

**AMENDMENT TO THE RULES COMMITTEE PRINT  
OF H.R. 7  
OFFERED BY MR. CARTER OF TEXAS**

Page 382, strike line 19 and all that follows through  
page 384, line 19, and insert the following:

1           (j) BINDING ARBITRATION AND LIMITATION ON  
2 CLAIMS.—Section 139 is further amended by striking sub-  
3 section (n) (as redesignated by subsection (h)(1) of this  
4 section) and inserting the following:

5           “(n) BINDING ARBITRATION AND LIMITATION ON  
6 CLAIMS.—

7           “(1) IN GENERAL.—Notwithstanding any other  
8 provision of law, a claim arising under Federal law  
9 seeking review of a permit, license, or approval  
10 issued by a Federal agency for a highway or other  
11 surface transportation capital project must be sub-  
12 mitted to binding arbitration and shall be barred un-  
13 less it is submitted within 90 days after the date of  
14 publication of a notice in the Federal Register an-  
15 nouncing that the permit, license, or approval is  
16 final pursuant to the law under which the agency ac-  
17 tion is taken, unless a shorter time is specified in  
18 the Federal law pursuant to which review is allowed.

1 Nothing in this subsection shall create a right to re-  
2 view of a permit, license, or approval or place any  
3 limit on submission of a claim that a person has vio-  
4 lated the terms of a permit, license, or approval.

5 “(2) ARBITRATION PANEL.—Arbitration under  
6 this subsection shall be conducted by a panel com-  
7 posed of three arbitrators selected from a list pro-  
8 vided by the American Arbitration Association. One  
9 arbitrator shall be selected by the plaintiff(s), one  
10 arbitrator shall be selected by the defendant(s), and  
11 the third arbitrator shall be selected by the other  
12 two members of the arbitration panel. Arbitrators  
13 must have experience and expertise in environmental  
14 law and/or development of transportation infrastruc-  
15 ture.

16 “(3) DEADLINES.—

17 “(A) IN GENERAL.—The arbitration panel  
18 shall—

19 “(i) be selected within 30 calendar  
20 days of the submission of a claim;

21 “(ii) complete its evidentiary review  
22 within 90 days of the initiation of the arbi-  
23 tration process; and

24 “(iii) issue a decision within 30 days  
25 after the close of the evidentiary record.

1           “(B) EXTENSION.—The deadlines in this  
2           subsection may be extended by no more than an  
3           additional 30 days upon the agreement of all  
4           parties in the dispute.

5           “(4) ARBITRATION PROCEDURES.—The parties  
6           to an arbitration under this subsection shall be enti-  
7           tled to a full and fair hearing before the arbitration  
8           panel, including the opportunity to present their  
9           case in person, by counsel, or by another representa-  
10          tive. The arbitration panel’s review shall be limited  
11          to the administrative record except when consider-  
12          ation of other evidence is permitted by the Federal  
13          law pursuant to which review is allowed.

14          “(5) DECISION.—Any decision reached in an  
15          arbitration process under this subsection shall—

16                 “(A) be consistent with the National Envi-  
17                 ronmental Policy Act of 1969 (42 U.S.C. 4321  
18                 et seq.);

19                 “(B) be in writing and contain findings of  
20                 fact and conclusions of law; (C) have no prece-  
21                 dential effect in any other or subsequent arbi-  
22                 tration dispute;

23                 “(C) be final, conclusive, and binding upon  
24                 the parties; and

1           “(D) be subject to review by a court of the  
2           United States only in the event that a verified  
3           complaint with supporting affidavits attests to a  
4           specific instance of fraud, misrepresentation, or  
5           other misconduct by one of the parties to the  
6           arbitration or by one of the arbitrators.

7           “(6) EXPENSES.—The parties to the arbitration  
8           shall share equally in the payment of the fees and  
9           expenses of the arbitrators.

10           “(7) NEW INFORMATION.—The Secretary shall  
11           consider new information received after the close of  
12           a comment period if the information satisfies the re-  
13           quirements for a supplemental environmental impact  
14           statement under section 771.130 of title 23, Code of  
15           Federal Regulations. The preparation of a supple-  
16           mental environmental impact statement when re-  
17           quired shall be considered a separate final agency  
18           action, and the deadline for submission of a claim  
19           seeking review of such action to binding arbitration  
20           shall be 90 days after the date of publication of a  
21           notice in the Federal Register announcing such ac-  
22           tion.

23           “(o) LIMITATION ON CLAIMS.—Notwithstanding any  
24           other provision of law, the following limitations shall apply

1 to claims submitted to arbitration in connection with a  
2 project under this section:

3 “(1) A specific property interest impacted by  
4 the transportation project in question must exist in  
5 order to have standing to submit a claim to arbitra-  
6 tion.

7 “(2) No claim may be submitted by any person  
8 alleging a violation of—

9 “(A) the National Environmental Policy  
10 Act of 1969 (42 U.S.C. 4321 et. seq.), chapters  
11 5 and 7 of title 5, United State Code, or any  
12 other Federal law applicable to the evaluation,  
13 avoidance, or mitigation of environmental im-  
14 pacts of the project if such Federal law is iden-  
15 tified in the draft environmental impact state-  
16 ment, unless such person provided written no-  
17 tice to the lead agency of the alleged violation  
18 of law, and the facts supporting such claim,  
19 during the public comment period on the draft  
20 environmental impact statement; or

21 “(B) any other law with regard to the  
22 project unless such person provided written no-  
23 tice to the applicable approving agency of the  
24 alleged violation of law, and the facts sup-

1           porting such claim, during the public comment  
2           period on such agency approval.

3           “(3) Elected or appointed officials working for  
4           the Federal Government or a State government may  
5           not be named in their individual capacities in an ar-  
6           bitration if they are acting within the scope of their  
7           official duties.”.

