

107TH CONGRESS
2^D SESSION

H. R. 4481

To amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2002

Mr. YOUNG of Alaska (for himself, Mr. MICA, and Mr. DUNCAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, relating to airport project streamlining, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airport Streamlining
5 Approval Process Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) airports play a major role in interstate and
9 foreign commerce;

1 (2) congestion and delays at our Nation’s major
2 airports have a significant negative impact on our
3 Nation’s economy;

4 (3) airport capacity enhancement projects at
5 congested airports are a national priority and should
6 be constructed on an expedited basis;

7 (4) airport capacity enhancement projects must
8 include an environmental review process that pro-
9 vides local citizenry an opportunity for consideration
10 of and appropriate action to address environmental
11 concerns; and

12 (5) the Federal Aviation Administration, airport
13 authorities, communities, and other Federal, State,
14 and local government agencies must work together
15 to develop a plan, set and honor milestones and
16 deadlines, and work to protect the environment while
17 sustaining the economic vitality that will result from
18 the continued growth of aviation.

19 **SEC. 3. PROMOTION OF NEW RUNWAYS.**

20 Section 40104 of title 49, United States Code, is
21 amended by adding at the end the following:

22 “(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS
23 AT CONGESTED AIRPORTS.—In carrying out subsection
24 (a), the Administrator shall take action to encourage the
25 construction of airport capacity enhancement projects at

1 congested airports as those terms are defined in section
2 47179.”.

3 **SEC. 4. AIRPORT PROJECT STREAMLINING.**

4 (a) IN GENERAL.—Chapter 471 of title 49, United
5 States Code, is amended by inserting after section 47153
6 the following:

7 “SUBCHAPTER III—AIRPORT PROJECT
8 STREAMLINING

9 “§ 47171. DOT as lead agency

10 “(a) AIRPORT PROJECT REVIEW PROCESS.—The
11 Secretary of Transportation shall develop and implement
12 a coordinated review process for airport capacity enhance-
13 ment projects at congested airports.

14 “(b) COORDINATED REVIEWS.—The coordinated re-
15 view process under this section shall provide that all envi-
16 ronmental reviews, analyses, opinions, permits, licenses,
17 and approvals that must be issued or made by a Federal
18 agency or airport sponsor for an airport capacity enhance-
19 ment project at a congested airport will be conducted con-
20 currently, to the maximum extent practicable, and com-
21 pleted within a time period established by the Secretary,
22 in cooperation with the agencies identified under sub-
23 section (c) with respect to the project.

24 “(c) IDENTIFICATION OF JURISDICTIONAL AGEN-
25 CIES.—With respect to each airport capacity enhancement

1 project at a congested airport, the Secretary shall identify,
2 as soon as practicable, all Federal and State agencies that
3 may have jurisdiction over environmental-related matters
4 that may be affected by the project or may be required
5 by law to conduct an environmental-related review or anal-
6 ysis of the project or determine whether to issue an envi-
7 ronmental-related permit, license, or approval for the
8 project.

9 “(d) STATE AUTHORITY.—If a coordinated review
10 process is being implemented under this section by the
11 Secretary with respect to a project at an airport within
12 the boundaries of a State, the State, consistent with State
13 law, may choose to participate in such process and provide
14 that all State agencies that have jurisdiction over environ-
15 mental-related matters that may be affected by the project
16 or may be required by law to conduct an environmental-
17 related review or analysis of the project or determine
18 whether to issue an environmental-related permit, license,
19 or approval for the project, be subject to the process.

20 “(e) MEMORANDUM OF UNDERSTANDING.—The co-
21 ordinated review process developed under this section may
22 be incorporated into a memorandum of understanding for
23 a project between the Secretary and other Federal agen-
24 cies, State agencies identified under subsection (c) with
25 respect to the project, and the airport sponsor.

1 “(f) EFFECT OF FAILURE TO MEET DEADLINE.—

2 “(1) NOTIFICATION OF CONGRESS AND CEQ.—

3 If the Secretary determines that a Federal agency,
4 State agency, or airport sponsor that is participating
5 in a coordinated review process under this section
6 with respect to a project has not met a deadline es-
7 tablished under subsection (b) for the project, the
8 Secretary shall notify, within 30 days of the date of
9 such determination, the Committee on Transpor-
10 tation and Infrastructure of the House of Represent-
11 atives, the Committee on Commerce, Science, and
12 Transportation of the Senate, the Council on Envi-
13 ronmental Quality, and the agency or sponsor in-
14 volved about the failure to meet the deadline.

15 “(2) AGENCY REPORT.—Not later than 30 days
16 after date of receipt of a notice under paragraph (1),
17 the agency or sponsor involved shall submit a report
18 to the Secretary, the Committee on Transportation
19 and Infrastructure of the House of Representatives,
20 the Committee on Commerce, Science, and Trans-
21 portation of the Senate, and the Council on Environ-
22 mental Quality explaining why the agency or sponsor
23 did not meet the deadline and what actions it in-
24 tends to take to complete or issue the required re-
25 view, analysis, opinion, license, or approval.

1 “(g) PURPOSE AND NEED.—For any environmental
2 review, analysis, opinion, permit, license, or approval that
3 must be issued or made by a Federal or State agency for
4 an airport capacity enhancement project at a congested
5 airport and that requires an analysis of purpose and need
6 for the project, the agency, notwithstanding any other pro-
7 vision of law, shall be bound by the project purpose and
8 need as defined by the Secretary.

9 “(h) ALTERNATIVES ANALYSIS.—The Secretary shall
10 determine the reasonable alternatives and applicable
11 transportation-related analytical methods for an airport
12 capacity enhancement project at a congested airport. Any
13 other Federal or State agency acting under or applying
14 Federal law with respect to the project shall consider only
15 those alternatives to the project and applicable transpor-
16 tation-related analytical methods that the Secretary has
17 determined are reasonable.

18 “(i) SOLICITATION AND CONSIDERATION OF COM-
19 MENTS.—Before defining the purpose and need for a
20 project under subsection (g) and determining the reason-
21 able alternatives and applicable transportation-related an-
22 alytical methods for the project under subsection (h), the
23 Secretary shall solicit and consider comments on defining
24 the purpose and need and on making such determination
25 from all interested persons and governmental entities.

1 **“§ 47172. Categorical exclusions**

2 “Not later than 120 days after the date of enactment
3 of this section, the Secretary of Transportation shall de-
4 velop and publish a list of categorical exclusions from the
5 requirement that an environmental assessment or an envi-
6 ronmental impact statement be prepared under the Na-
7 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
8 et seq.) for projects at airports.

9 **“§ 47173. Air carrier operations specifications**

10 “The Secretary of Transportation may only deny or
11 delay a change in air carrier operations specifications for
12 reasons of safety.

13 **“§ 47174. Access restrictions to ease construction**

14 “At the request of an airport sponsor for a congested
15 airport, the Secretary of Transportation may approve a
16 restriction on use of a runway to be constructed at the
17 airport to minimize potentially significant adverse noise
18 impacts from the runway if the Secretary determines that
19 imposition of the restriction—

20 “(1) would expedite the construction of the run-
21 way and represents a cost-effective means to miti-
22 gate the noise impact of the runway;

23 “(2) is the most appropriate and a cost-effective
24 measure to mitigate the environmental impact of the
25 runway; and

1 “(3) would not adversely affect service to small
2 communities, adversely affect safety or efficiency of
3 the national airspace system, unjustly discriminate
4 against any class of user of the airport, or impose
5 an undue burden on interstate or foreign commerce.

6 **“§ 47175. Airport revenue to pay for mitigation**

7 “(a) IN GENERAL.—Notwithstanding section
8 47107(b), section 47133, or any other provision of this
9 title, the Secretary of Transportation may allow an airport
10 sponsor carrying out an airport capacity enhancement
11 project at a congested airport to make payments, out of
12 revenues generated at the airport (including local taxes on
13 aviation fuel), for measures to mitigate the environmental
14 impacts of the project if the Secretary finds that—

15 “(1) the mitigation measures are included as
16 part of the preferred alternative for the project in
17 the final environmental impact statement for the
18 project;

19 “(2) the use of such revenues will provide a sig-
20 nificant incentive for, or remove an impediment to,
21 approval of the project by a State or local govern-
22 ment; and

23 “(3) the cost of the mitigation measures is rea-
24 sonable in relation to the mitigation that will be
25 achieved.

1 “(b) MITIGATION OF AIRCRAFT NOISE.—Mitigation
2 measures described in subsection (a) may include the insu-
3 lation of residential buildings and buildings used primarily
4 for educational or medical purposes to mitigate the effects
5 of aircraft noise and the improvement of such buildings
6 as required for the insulation of the buildings under local
7 building codes.

8 “§ 47176. Airport funding of FAA staff

9 “(a) ACCEPTANCE OF SPONSOR-PROVIDED
10 FUNDS.—Notwithstanding any other provision of law, the
11 Administrator of the Federal Aviation Administration may
12 accept funds from an airport sponsor, including funds pro-
13 vided to the sponsor under section 47114(c), to hire addi-
14 tional staff or obtain the services of consultants in order
15 to facilitate the timely processing, review, and completion
16 of environmental activities associated with an airport de-
17 velopment project.

18 “(b) ADMINISTRATIVE PROVISION.—Instead of pay-
19 ment from an airport sponsor from funds apportioned to
20 the sponsor under section 47114, the Administrator, with
21 agreement of the sponsor, may transfer funds that would
22 otherwise be apportioned to the sponsor under section
23 47114 to the account used by the Administrator for activi-
24 ties described in subsection (a).

1 “(c) RECEIPTS CREDITED AS OFFSETTING COLLEC-
2 TIONS.—Notwithstanding section 3302 of title 31, any
3 funds accepted under this section, except funds trans-
4 ferred pursuant to subsection (b)—

5 “(1) shall be credited as offsetting collections to
6 the account that finances the activities and services
7 for which the funds are accepted;

8 “(2) shall be available for expenditure only to
9 pay the costs of activities and services for which the
10 funds are accepted; and

11 “(3) shall remain available until expended.

12 “(d) MAINTENANCE OF EFFORT.—No funds may be
13 accepted pursuant to subsection (a), or transferred pursu-
14 ant to subsection (b), in any fiscal year in which the Fed-
15 eral Aviation Administration does not allocate at least the
16 amount it expended in fiscal year 2002, excluding
17 amounts accepted pursuant to section 337 of the Depart-
18 ment of Transportation and Related Agencies Appropria-
19 tions Act, 2002 (115 Stat. 862), for the activities de-
20 scribed in subsection (a).

21 **“§ 47177. Authorization of appropriations**

22 “In addition to the amounts authorized to be appro-
23 priated under section 106(k), there is authorized to be ap-
24 propriated to the Secretary of Transportation, out of the
25 Airport and Airway Trust Fund established under section

1 9502 of the Internal Revenue Code of 1986 (26 U.S.C.
2 9502), \$2,100,000 for fiscal year 2003 and \$4,200,000
3 for each fiscal year thereafter to facilitate the timely proc-
4 essing, review, and completion of environmental activities
5 associated with airport capacity enhancement projects at
6 congested airports.

7 **§ 47178. Judicial review**

8 “(a) **FILING AND VENUE.**—A person disclosing a
9 substantial interest in a final action of the Secretary of
10 Transportation or any Federal or State agency under this
11 subchapter or a person or agency relying on any deter-
12 mination made under this subchapter may apply for re-
13 view of the action by filing a petition for review in the
14 United States Court of Appeals for the District of Colum-
15 bia Circuit or in the court of appeals of the United States
16 for the circuit in which the person resides or has its prin-
17 cipal place of business. The petition must be filed not later
18 than 60 days after the action is taken. The court may
19 allow the petition to be filed after the 60th day only if
20 there are reasonable grounds for not filing by the 60th
21 day.

22 “(b) **JUDICIAL PROCEDURES.**—When a petition is
23 filed under subsection (a) of this section, the clerk of the
24 court immediately shall send a copy of the petition to the

1 Secretary. The Secretary shall file with the court a record
2 of any proceeding in which the action was taken.

3 “(c) AUTHORITY OF COURT.—When the petition is
4 sent to the Secretary, the court has exclusive jurisdiction
5 to affirm, amend, modify, or set aside any part of the ac-
6 tion and may order the Secretary to conduct further pro-
7 ceedings. After reasonable notice to the Secretary, the
8 court may grant interim relief by staying the action or
9 taking other appropriate action when good cause for its
10 action exists. Findings of fact by the Secretary are conclu-
11 sive if supported by substantial evidence.

12 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
13 viewing an action of the Secretary or a Federal or State
14 agency under this section, the court may consider an ob-
15 jection to the action of the Secretary or agency only if
16 the objection was made in the proceeding conducted by
17 the Secretary or agency if there was a reasonable ground
18 for not making the objection in the proceeding.

19 “(e) SUPREME COURT REVIEW.—A decision by a
20 court under this section may be reviewed only by the Su-
21 preme Court under section 1254 of title 28.

22 **“§ 47179. Definitions**

23 “In this subchapter, the following definitions apply:

1 “(1) AIRPORT SPONSOR.—The term ‘airport
2 sponsor’ has the meaning given the term ‘sponsor’
3 under section 47102.

4 “(2) CONGESTED AIRPORT.—The term ‘con-
5 gested airport’ means an airport that accounted for
6 at least 1 percent of all delayed aircraft operations
7 in the United States in the most recent year for
8 which such data is available and an airport listed in
9 table 1 of the Federal Aviation Administration’s Air-
10 port Capacity Benchmark Report 2001.

11 “(3) AIRPORT CAPACITY ENHANCEMENT
12 PROJECT.—The term ‘airport capacity enhancement
13 project’ means—

14 “(A) a project for construction or exten-
15 sion of a runway, including any land acquisi-
16 tion, taxiway, or safety area associated with the
17 runway or runway extension; and

18 “(B) such other airport development
19 projects as the Secretary may designate as fa-
20 cilitating a reduction in air traffic congestion
21 and delays.”.

22 (b) CONFORMING AMENDMENT.—The analysis for
23 chapter 471 of such title is amended by adding at the end
24 the following:

 “SUBCHAPTER III—AIRPORT PROJECT STREAMLINING
“47171. DOT as lead agency.

“47172. Categorical exclusions.
“47173. Air carrier operations specifications.
“47174. Access restrictions to ease construction.
“47175. Airport revenue to pay for mitigation.
“47176. Airport funding of FAA staff.
“47177. Authorization of appropriations.
“47178. Judicial review.
“47179. Definitions.”.

1 **SEC. 5. GOVERNOR’S CERTIFICATE.**

2 Section 47106(c) of title 49, United States Code, is
3 amended—

4 (1) in paragraph (1)—

5 (A) by inserting “and” after the semicolon
6 at the end of subparagraph (A)(ii);

7 (B) by striking subparagraph (B); and

8 (C) by redesignating subparagraph (C) as
9 subparagraph (B);

10 (2) in paragraph (2)(A) by striking “stage 2”
11 and inserting “stage 3”;

12 (3) by striking paragraph (4); and

13 (4) by redesignating paragraph (5) as para-
14 graph (4).

15 **SEC. 6. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY**
16 **PROJECTS.**

17 Section 47504(c)(2) of title 49, United States Code,
18 is amended—

19 (1) by striking “and” at the end of subpara-
20 graph (C);

1 (2) by striking the period at the end of sub-
2 paragraph (D) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(E) to an airport operator of a congested
5 airport (as defined in section 47179) and a unit
6 of local government referred to in paragraph
7 (1)(A) or (1)(B) of this subsection to carry out
8 a project to mitigate noise in the area sur-
9 rounding the airport if the project is included
10 as a commitment in a record of decision of the
11 Federal Aviation Administration for an airport
12 capacity enhancement project (as defined in
13 section 47179) even if that airport has not met
14 the requirements of part 150 of title 14, Code
15 of Federal Regulations.”.

○