the change in the rule opens the application to more businesses due to the expansion of the personal net worth threshold. This proposal doesn't change anything with regards to the procedure, components, or requirements of the certification process other than expanding the personal net worth threshold.

16. **Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify.** The proposed changes wouldn't reduce any regulatory burdens, but they would increase the number of businesses that are qualified to apply for EDGE certification.
17. **Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** There is no adverse impact to the business community with the proposed changes. The proposed changes are inline with the goals of the agency as they expand the pool of applicants for certification.

Regulatory Flexibility

18. **Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** No, the threshold is the same for all businesses.
19. **How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?** Since this regulation only expands the personal net worth threshold, the agency will continue its already-existing practices.
20. **What resources are available to assist small businesses with compliance of the regulation?** Businesses will not likely need assistance with compliance with the proposed changes since they just expand the personal net worth requirement and will make more businesses eligible to apply. However, there are many MBACs around Ohio that assist businesses with other aspects of the certification application.