

Comment from Elaine Mittleman on *Clarifying Statutory Access to Judicial Review of Agency Action*

May 2, 2021

1. The Recommendation often uses the phrase, “specific judicial review statute.”

It is not clear whether this phrase applies to statutes for both district court cases and cases in courts of appeals. The cases in district courts may primarily concern the APA (a general judicial review statute), rather than specific judicial review statutes. By contrast, the cases filed in courts of appeals may rely, for purposes of jurisdiction, on specific judicial review statutes, rather than the APA.

It may be instructive to distinguish between district court cases and cases in courts of appeals when discussing specific judicial review statutes.

In addition, statutes providing for jurisdiction in courts of appeals are often called “direct-review statutes.” In *American Fed’n of Labor v. NLRB*, 466 F.Supp.3d 68, 81 (D.D.C. 2020), Judge Ketanji Brown Jackson discussed direct-review statutes and cited *Watts v. S.E.C.*, 482 F.3d 501, 505 (D.C. Cir. 2007).

It may be helpful to use the term, “direct-review statute,” when discussing statutes relating to jurisdiction in courts of appeals.

2. The Draft Sourcebook refers to the Master Spreadsheet and indicates that it is “at the heart of this project.” Draft Sourcebook at 3.

Is the Master Spreadsheet available online? Has the Committee on Judicial Review reviewed and commented on the Master Spreadsheet?