

Union Calendar No. 397

107TH CONGRESS
2^D SESSION

H. R. 3880

[Report No. 107-649, Part I]

To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 2002

Mr. FOSSELLA (for himself, Mr. TOWNS, Mr. MEEKS of New York, Mr. GRUCCI, Mrs. KELLY, Mr. OWENS, Mr. RANGEL, Mr. QUINN, Mr. GILMAN, Mrs. MCCARTHY of New York, Mr. KING, Mr. ENGEL, and Mr. ACKERMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 9, 2002

Additional sponsors: Mr. BOEHLERT, Mr. ISRAEL, Mr. McNULTY, Mr. MCHUGH, Mr. REYNOLDS, Mr. SWEENEY, and Mr. CROWLEY

SEPTEMBER 9, 2002

Reported from the Committee on Energy and Commerce with an amendment
[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 9, 2002

Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than September 9, 2002

SEPTEMBER 9, 2002

Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, 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. CLEAN AIR TRANSPORTATION CONFORMITY;**
 4 **TEMPORARY WAIVER FOR NEW YORK AREAS.**

5 (a) **TEMPORARY WAIVER.**—Notwithstanding any
 6 other provision of law, until September 30, 2005, the pro-
 7 visions of section 176(e) of the Clean Air Act, and the
 8 regulations promulgated thereunder, shall not apply to
 9 transportation projects, programs, and plans for the coun-
 10 ties of New York, Queens, Kings, Bronx, Richmond, Nas-
 11 sau, Suffolk, Westchester, Rockland, Putnam or to the
 12 towns of Blooming Grove, Chester, Highlands, Monroe,
 13 Tuxedo, Warwick, and Woodbury in Orange County, New
 14 York. The preceding sentence shall not apply to the regu-
 15 lations under section 176(e)(4)(B)(i) of such Act relating
 16 to Federal and State interagency consultation procedures.

17 (b) **INTERIM PROGRESS REPORT.**—Not later than
 18 January 1, 2004, the Governor of New York shall submit
 19 to the Committees on Energy and Commerce and Trans-

1 portation and Infrastructure of the United States House
2 of Representatives and to the Committee on Environment
3 and Public Works of the United States Senate a report
4 regarding the status of the State's progress towards
5 achieving compliance with the provisions of law and regu-
6 lation subject to the temporary waiver provided by sub-
7 section (a). Such report shall explain in detail the steps
8 that the State has taken towards achieving such compli-
9 ance and identify the necessary steps that remain to be
10 taken by September 30, 2005, in order for the transpor-
11 tation projects, programs, and plans for the counties re-
12 ferred to in subsection (a) to be in compliance with the
13 provisions of section 176(e) of the Clean Air Act, and the
14 regulations promulgated thereunder, by September 30,
15 2005. The report shall also include a regional emissions
16 analysis generally consistent with the requirements of 40
17 CFR 93.122, together with the relevant air quality data.

18 **SEC. 2. METROPOLITAN PLANNING REQUIREMENTS; TEM-**

19 **PORARY WAIVER FOR NEW YORK AREAS.**

20 Notwithstanding any other provision of law, until
21 September 30, 2005, the provisions of sections
22 134(h)(1)(D), 134(i)(3), 134(i)(5), and 134(l)(1) of title
23 23 of the United States Code and sections 5304(a)(1),
24 5305(e), and 5305(e)(1) of title 49 of the United States
25 Code and the regulations promulgated thereunder, shall

1 not apply to the New York Metropolitan Transportation
2 Council or to the Metropolitan Planning Organization des-
3 igned under section 134(b) of title 23 of the United
4 States Code.

5 **SECTION 1. CLEAN AIR TRANSPORTATION CONFORMITY;**
6 **TEMPORARY WAIVER FOR NEW YORK AREAS.**

7 (a) *TEMPORARY WAIVER.*—Notwithstanding any other
8 provision of law, until September 30, 2005, the provisions
9 of section 176(c) of the Clean Air Act, and the regulations
10 promulgated thereunder, shall not apply to transportation
11 projects, programs, and plans (as defined in 40 C.F.R. Part
12 93, Subpart A) for the counties of New York, Queens, Kings,
13 Bronx, Richmond, Nassau, Suffolk, Westchester, Rockland,
14 Putnam, or the towns of Blooming Grove, Chester, High-
15 lands, Monroe, Tuxedo, Warwick, and Woodbury in Orange
16 County, New York. The preceding sentence shall not apply
17 to the regulations under section 176(c)(4)(B)(i) of such Act
18 relating to Federal and State interagency consultation pro-
19 cedures.

20 (b) *INTERIM PROGRESS REPORT.*—Not later than
21 January 1, 2004, the Governor of New York shall submit
22 to the Committees on Energy and Commerce and Transpor-
23 tation and Infrastructure of the House of Representatives,
24 the Committee on Environment and Public Works of the
25 Senate, the Administrator of the Environmental Protection

1 *Agency, and the Secretary of Transportation a report re-*
2 *garding the status of the State's progress towards achieving*
3 *compliance with the provisions of law and regulation sub-*
4 *ject to the temporary waiver provided by subsection (a).*
5 *Such report shall explain in detail the steps that the State*
6 *has taken towards achieving such compliance and identify*
7 *the necessary steps that remain to be taken by September*
8 *30, 2005, in order for the transportation projects, programs,*
9 *and plans for the counties referred to in subsection (a) to*
10 *be in compliance with the provisions of section 176(c) of*
11 *the Clean Air Act, and the regulations promulgated there-*
12 *under, by September 30, 2005. The report shall also include*
13 *a regional emissions analysis generally consistent with the*
14 *requirements of 40 CFR 93.122, together with the relevant*
15 *air quality data.*

16 **SEC. 2. METROPOLITAN PLANNING REQUIREMENTS; TEM-**
17 **PORARY WAIVER FOR NEW YORK AREAS.**

18 *Notwithstanding any other provision of law, until*
19 *September 30, 2005, the provisions of sections 134(h)(1)(D),*
20 *134(i)(3), 134(i)(5), and 134(l)(1) of title 23 of the United*
21 *States Code and sections 5304(a)(1), 5305(c), and*
22 *5305(e)(1) of title 49 of the United States Code and the*
23 *regulations promulgated thereunder, shall not apply to the*
24 *New York Metropolitan Transportation Council or to the*

1 *Metropolitan Planning Organization designated under sec-*
2 *tion 134(b) of title 23 of the United States Code.*

3 **SEC. 3. ADDITIONAL REQUIREMENTS.**

4 (a) *PROHIBITION ON CAPACITY EXPANSION.*—*During*
5 *the period of the temporary transportation conformity*
6 *waiver for transportation plans, programs, and projects*
7 *under section 1, no regionally significant capacity expand-*
8 *ing highway project shall be added to the Regional Trans-*
9 *portation Plan for the counties referred to in section 1 and*
10 *no such project may be advanced from the out years of the*
11 *Plan into the TIP, except as provided in subsection (b).*

12 (b) *EXCEPTION.*—*Any regionally significant capacity*
13 *expanding highway project south of Canal Street and West*
14 *of Broadway in Manhattan may be added to the Plan re-*
15 *ferred to in subsection (a) if—*

16 (1) *the project is part of a redevelopment plan*
17 *for lower Manhattan subject to NEPA and the New*
18 *York State Environmental Quality Act, as applicable;*
19 *and*

20 (2) *any projected increases in transportation re-*
21 *lated emissions resulting from the project are offset by*
22 *corresponding reductions within the affected county,*
23 *with best efforts made to secure reductions from with-*
24 *in the immediate area affected by the project's emis-*
25 *sions.*

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