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*Restoring the Applicability of the APA's Adjudicatory Procedures*

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During the fifty years of the APA's existence, courts have come up with three varying interpretations of when a federal adjudicator is required to use the adjudicatory procedures of sections 554, 556 and 557 of the APA. Under the *Seacoast Anti-Pollution v. Costle* (*Seacoast*) approach, an adjudicator must use the APA's adjudicatory provisions whenever the statute called for a hearing. Under the *City of West Chicago v. Nuclear Regulatory Commission* (*West City*) approach, an adjudicator would not use the APA's adjudicatory procedures unless Congress was extremely clear that an adjudicator should use the APA's adjudicatory provisions. Therefore, agencies may instead use different adjudicatory procedures it has designed. Finally, under the *Chemical Waste Management, Inc. v. EPA* (*Chem Waste*) approach, courts used a *Chevron* analysis to determine whether an agency must use the APA's adjudicatory provisions.

Based on the resulting conflicts among the circuits, the author argues in favor of two proposals: one to extend some of the procedural protections of the APA to federal agency adjudications not currently subject to sections 554, 556 and 557 of the APA, and another to make the APA's adjudicatory "on the record" procedures presumptively applicable to future legislation. The author "begrudgingly" endorses these proposals because he believes the proposals should not be needed given the legislative history of the APA and the Attorney General's interpretations regarding the APA's adjudicatory procedures. In the absence of common law intervention declaring the *Seacoast* approach as correct, the author counters the *West City* and *Chem Waste* approaches, while addressing concerns of contrary intent, the need for agency flexibility, and the inadequacy of courts' *Chevron* analysis on the issue.