

AMENDMENT TO H.R. 2997
OFFERED BY MR. ROKITA OF INDIANA

Page 113, strike line 20 and all that follows through line 2 on page 117 and insert the following (and conform the chapter analysis accordingly):

1 § 90705. Special rules and appeals process

2 (a) IN GENERAL.—If the Corporation proposes to
3 take a covered action, the Secretary shall designate an of-
4 ficer to issue a notice in the Federal Register and establish
5 a docket that includes—

6 (1) a copy of the Corporation’s proposal;

7 (2) available data, including in the case of a
8 covered action described in subsection (h)(3) data on
9 the usage of the affected air traffic service or air
10 navigation facility;

11 (3) an assessment of the designated officer on
12 the effects of the proposal; and

13 (4) an assessment of the designated officer on
14 any proposed action to mitigate the covered action,
15 including in the case of a covered action described
16 in subsection (h)(3) the loss of or material reduction
17 in access to the public-use airport or adjacent air-
18 space.

1 (b) PROCEEDING.—The designated officer shall pro-
2 vide an opportunity for public comment on the proposal
3 for a period of at least 60 days.

4 (c) DECISION.—Not later than 30 days after the last
5 day of the public comment period, the designated officer
6 shall—

7 (1) determine whether the proposal is in the
8 public interest, including in the case of a covered ac-
9 tion described in subsection (h)(3) whether any ma-
10 terial reduction in access to a public-use airport or
11 adjacent airspace has been mitigated to the max-
12 imum extent practicable; and

13 (2) approve or disapprove the proposal on that
14 basis.

15 (d) RELATIONSHIP TO OTHER REQUIREMENTS.—
16 Notwithstanding section 90501(c), a proposal described in
17 subsection (a)—

18 (1) shall be subject to the process established in
19 this section; and

20 (2) may not be implemented unless approved
21 under this section.

22 (e) APPEALS AND SECRETARIAL REVIEW.—

23 (1) WRITTEN PETITION FOR REVIEW.—A peti-
24 tion for an appeal of a decision of the designated of-
25 ficer under subsection (c) shall be submitted in writ-

1 ing to the Secretary not later than 30 days after the
2 date of the decision.

3 (2) SECRETARIAL REVIEW.—The Secretary
4 shall review and make a determination with respect
5 to a timely filed petition under paragraph (1) not
6 later than 30 days after the date of receipt of the
7 petition.

8 (f) DECISIONAL STANDARDS.—In making a deter-
9 mination under this section, neither the Secretary nor the
10 designated officer may consider any factor not directly
11 germane to—

12 (1) the safe operation or navigation of an air-
13 craft; or

14 (2) the sufficiency of mitigation efforts related
15 to a material reduction in access to a public-use air-
16 port or adjacent airspace.

17 (g) JUDICIAL REVIEW.—

18 (1) IN GENERAL.—Any determination made by
19 the Secretary under subsection (e)(2) shall be sub-
20 ject to judicial review pursuant to subsections (a),
21 (b), (d), and (e) of section 46110.

22 (2) STANDARD OF REVIEW.—In the case of a
23 petition filed under section 46110(a) to review a de-
24 termination of the Secretary that approves or dis-
25 approves a proposal, the court shall, without def-

1 erence to the Secretary’s determination, review de
2 novo the record to determine if the Secretary’s de-
3 termination is in the public interest.

4 (h) COVERED ACTION DEFINED.—In this section, the
5 term “covered action” means an action that the Secretary
6 determines—

7 (1) denies access to airspace or air traffic serv-
8 ices on the basis that the user is exempt from
9 charges and fees under section 90313;

10 (2) materially reduces access to a public-use
11 airport, including a general aviation or rural airport;
12 or

13 (3) would result in the loss of or material re-
14 duction in access to a public-use airport or adjacent
15 airspace for any class, category, or type of aircraft
16 or aircraft operation.

