

Public Law 85-791

AN ACT

August 28, 1958
[H. R. 6788]

To authorize the abbreviation of the record on the review or enforcement of orders of administrative agencies by the courts of appeals and the review or enforcement of such orders on the original papers and to make uniform the law relating to the record on review or enforcement of such orders, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the analysis of chapter 133 of title 28 of the United States Code, immediately preceding section 2101 of such title, is amended by inserting at the end thereof the following additional item:

Administrative agencies.
Record on review and enforcement of orders.

"2112. Record on review and enforcement of agency orders."

"SEC. 2. Chapter 133 of title 28 of the United States Code is amended by inserting at the end of such chapter immediately following section 2111 an additional section, as follows:

"§ 2112. Record on review and enforcement of agency orders

Rules for filing.

"(a) The several courts of appeals shall have power to adopt, with the approval of the Judicial Conference of the United States, rules, which so far as practicable shall be uniform in all such courts prescribing the time and manner of filing and the contents of the record in all proceedings instituted in the courts of appeals to enjoin, set aside, suspend, modify, or otherwise review or enforce orders of administrative agencies, boards, commissions, and officers, to the extent that the applicable statute does not specifically prescribe such time or manner of filing or contents of the record. Such rules may authorize the agency, board, commission, or officer to file in the court a certified list of the materials comprising the record and retain and hold for the court all such materials and transmit the same or any part thereof to the court, when and as required by it, at any time prior to the final determination of the proceeding, and such filing of such certified list of the materials comprising the record and such subsequent transmittal of any such materials when and as required shall be deemed full compliance with any provision of law requiring the filing of the record in the court. The record in such proceedings shall be certified and filed in or held for and transmitted to the court of appeals by the agency, board, commission, or officer concerned within the time and in the manner prescribed by such rules. If proceedings have been instituted in two or more courts of appeals with respect to the same order the agency, board, commission, or officer concerned shall file the record in that one of such courts in which a proceeding with respect to such order was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed. For the convenience of the parties in the interest of justice such court may thereafter transfer all the proceedings with respect to such order to any other court of appeals.

"(b) The record to be filed in the court of appeals in such a proceeding shall consist of the order sought to be reviewed or enforced, the findings or report upon which it is based, and the pleadings, evidence, and proceedings before the agency, board, commission, or officer concerned, or such portions thereof (1) as the said rules of the court of appeals may require to be included therein, or (2) as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court in any such proceeding may consistently with the rules of such court

designate to be included therein, or (3) as the court upon motion of a party or, after a prehearing conference, upon its own motion may by order in any such proceeding designate to be included therein. Such a stipulation or order may provide in an appropriate case that no record need be filed in the court of appeals. If, however, the correctness of a finding of fact by the agency, board, commission, or officer is in question all of the evidence before the agency, board, commission, or officer shall be included in the record except such as the agency, board, commission, or officer concerned, the petitioner for review or respondent in enforcement, as the case may be, and any intervenor in the court proceeding by written stipulation filed with the agency, board, commission, or officer concerned or in the court agree to omit as wholly immaterial to the questioned finding. If there is omitted from the record any portion of the proceedings before the agency, board, commission, or officer which the court subsequently determines to be proper for it to consider to enable it to review or enforce the order in question the court may direct that such additional portion of the proceedings be filed as a supplement to the record. The agency, board, commission, or officer concerned may, at its option and without regard to the foregoing provisions of this subsection, and if so requested by the petitioner for review or respondent in enforcement shall, file in the court the entire record of the proceedings before it without abbreviation.

“(c) The agency, board, commission, or officer concerned may transmit to the court of appeals the original papers comprising the whole or any part of the record or any supplemental record, otherwise true copies of such papers certified by an authorized officer or deputy of the agency, board, commission, or officer concerned shall be transmitted. Any original papers thus transmitted to the court of appeals shall be returned to the agency, board, commission, or officer concerned upon the final determination of the review or enforcement proceeding. Pending such final determination any such papers may be returned by the court temporarily to the custody of the agency, board, commission, or officer concerned if needed for the transaction of the public business. Certified copies of any papers included in the record or any supplemental record may also be returned to the agency, board, commission, or officer concerned upon the final determination of review or enforcement proceedings.

Exceptions.

“(d) The provisions of this section are not applicable to proceedings to review decisions of the Tax Court of the United States or to proceedings to review or enforce those orders of administrative agencies, boards, commissions, or officers which are by law reviewable or enforceable by the district courts.”

SEC. 3. (a) The sixth sentence of subsection (b) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112), is amended to read as follows: “Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.”

(b) The second and third sentences of subsection (c) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 112-113), are amended to read as follows: “A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States

Federal Trade
Commission.
15 USC 45.

15 USC 45.

Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite*."

(c) Subsection (d) of section 5 of the Federal Trade Commission Act, as amended (52 Stat. 113), is amended to read as follows:

15 USC 45.

"(d) Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive."

SEC. 4. (a) The sixth sentence of the second paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127), is amended to read as follows: "Until the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section."

ICC, FCC, CAB
and Federal Re-
serve.

15 USC 21.

(b) The first and second sentences of the third paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1127), are amended to read as follows: "If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall file the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the application the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission or Board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission or Board."

15 USC 21.

(c) The second and third sentences of the fourth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, determined as provided in section 10 (e) of the Administrative Procedure Act, shall in like manner be conclusive."

15 USC 21.

(d) The fifth paragraph of section 11 of the Act of October 15, 1914, as amended (64 Stat. 1128), is amended to read as follows:

60 Stat. 243.
5 USC 1009.

"Upon the filing of the record with it the jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive."

15 USC 21.

SEC. 5. The fourth and fifth sentences of the first paragraph of section 2 of the Act of July 28, 1916 (39 Stat. 425), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Post Office Department and thereupon the said Department shall file in the court the record, as

Post Office.

39 USC 576.

provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm, set aside or modify the order of the Department."

Agriculture.
7 USC 193.

SEC. 6. (a) Subsection (c) of section 203 of the Packers and Stockyards Act, 1921 (42 Stat. 162), is amended to read as follows:

"(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 204, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer to be heard, may amend or set aside the report or order, in whole or in part."

7 USC 194.

(b) Subsections (b), (c), and (d) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162), are amended to read as follows:

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the packer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

"(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way."

7 USC 194.

(e) The first sentence of subsection (h) of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162), is amended to read as follows:

"(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree."

62 Stat. 928.

7 USC 8.

SEC. 7. (a) The third and fourth sentences of paragraph (a) of section 6 of the Commodity Exchange Act (42 Stat. 1001), are amended to read as follows: "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, Chairman of said Commission, or any member thereof, and the said Commission shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. The testimony and evidence taken or submitted before the said Commission, duly filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case."

7 USC 9, 15.

(b) The seventh and eighth sentences of paragraph (b) of section 6 of the Commodity Exchange Act (42 Stat. 1002), as amended, are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary of Agriculture and thereupon the Secretary of Agriculture shall file in the court the record theretofore made, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition the court shall have jurisdiction to affirm, to set aside, or modify the order of the

Secretary of Agriculture, and the findings of the Secretary of Agriculture as to the facts, if supported by the weight of evidence, shall in like manner be conclusive."

SEC. 8. The third and fourth sentences of the second paragraph of subsection (b) of section 641 of the Tariff Act of 1930, as amended (49 Stat. 865), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary of the Treasury, or any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part."

Treasury.
19 USC 1641.

SEC. 9. The second sentence of subsection (a) of section 9 of the Securities Act of 1933 (48 Stat. 80) is amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

SEC.
15 USC 771.

SEC. 10. The second and third sentences of subsection (a) of section 25 of the Securities Exchange Act of 1934 (48 Stat. 901) are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, and enforce or set aside such order, in whole or in part."

15 USC 78y.

SEC. 11. The third sentence of subsection (c) of section 18 of the Act of June 18, 1934 (48 Stat. 1002), is amended to read as follows: "The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board and it shall thereupon file in the court the record in the proceedings held before it under this section, as provided in section 2112 of title 28, United States Code."

Federal Trade
Zone Board.
19 USC 81r.

SEC. 12. The second sentence of subsection (d) of section 402 of the Communications Act of 1934, as amended (66 Stat. 719), is amended to read as follows: "Within thirty days after the filing of an appeal, the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

FCC.
47 USC 402.

SEC. 13. (a) Subsection (d) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147), is amended to read as follows:

NLRB.
29 USC 160.

"(d) Until the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it."

(b) The first, second, fifth and seventh sentences of subsection (e) of section 10 of the National Labor Relations Act, as amended (61 Stat. 147), are amended to read as follows:

29 USC 160.

"(e) The Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court

the record in the proceedings, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. * * * If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the record. * * * Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28."

62 Stat. 928.
29 USC 160.

(c) The second and third sentences of subsection (f) of section 10 of the National Labor Relations Act, as amended (61 Stat. 148), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Board, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive."

Treasury.
27 USC 204.

SEC. 14. The third and fourth sentences of subsection (h) of section 4 of the Federal Alcohol Administration Act (49 Stat. 980), as amended, are amended to read as follows:

"A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part."

SEC.
15 USC 79x.

SEC. 15. The second and third sentences of subsection (a) of section 24 of the Public Utility Holding Company Act of 1935 (49 Stat. 834), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part."

SEC. 16. (a) Subsection (a) of section 313 of the Federal Power Act, as amended (49 Stat. 860), is amended by inserting at the end thereof an additional sentence reading as follows: "Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act."

FPC.
16 USC 825l.

(b) The second and third sentences of subsection (b) of section 313 of the Federal Power Act, as amended (49 Stat. 860), are amended to read as follows: "A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part."

16 USC 825l.

SEC. 17. The second and third sentences of subsection (b) of section 611 of the Merchant Marine Act, 1936, as amended (52 Stat. 961), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order."

Commerce.
46 USC 1181.

SEC. 18. Subsection (c) of section 1006 of the Civil Aeronautics Act of 1938 (52 Stat. 1024), is amended to read as follows:

CAB.
49 USC 646.

"(c) A copy of the petition shall, upon filing, be forthwith transmitted to the Board by the clerk of the court; and the Board shall thereupon file in the court the record, if any, upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code."

SEC. 19. (a) Subsection (a) of section 19 of the Natural Gas Act (52 Stat. 831), is amended by inserting at the end thereof an additional sentence reading as follows: "Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this Act."

FPC.
15 USC 717r.

(b) The second and third sentences of subsection (b) of section 19 of the Natural Gas Act (52 Stat. 831), are amended to read as follows: "A copy of such petition shall forthwith be transmitted by the clerk of the court to any member of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part."

15 USC 717r.

SEC. 20. (a) The first and second sentences of paragraph (2) of subsection (1) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515), are amended to read as follows:

HEW and Agri-
culture.
21 USC 346a.

“(2) In the case of a petition with respect to an order under subsection (d) (5) or (e), a copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part.”

21 USC 346a. (b) The first and second sentences of paragraph (3) of subsection (i) of section 408 of the Federal Food, Drug, and Cosmetic Act, as added by the Act of July 22, 1954 (ch. 559, 68 Stat. 515), are amended to read as follows:

“(3) In the case of a petition with respect to an order under subsection (1), a copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Agriculture, or any officer designated by him for that purpose, and thereupon the Secretary shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part.”

HEW.
21 USC 371. SEC. 21. (a) The second and third sentences of paragraph (1) of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended, are amended to read as follows: “A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.”

21 USC 371. (b) The first sentence of paragraph (3) of subsection (f) of section 701 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1055), as amended, is amended to read as follows: “Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently.”

Labor.
29 USC 210. SEC. 22. The second and third sentences of subsection (a) of section 10 of the Fair Labor Standards Act of 1938 (52 Stat. 1065), as amended, are amended to read as follows: “A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner.”

Railroad Retirement.
60 Stat. 738. SEC. 23. The fourth, fifth, sixth, and eighth sentences of subsection (f) of section 5 of the Railroad Unemployment Insurance Act, as amended (52 Stat. 1100), are amended to read as follows: “Within fifteen days after receipt of service, or within such additional time as the court may allow, the Board shall file with the court in which such petition has been filed the record upon which the findings and decision complained of are based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall give precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence. It shall have power to enter a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for rehearing. * * * No additional evi-

dence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court the additional record."

SEC. 24. (a) Subsection (c) of section 409 of the Federal Seed Act (53 Stat. 1287), is amended to read as follows:

Agriculture,
7 USC 1599.

"(c) Until the record in such hearing has been filed in a court of appeals as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part."

(b) The second, third and fourth paragraphs of section 410 of the Federal Seed Act (53 Stat. 1288), are amended to read as follows:

7 USC 1600.

"The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

"The evidence so taken or admitted and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way."

(c) The first and second sentences of section 411 of the Federal Seed Act (53 Stat. 1288), are amended to read as follows:

7 USC 1601.

"SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28, United States Code. Upon such filing of the application the court shall cause notice thereof to be served upon the person against whom the order was issued."

SEC. 25. The second and third sentences of subsection (a) of section 43 of the Investment Company Act of 1940, as amended (54 Stat. 844), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission or any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part."

SEC.
15 USC 80a-42.

SEC. 26. The second and third sentences of subsection (a) of section 213 of the Investment Advisers Act of 1940, as amended (54 Stat. 855), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to any member of the Commission, or any officer thereof designated by the Com-

SEC.
15 USC 80b-13.

mission for that purpose, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, or set aside such order, in whole or in part."

Public Health.

42 USC 291j.

SEC. 27. (a) Paragraph (1) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048), is amended to read as follows:

"(b) (1) If the Surgeon General refuses to approve any application under section 625 or section 654, the State agency through which the application was submitted, or if any State is dissatisfied with the Surgeon General's action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located by filing with such court a notice of appeal. The jurisdiction of the court shall attach upon the filing of such notice. A copy of the notice of appeal shall be forthwith transmitted by the clerk of the court to the Surgeon General, or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code."

42 USC 291j.

(b) The first sentence of paragraph (2) of subsection (b) of section 632 of the Act of July 1, 1944, as added by the Hospital Survey and Construction Act (60 Stat. 1048), is amended to read as follows:

"(2) The findings of fact by the Surgeon General, unless substantially contrary to the weight of the evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Surgeon General to take further evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings."

Agriculture.
7 USC 1115.

SEC. 28. The fourth sentence of subsection (c) of section 205 of the Sugar Act of 1948 (61 Stat. 927), is amended to read as follows: "Within thirty days after the filing of said appeal the Secretary shall file with the court the record upon which the decision complained of was entered, as provided in section 2112 of title 28, United States Code, and a list of all interested persons to whom he has mailed or otherwise delivered a copy of said notice of appeal."

50 USC 793.

SEC. 29. The second and third sentences of subsection (a) of section 14 of the Internal Security Act of 1950 (64 Stat. 1001), are amended to read as follows: "A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction of the proceeding and shall have power to affirm or set aside the order of the Board; but the court may in its discretion and upon its own motion transfer any action so commenced to the United States Court of Appeals for the circuit wherein the petitioner resides."

Subversive ac-
tivities.
50 USC 820.

SEC. 30. (a) Subsection (e) of section 110 of the Internal Security Act of 1950 (64 Stat. 1028), is amended to read as follows:

"(e) Until the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it."

50 USC 821.

(b) The third and fifth sentences of subsection (c) of section 111 of the Internal Security Act of 1950 (64 Stat. 1028), are amended to read as follows: "The Board shall thereupon file in the court the record of the proceedings before the Board with respect to the matter con-

cerning which judicial review is sought, as provided in section 2112 of title 28, United States Code. * * * Upon the filing of such petition the court shall have jurisdiction of the proceeding, which upon the filing of the record with it shall be exclusive, and shall have power to affirm, modify, or set aside, or to enforce or enforce as modified the order of the Board.”

(c) The first sentence of subsection (d) of section 111 of the Internal Security Act of 1950 (60 Stat. 1029), is amended to read as follows:

50 USC 821.

“(d) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board or its hearing examiner, the court may order such additional evidence to be taken before the Board or its hearing examiner and to be made a part of the record.”

SEC. 31. (a) Section 6 of the Act of December 29, 1950 (64 Stat. 1130), is amended to read as follows:

FCC, Agriculture, Maritime and AEC.

5 USC 1036.

“SEC. 6. Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk of the court of appeals in which the proceeding is pending the record on review, as provided in section 2112 of title 28, United States Code.”

(b) The second sentence of subsection (c) of section 7 of the Act of December 29, 1950 (64 Stat. 1131), is amended to read as follows: “The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken and may modify or set aside its order and shall file in the court such additional evidence, such modified findings or new findings, and such modified order or the order setting aside the original order.”

5 USC 1037.

SEC. 32. Subsection (b) of section 207 of the Act of September 23, 1950, as amended (64 Stat. 974), is amended by adding at the end of that subsection three additional sentences reading as follows: “The local educational agency affected may file with the court a petition to review such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. Upon the filing of the petition the court shall have jurisdiction to affirm or set aside the action of the Commissioner in whole or in part.”

HEW.
20 USC 277.

SEC. 33. The fifth and sixth sentences of subsection (b) of section 207 of the International Claims Settlement Act of 1949, as amended (69 Stat. 564), are amended to read as follows: “Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy shall forthwith be transmitted to the said designee by the clerk of the court. Within forty-five days after receipt of such petition for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall file with the court the record of the proceedings with respect to such claim, as provided in section 2112 of title 28, United States Code.”

Justice.

22 USC 1631f.

SEC. 34. The second and third sentences of section 9 of the Bank Holding Company Act of 1956 (70 Stat. 138) are amended to read as follows: “A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper.”

Federal Reserve.
12 USC 1848.

SEC. 35. This Act shall not be construed to repeal or modify any provision of the Administrative Procedure Act.

60 Stat. 237.
5 USC 1001note.

Approved August 28, 1958.