

*Proposed new Trial Rule 23.3 describes the procedure for transmitting an agency record to a trial court in a petition for judicial review of an agency order and describes the procedure for the judicial review.

Rules of Trial Procedure

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Rule 23.3. Petitions for Judicial Review of an Agency Action (proposed new rule)

(A) Definition. As used in this rule, “ultimate authority” means:

- (1) for an administrative proceeding under the office of administrative law proceedings, the office of administrative law proceedings; or
- (2) for any other purpose, an individual or panel of individuals in whom the final authority of an agency is vested by law or executive order.

(B) Notice to Administrative Agency. The clerk of a court that has received a petition for judicial review must notify the ultimate authority that issued the order being reviewed that a petition has been filed.

- (1) The ultimate authority issuing an order subject to judicial review must include contact information that the trial court will use to notify the administrative agency that a petition for judicial review has been filed.
- (2) The ultimate authority will consider the notification as a request to prepare the agency record.

(C) Transmittal of agency record. The ultimate authority that issued the order being reviewed must transmit the agency record within thirty days after receipt of the petition for judicial review or within further time allowed by the court or by other law.

- (1) If the agency record is confidential, the ultimate authority must transmit to the trial court both a redacted agency record for public access (or a notice of filing of a confidential agency record if the entirety of the record is confidential) and an unredacted agency record that will remain confidential.
- (2) If the parties stipulate to a shortened agency record, the ultimate authority must maintain a complete copy of the agency record and will transmit to the court any additional documents as requested by the court.

Proposed amendment to Indiana Rules of Trial Procedure (October 2024)

- (3) The parties may stipulate in writing that no record be filed. The date when a stipulation is filed will be treated as the date when the agency record is filed.

(D) Briefing schedule on judicial review. A proceeding on judicial review shall be governed by the following schedule unless the court orders a different case management plan.

- (1) The petitioner requesting judicial review must file and serve on the respondent a brief for the requested relief within thirty days after the agency record is filed.
- (2) The respondent must file and serve on the petitioner a brief in response within thirty days after the petitioner files a brief.
- (3) The petitioner may file a reply to the respondent's brief within fifteen days after the respondent files a brief.
- (4) The court may set oral argument.