



JANUARY 6, 2022

Draft statutory language proposed by the ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

A BILL

To amend chapter ___ of title 28, *United States Code*, to clarify statutory access to judicial review of agency action, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CLARIFYING STATUTORY ACCESS TO JUDI-**
4 **CIAL REVIEW OF AGENCY ACTION.**

5 (a) RULES OF CONSTRUCTION.—(1) Chapter ___ of title
6 28, *United States Code*, is amended by adding at the end
7 the following:

8 “§ ____ . RULES OF CONSTRUCTION FOR STATUTES
9 PROVIDING FOR JUDICIAL REVIEW OF AGENCY ACTION.—

10 “(a) PURPOSE; APPLICABILITY.—The purpose of
11 this section is to promote clarity and consistency in
12 construing various provisions of law governing ju-
13 dicial review of agency action. Accordingly, the
14 rules of construction in this section (1) apply to any
15 proceeding for judicial review of agency action un-
16 der any provision of law, whether enacted before or
17 after the date of enactment of this section; and (2)
18 supersede any such provision of law to the extent

1 of any inconsistency, except to the extent that the
2 provision of law expressly exempts itself from the
3 application of this section.

4 “(b) COMPUTATION OF TIME.—When computing
5 the last eligible date for commencing the proceed-
6 ing, apply the rules on computation of time in Rule
7 6(a) of the Federal Rules of Civil Procedure, if the
8 proceeding is to be brought in district court; or
9 Rule 26(a) of the Federal Rules of Appellate Proce-
10 dure, if the proceeding is to be brought in the court
11 of appeals. For a provision of law in which the com-
12 putation of time is triggered by the promulgation,
13 amendment, or repeal of a rule, the computation of
14 time shall be triggered by the publication of the fi-
15 nal rule in the *Federal Register*.

16 “(c) STYLE OF DOCUMENT.—The proceeding,
17 when brought in district court, shall be commenced
18 by filing a complaint, as contemplated by Rule 3 of
19 the Federal Rules of Civil Procedure; and when
20 brought in a court of appeals, shall be commenced
21 by filing a petition for review, as contemplated by
22 Rule 15 of the Federal Rules of Appellate Proce-
23 dure. If a party seeking judicial review in a court
24 of appeals styles the document initiating review as
25 a notice of appeal, the court shall treat that docu-
26 ment as a petition for review. If a party seeking

1 judicial review in a district court styles the docu-
2 ment initiating review as a notice of appeal, peti-
3 tion for review, or other petition, the court shall
4 treat that document as a complaint.

5 “(d) CONTENT REQUIREMENTS.—The contents of
6 a complaint or petition for review shall be treated
7 as sufficient if they comply with either the content
8 requirements of the provision of law under which
9 the proceeding is brought or the content require-
10 ments of the applicable rules of court.

11 “(e) JURISDICTION.—If a provision of law pro-
12 vides that a party may seek judicial review of a
13 specific agency action in a specified federal court,
14 the specified federal court shall have jurisdiction
15 over the proceeding.

16 “(f) REQUIREMENT OF SIMULTANEOUS SER-
17 VICE.—If a provision of law requires the party fil-
18 ing the complaint or petition for review to serve the
19 agency simultaneously with the filing, the require-
20 ment is satisfied if the party does so within 7 days
21 after the filing.”.

22 (2) The table of sections for chapter ___ of title 28
23 is amended by inserting after ___:

24 “____. RULES OF CONSTRUCTION FOR STATUTES
25 PROVIDING FOR JUDICIAL REVIEW OF AGENCY ACTION.”.

1 (b) ELIMINATION OF REQUIREMENT THAT PETITION FOR
2 REVIEW OF AGENCY ACTION BE RECEIVED FROM SPECIFIC
3 PERSONS.—Section 2112(a)(1) of title 28, *United States*
4 *Code*, is amended by striking “receives, from the persons
5 instituting the proceedings, the petition for review” in both
6 places it appears and inserting “receives a petition for re-
7 view” in both places.