
JOINT COMMITTEE ON AGENCY RULE REVIEW (JCR)

- Provides that the new business rule review process established by S.B. 2 of the 129th General Assembly does not apply to proposed rules that are pending on January 1, 2012, and first applies to proposed rules, the original versions of which are filed on or after January 1, 2012.
- Clarifies how existing rules being reviewed under the Cyclical Review of Rules Act are to be reviewed in light of the new business rule review process.

New businesses rule review process: first applicability

(Sections 610.30 and 610.31)

The act provides that the new business rule review process established by S.B. 2 of the 129th General Assembly does not apply to a proposed rule that is pending for review before the Joint Committee on Agency Rule Review on January 1, 2012. Instead, such a proposed rule will continue to be reviewed under the former small business rule review process (which was repealed by S.B. 2) until the rule-making proceedings are completed.¹⁸⁶ The new small business rule review process will apply only to proposed rules, the original version of which is filed on or after January 1, 2012.

New business rule review process: application under Cyclical Review of Rules Act

(R.C. 119.032; Sections 610.30 and 610.31)

The act clarifies a standard, added by S.B. 2 of the 129th General Assembly, that agencies are required to apply in evaluating an existing rule under the periodic, five-year review schedules of the Cyclical Review of Rules Act (CRRA). Under the act, an agency will be required to determine whether an existing rule it is reviewing under the CRRA has an adverse impact on businesses, reviewing the existing rule *as if* it were a draft rule under the provisions of S.B. 2 that define when a draft rule has an adverse impact on business and that require the Common Sense Initiative Office to prepare a business impact analysis instrument.

¹⁸⁶ R.C. 121.24, not in the act (repealed by S.B. 2).



Agencies are required by S.B. 2 to apply the definition and business impact analysis instrument to *draft* rules to determine whether the draft rules have an adverse impact on business. But the CRRA applies to *existing* rules and not to draft rules. The act therefore requires agencies to apply the definition and business impact analysis instrument in reviewing existing rules under the CRRA, applying the definition and instrument to the existing rules *as if* they were draft rules. And, if an agency thus determines under the CRRA that an existing rule has an adverse impact on business, the agency will be expected to amend or rescind the rule as is appropriate to remedy the adverse impact. (Such an amendment or rescission will be subject to the new business rule review process of S.B. 2.) If, however, the agency concludes there is not such an impact, and none of the other CRRA review standards have an adverse effect, then the agency can file the rule as a "no change" rule. A no-change rule, as its name implies, indicates there is no need to amend or rescind the rule and that it can be left as it is.

The new CRRA review standard, both as enacted by S.B. 2 and as clarified by the act, first applies to existing rules that are subjected to review under the CRRA on or after January 1, 2012.

