

# United States Court of Appeals

District of Columbia Circuit  
Washington, D.C. 20001-2866

Clifton B. Cislak  
Clerk

General Information  
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## NOTICE OF AMENDMENTS TO THE D.C. CIRCUIT RULES AND HANDBOOK

Pursuant to D.C. Circuit Rule 47, the court proposed amendments to D.C. Circuit Rule 28(a)(7). The proposed amendments were published for public comment on January 13, 2025. One comment was received and transmitted to the Advisory Committee on Procedures for feedback. The court has ordered that the amendments, as originally proposed, be adopted effective August 11, 2025. Corresponding changes will be made to Section IX.A.8(e) of the Circuit's Handbook of Practice and Internal Procedures.

Circuit Rule 28(a)(7) describes the burden of appellants and petitioners in cases involving direct review of administrative actions to demonstrate standing in their briefs. Among other changes, the rule now provides that briefs of all such appellants and petitioners – not just those whose standing is “not apparent” from the administrative record – must include arguments and cite evidence establishing by a “substantial probability” the claim of standing. See Sierra Club v. EPA, 292 F.3d 895, 898 (D.C. Cir. 2002).

The comment objects to including the quotation from Sierra Club stating that standing must be established by a “substantial probability,” and the Committee agrees. The commenters stated that including this language is unnecessary to ensure standing is adequately briefed, could be misconstrued as enshrining a substantive formulation of an Article III standing requirement in a procedural rule, and would cause confusion because the showing needed to establish standing has been described in different ways in different cases.

The court is grateful for the comment and response, but has decided to adopt the revised rule as originally proposed. Under Sierra Club, it is necessary for the court to determine that a “substantial probability” of standing has been made, and the revised rule will assist the court in making that determination. The revision does not alter any substantive right, but rather references a common formulation of the relevant standard for demonstrating standing. As for possible confusion, the full court's agreement to cite a single, often-used formulation of the standard would appear to alleviate confusion. More generally, the court's rules have directed litigants to Sierra Club's standing requirements for almost twenty years, without creating any apparent confusion.

Revised versions of the Circuit Rules and the Handbook, as well as a redlined version of new Circuit Rule 28(a)(7), will be posted on the court's website.

Copies of this Notice have been published this day by the means specified in D.C. Circuit Rule 47(c).

Date: July 11, 2025

Clifton B. Cislak, Clerk