

Union Calendar No. 70

108TH CONGRESS
1ST SESSION

H. R. 1346

[Report No. 108–78, Part I]

To amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

Mr. TURNER of Ohio introduced the following bill; which was referred to the Committee on Government Reform

APRIL 29, 2003

Reported with an amendment and referred to the Committee on Transportation and Infrastructure for a period ending not later than June 2, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(q), rule X

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 2, 2003

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

[For text of introduced bill, see copy of bill as introduced on March 19, 2003]

A BILL

To amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator

for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency.

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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Federal Government Energy Management Improvement*
 6 *Act”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL FACILITIES

Sec. 101. Energy management requirements.

Sec. 102. Energy use measurement and accountability.

Sec. 103. Energy savings performance contracts.

Sec. 104. Federal agency participation in demand reduction programs.

TITLE II—FEDERAL FLEETS

Sec. 201. Waivers of alternative fueled vehicle fueling requirement.

Sec. 202. Study on reducing petroleum consumption.

Sec. 203. Hybrid vehicles.

TITLE III—FEDERAL PROCUREMENT

Sec. 301. Procurement of energy efficient products.

Sec. 302. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

Sec. 303. Participation of small business concerns.

Sec. 304. Amendment to Buy Indian Act.

Sec. 305. Buy American.

TITLE IV—FEDERAL WORKERS

Sec. 401. Telecommuting study.

Sec. 402. Elimination of pension offset.

1 ***TITLE I—FEDERAL FACILITIES***

2 ***SEC. 101. ENERGY MANAGEMENT REQUIREMENTS.***

3 *(a) ENERGY REDUCTION GOALS.—*

4 *(1) AMENDMENT.—Section 543(a)(1) of the Na-*
5 *tional Energy Conservation Policy Act (42 U.S.C.*
6 *8253(a)(1)) is amended by striking “its Federal*
7 *buildings so that” and all that follows through the*
8 *end and inserting “the Federal buildings of the agen-*
9 *cy (including each industrial or laboratory facility)*
10 *so that the energy consumption per gross square foot*
11 *of the Federal buildings of the agency in fiscal years*
12 *2004 through 2013 is reduced, as compared with the*
13 *energy consumption per gross square foot of the Fed-*
14 *eral buildings of the agency in fiscal year 2001, by*
15 *the percentage specified in the following table:*

<i>“Fiscal Year</i>	<i>Percentage reduction</i>
<i>2004</i>	<i>2</i>
<i>2005</i>	<i>4</i>
<i>2006</i>	<i>6</i>
<i>2007</i>	<i>8</i>
<i>2008</i>	<i>10</i>
<i>2009</i>	<i>12</i>
<i>2010</i>	<i>14</i>
<i>2011</i>	<i>16</i>
<i>2012</i>	<i>18</i>
<i>2013</i>	<i>20.”.</i>

16 *(2) REPORTING BASELINE.—The energy reduc-*
17 *tion goals and baseline established in paragraph (1)*
18 *of section 543(a) of the National Energy Conservation*
19 *Policy Act, as amended by paragraph (1) of this sub-*
20 *section, supersede all previous goals and baselines*

1 *under such paragraph, and related reporting require-*
2 *ments.*

3 *(b) REVIEW AND REVISION OF ENERGY PERFORMANCE*
4 *REQUIREMENT.—Section 543(a) of the National Energy*
5 *Conservation Policy Act (42 U.S.C. 8253(a)) is further*
6 *amended by adding at the end the following:*

7 *“(3) Not later than December 31, 2012, the Secretary*
8 *shall review the results of the implementation of the energy*
9 *performance requirement established under paragraph (1)*
10 *and submit to Congress recommendations concerning en-*
11 *ergy performance requirements for fiscal years 2014*
12 *through 2023.”.*

13 *(c) EXCLUSIONS.—Section 543(c)(1) of the National*
14 *Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is*
15 *amended by striking “An agency may exclude” and all that*
16 *follows through the end and inserting “(A) An agency may*
17 *exclude, from the energy performance requirement for a fis-*
18 *cal year established under subsection (a) and the energy*
19 *management requirement established under subsection (b),*
20 *any Federal building or collection of Federal buildings, if*
21 *the head of the agency finds that—*

22 *“(i) compliance with those requirements would*
23 *be impracticable;*

24 *“(ii) the agency has completed and submitted all*
25 *federally required energy management reports;*

1 “(iii) the agency has achieved compliance with
2 the energy efficiency requirements of this Act, the En-
3 ergy Policy Act of 1992, Executive Orders, and other
4 Federal law; and

5 “(iv) the agency has implemented all practicable,
6 life cycle cost-effective projects with respect to the Fed-
7 eral building or collection of Federal buildings to be
8 excluded.

9 “(B) A finding of impracticability under subpara-
10 graph (A)(i) shall be based on—

11 “(i) the energy intensiveness of activities carried
12 out in the Federal building or collection of Federal
13 buildings; or

14 “(ii) the fact that the Federal building or collec-
15 tion of Federal buildings is used in the performance
16 of a national security function.”.

17 (d) REVIEW BY SECRETARY.—Section 543(c)(2) of the
18 National Energy Conservation Policy Act (42 U.S.C.
19 8253(c)(2)) is amended—

20 (1) by striking “impracticability standards” and
21 inserting “standards for exclusion”; and

22 (2) by striking “a finding of impracticability”
23 and inserting “the exclusion”.

1 (e) *CRITERIA.*—Section 543(c) of the National Energy
 2 Conservation Policy Act (42 U.S.C. 8253(c)) is further
 3 amended by adding at the end the following:

4 “(3) Not later than 180 days after the date of enact-
 5 ment of this paragraph, the Secretary shall issue guidelines
 6 that establish criteria for exclusions under paragraph (1).”.

7 (f) *RETENTION OF ENERGY SAVINGS.*—Section 546 of
 8 the National Energy Conservation Policy Act (42 U.S.C.
 9 8256) is amended by adding at the end the following new
 10 subsection:

11 “(e) *RETENTION OF ENERGY SAVINGS.*—An agency
 12 may retain any funds appropriated to that agency for en-
 13 ergy expenditures, at buildings subject to the requirements
 14 of section 543(a) and (b), that are not made because of en-
 15 ergy savings. Except as otherwise provided by law, such
 16 funds may be used only for energy efficiency or unconven-
 17 tional and renewable energy resources projects.”.

18 (g) *REPORTS.*—Section 548(b) of the National Energy
 19 Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

20 (1) in the subsection heading, by inserting “THE
 21 PRESIDENT AND” before “CONGRESS”; and

22 (2) by inserting “President and” before “Con-
 23 gress”.

24 (h) *CONFORMING AMENDMENT.*—Section 550(d) of the
 25 National Energy Conservation Policy Act (42 U.S.C.

1 8258b(d)) is amended in the second sentence by striking
 2 “the 20 percent reduction goal established under section
 3 543(a) of the National Energy Conservation Policy Act (42
 4 U.S.C. 8253(a)).” and inserting “each of the energy reduc-
 5 tion goals established under section 543(a).”.

6 **SEC. 102. ENERGY USE MEASUREMENT AND ACCOUNT-**
 7 **ABILITY.**

8 Section 543 of the National Energy Conservation Pol-
 9 icy Act (42 U.S.C. 8253) is further amended by adding at
 10 the end the following:

11 “(e) *METERING OF ENERGY USE.*—

12 “(1) *DEADLINE.*—By October 1, 2010, in accord-
 13 ance with guidelines established by the Secretary
 14 under paragraph (2), all Federal buildings shall, for
 15 the purposes of efficient use of energy and reduction
 16 in the cost of electricity used in such buildings, be me-
 17 tered or submetered. Each agency shall use, to the
 18 maximum extent practicable, advanced meters or ad-
 19 vanced metering devices that provide data at least
 20 daily and that measure at least hourly consumption
 21 of electricity in the Federal buildings of the agency.
 22 Such data shall be incorporated into existing Federal
 23 energy tracking systems and made available to Fed-
 24 eral facility energy managers.

25 “(2) *GUIDELINES.*—

1 “(A) *IN GENERAL.*—Not later than 180
2 *days after the date of enactment of this sub-*
3 *section, the Secretary, in consultation with the*
4 *Department of Defense, the General Services Ad-*
5 *ministration, representatives from the metering*
6 *industry, utility industry, energy services indus-*
7 *try, energy efficiency industry, national labora-*
8 *tories, universities, and Federal facility energy*
9 *managers, shall establish guidelines for agencies*
10 *to carry out paragraph (1).*

11 “(B) *REQUIREMENTS FOR GUIDELINES.*—
12 *The guidelines shall—*

13 “(i) *take into consideration—*

14 “(I) *the cost of metering and sub-*
15 *metering and the reduced cost of oper-*
16 *ation and maintenance expected to re-*
17 *sult from metering and submetering;*

18 “(II) *the extent to which metering*
19 *and submetering are expected to result*
20 *in increased potential for energy man-*
21 *agement, increased potential for energy*
22 *savings and energy efficiency improve-*
23 *ment, and cost and energy savings due*
24 *to utility contract aggregation; and*

1 “(III) the measurement and
2 verification protocols of the Depart-
3 ment of Energy;

4 “(ii) include recommendations con-
5 cerning the amount of funds and the num-
6 ber of trained personnel necessary to gather
7 and use the metering information to track
8 and reduce energy use;

9 “(iii) establish priorities for types and
10 locations of buildings to be metered and
11 submetered based on cost-effectiveness and a
12 schedule of one or more dates, not later than
13 1 year after the date of issuance of the
14 guidelines, on which the requirements speci-
15 fied in paragraph (1) shall take effect; and

16 “(iv) establish exclusions from the re-
17 quirements specified in paragraph (1) based
18 on the de minimis quantity of energy use of
19 a Federal building, industrial process, or
20 structure.

21 “(3) *PLAN*.—No later than 6 months after the
22 date guidelines are established under paragraph (2),
23 in a report submitted by the agency under section
24 548(a), each agency shall submit to the Secretary a
25 plan describing how the agency will implement the

1 *requirements of paragraph (1), including (A) how the*
2 *agency will designate personnel primarily responsible*
3 *for achieving the requirements and (B) demonstration*
4 *by the agency, complete with documentation, of any*
5 *finding that advanced meters or advanced metering*
6 *devices, as defined in paragraph (1), are not prac-*
7 *ticable.”.*

8 **SEC. 103. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

9 *(a) PERMANENT EXTENSION.—Section 801(c) of the*
10 *National Energy Conservation Policy Act (42 U.S.C.*
11 *8287(c)) is repealed.*

12 *(b) REPLACEMENT FACILITIES.—Section 801(a) of the*
13 *National Energy Conservation Policy Act (42 U.S.C.*
14 *8287(a)) is amended by adding at the end the following*
15 *new paragraph:*

16 *“(3)(A) In the case of an energy savings contract or*
17 *energy savings performance contract providing for energy*
18 *savings through the construction and operation of one or*
19 *more buildings or facilities to replace one or more existing*
20 *buildings or facilities, benefits ancillary to the purpose of*
21 *such contract under paragraph (1) may include savings re-*
22 *sulting from reduced costs of operation and maintenance*
23 *at such replacement buildings or facilities when compared*
24 *with costs of operation and maintenance at the buildings*

1 *or facilities being replaced, established through a method-*
 2 *ology set forth in the contract.*

3 “(B) Notwithstanding paragraph (2)(B), aggregate
 4 annual payments by an agency under an energy savings
 5 contract or energy savings performance contract referred to
 6 in subparagraph (A) may take into account (through the
 7 procedures developed pursuant to this section) savings re-
 8 sulting from reduced costs of operation and maintenance
 9 as described in that subparagraph.”.

10 (c) *ENERGY SAVINGS*.—Section 804(2) of the National
 11 *Energy Conservation Policy Act* (42 U.S.C. 8287c(2)) is
 12 amended to read as follows:

13 “(2) The term ‘energy savings’ means—

14 “(A) a reduction in the cost of energy or
 15 water, from a base cost established through a
 16 methodology set forth in the contract, used in an
 17 existing federally owned building or buildings or
 18 other federally owned facilities as a result of—

19 “(i) the lease or purchase of operating
 20 equipment, improvements, altered operation
 21 and maintenance, or technical services;

22 “(ii) the increased efficient use of exist-
 23 ing energy sources by cogeneration or heat
 24 recovery, excluding any cogeneration process
 25 for other than a federally owned building or

1 *buildings or other federally owned facilities;*

2 *or*

3 *“(iii) the increased efficient use of ex-*

4 *isting water sources; or*

5 *“(B) in the case of a replacement building*

6 *or facility described in section 801(a)(3), a re-*

7 *duction in the cost of energy, from a base cost es-*

8 *tablished through a methodology set forth in the*

9 *contract, that would otherwise be utilized in one*

10 *or more existing federally owned buildings or*

11 *other federally owned facilities by reason of the*

12 *construction and operation of the replacement*

13 *building or facility.”.*

14 *(d) ENERGY SAVINGS CONTRACT.—Section 804(3) of*

15 *the National Energy Conservation Policy Act (42 U.S.C.*

16 *8287c(3)) is amended to read as follows:*

17 *“(3) The terms ‘energy savings contract’ and ‘en-*

18 *ergy savings performance contract’ mean a contract*

19 *(including a utility energy services contract) which*

20 *provides for—*

21 *“(A) the performance of services for the de-*

22 *sign, acquisition, installation, testing, operation,*

23 *and, where appropriate, maintenance and re-*

24 *pair, of an identified energy or water conserva-*

1 *tion measure or series of measures at one or*
 2 *more locations; or*

3 *“(B) energy savings through the construc-*
 4 *tion and operation of one or more buildings or*
 5 *facilities to replace one or more existing build-*
 6 *ings or facilities.*

7 *Such contracts shall, with respect to an agency facil-*
 8 *ity that is a public building as such term is defined*
 9 *in section 13(1) of the Public Buildings Act of 1959*
 10 *(40 U.S.C. 612(1)), be in compliance with the pro-*
 11 *spectus requirements and procedures of section 7 of*
 12 *the Public Buildings Act of 1959 (40 U.S.C. 606).”.*

13 *(e) ENERGY OR WATER CONSERVATION MEASURE.—*
 14 *Section 804(4) of the National Energy Conservation Policy*
 15 *Act (42 U.S.C. 8287c(4)) is amended to read as follows:*

16 *“(4) The term ‘energy or water conservation*
 17 *measure’ means—*

18 *“(A) an energy conservation measure, as de-*
 19 *finied in section 551(4) (42 U.S.C. 8259(4)); or*

20 *“(B) a water conservation measure that im-*
 21 *proves water efficiency, is life cycle cost-effective,*
 22 *and involves water conservation, water recycling*
 23 *or reuse, more efficient treatment of wastewater*
 24 *or stormwater, improvements in operation or*
 25 *maintenance efficiencies, retrofit activities, or*

1 *other related activities, not at a Federal hydro-*
2 *electric facility.”.*

3 (f) *REVIEW.*—*Within 180 days after the date of the*
4 *enactment of this section, the Secretary of Energy shall*
5 *complete a review of the Energy Savings Performance Con-*
6 *tract program to identify statutory, regulatory, and admin-*
7 *istrative obstacles that prevent Federal agencies from fully*
8 *utilizing the program. In addition, this review shall iden-*
9 *tify all areas for increasing program flexibility and effec-*
10 *tiveness, including audit and measurement verification re-*
11 *quirements, accounting for energy use in determining sav-*
12 *ings, contracting requirements, and energy efficiency serv-*
13 *ices covered. The Secretary shall report these findings to the*
14 *Committees on Energy and Commerce and Government Re-*
15 *form of the House of Representatives and the Committees*
16 *on Energy and Natural Resources and Governmental Af-*
17 *airs of the Senate, and shall implement identified adminis-*
18 *trative and regulatory changes to increase program flexi-*
19 *bility and effectiveness to the extent that such changes are*
20 *consistent with statutory authority.*

21 **SEC. 104. FEDERAL AGENCY PARTICIPATION IN DEMAND**
22 **REDUCTION PROGRAMS.**

23 *Section 546(c) of the National Energy Conservation*
24 *Policy Act (42 U.S.C. 8256(c)) is amended by adding at*
25 *the end of the following new paragraph:*

1 “(6) *Federal agencies are encouraged to participate in*
 2 *State or regional demand side reduction programs. The*
 3 *availability of such programs, including measures employ-*
 4 *ing onsite generation, and the savings resulting from such*
 5 *participation, should be included in the evaluation of en-*
 6 *ergy options for Federal facilities.”.*

7 ***TITLE II—FEDERAL FLEETS***

8 ***SEC. 201. WAIVERS OF ALTERNATIVE FUELED VEHICLE*** 9 ***FUELING REQUIREMENT.***

10 *Section 400AA(a)(3)(E) of the Energy Policy and*
 11 *Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to*
 12 *read as follows:*

13 “(E)(i) *Dual fueled vehicles acquired pursuant to this*
 14 *section shall be operated on alternative fuels unless the Sec-*
 15 *retary determines that an agency needs a waiver of such*
 16 *requirement for vehicles in the fleet of the agency in a par-*
 17 *ticular geographic area where—*

18 “(I) *the alternative fuel otherwise required to be*
 19 *used in the vehicle is not reasonably available to re-*
 20 *tail purchasers of the fuel, as certified to the Sec-*
 21 *retary by the head of the agency; or*

22 “(II) *the cost of the alternative fuel otherwise re-*
 23 *quired to be used in the vehicle is unreasonably more*
 24 *expensive compared to gasoline, as certified by the*
 25 *head of the agency.*

10 (a) *IN GENERAL.*—*The Administrator of General*
11 *Services, in cooperation with the Secretary of Energy, shall*
12 *conduct a study to consider the merits of establishing per-*
13 *formance measures to guide the reduction of petroleum con-*
14 *sumption by Federal fleets.*

(1) to enable agency and congressional decision-makers to establish annual and long-term performance goals to define the level of petroleum consumption reduction to be achieved by Federal fleets;

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1 (3) *to enhance decisionmaking by providing ob-*
 2 *jective information on achieving performance objec-*
 3 *tives; and*

4 (4) *to provide an alternative to the mandated al-*
 5 *ternative fueled vehicle requirements in section 303 of*
 6 *the Energy Policy Act of 1992 (42 U.S.C. 13212).*

7 (c) *REPORT.*—*Not later than 12 months after the date*
 8 *of enactment of this Act, the Administrator shall submit*
 9 *to the Committees on Environment and Public Works and*
 10 *Governmental Affairs of the Senate and the Committees on*
 11 *Energy and Commerce and Government Reform of the*
 12 *House of Representatives a report on the study.*

13 **SEC. 203. HYBRID VEHICLES.**

14 (a) *IN GENERAL.*—*Section 303(b)(1) of the Energy*
 15 *Policy Act of 1992 (42 U.S.C. 13212(b)(1)) is amended by*
 16 *striking subparagraph (D) and the matter after subpara-*
 17 *graph (D) and inserting the following:*

18 “(D) 75 percent in fiscal years 1999 through
 19 2003,
 20 shall be alternative fueled vehicles. For fiscal years 2004
 21 and thereafter, of the total number of vehicles acquired by
 22 a Federal fleet, at least 75 percent shall be alternative fueled
 23 vehicles or future technology vehicles.”.

24 (b) *EXEMPTION.*—*Such section 303(b) is further*
 25 *amended by adding at the end the following new paragraph:*

1 “(4) *For the period for which a Federal fleet is oper-*
 2 *ating under the exemption provided in section*
 3 *400AA(a)(3)(E) of the Energy Policy and Conservation Act*
 4 *(42 U.S.C. 6374(a)(3)(E)), and where future technology ve-*
 5 *hicles are available that would meet the agency’s oper-*
 6 *ational requirements for such fleet but the agency chooses*
 7 *not to acquire such vehicles, acquisitions of dual fueled vehi-*
 8 *cles for that fleet shall not count toward satisfaction of the*
 9 *requirements in this subsection.”.*

10 (c) *DEFINITION.—Section 301 of such Act is amend-*
 11 *ed—*

12 (1) *by striking “and” at the end of paragraph*
 13 *(13);*

14 (2) *by striking the period at the end of para-*
 15 *graph (14) and by inserting a semicolon; and*

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

17 “(15) *the term ‘future technology vehicle’ means,*
 18 *for the fiscal years 2004 through 2009, a qualified hy-*
 19 *brid motor vehicle, and for fiscal years after 2009, a*
 20 *vehicle—*

21 “(A) *that represents emerging technology*
 22 *that does not yet have substantial market pene-*
 23 *tration;*

24 “(B) *for which Federal Government acquisi-*
 25 *tions can lead the market;*

1 “(C) that achieves significant reductions in
2 air emissions and oil use compared to new vehi-
3 cles that do have substantial market penetration;
4 and

5 “(D) that in no event achieves reductions in
6 air emissions and oil use that are less than a
7 qualified hybrid motor vehicle,
8 as defined by the Secretary through guidance;

9 “(16) the term ‘qualified hybrid motor vehicle’
10 means a passenger automobile, light duty truck, or
11 medium duty passenger vehicle as defined in regula-
12 tions issued by the Administrator—

13 “(A) which draws propulsion energy from—

14 “(i) an internal combustion or heat en-
15 gine using combustible fuel; and

16 “(ii) a rechargeable onboard energy
17 storage system which operates at no less
18 than 100 volts and which provides a per-
19 centage of maximum available power of at
20 least 5 percent;

21 “(B) which has received a certificate that
22 such vehicle meets or exceeds the Bin 5 Tier II
23 emission level established in regulations pre-
24 scribed by the Administrator under section

1 202(i) of the Clean Air Act for that make and
2 model year vehicle; and

3 “(C) which achieves at least 140 percent of
4 the average 2002 model year city fuel economy
5 for passenger automobiles in the same vehicle in-
6 ertia weight class, if the vehicle is a passenger
7 automobile, or for light duty trucks in the same
8 vehicle inertia weight class, if the vehicle is a
9 light duty truck, or for medium duty passenger
10 vehicles, if the vehicle is a medium duty pas-
11 senger vehicle, as determined by the Environ-
12 mental Protection Agency according to the fol-
13 lowing vehicle inertia weight classes: 1,500 and
14 1,750 lbs (calculated based on the 1,750 lbs
15 weight class), 2,000 lbs, 2,250 lbs, 2,500 lbs,
16 2,750 lbs, 3,000 lbs, 3,500 lbs, 4,000 lbs, 4,500
17 lbs, 5,000 lbs, 5,500 lbs, 6,000 lbs, 6,500 lbs,
18 7,000 to 8,500 lbs, and 8,500 to 10,000 lbs;

19 “(17) the term ‘percentage of maximum available
20 power’ means the maximum power available from the
21 rechargeable energy storage system, during a standard
22 10 second pulse power or equivalent test, divided by
23 the sum of such maximum power and the SAE net
24 power of the internal combustion or heat engine; and

1 “(18) the term ‘vehicle inertia weight class’ has
 2 the same meaning as when defined in regulations pre-
 3 scribed by the Administrator for purposes of the ad-
 4 ministration of title II of the Clean Air Act (42
 5 U.S.C. 7521 et seq.).”.

6 (d) *ALLOCATION OF INCREMENTAL COSTS.*—Sub-
 7 section (c) of such section 303 is amended to read as follows:

8 “(c) *ALLOCATION OF INCREMENTAL COSTS.*—The Gen-
 9 eral Services Administration and any other Federal agency
 10 that procures motor vehicles for distribution to other Fed-
 11 eral agencies shall allocate the incremental cost of alter-
 12 native fueled vehicles and future technology vehicles over the
 13 cost of comparable internal combustion gasoline vehicles
 14 across the entire fleet of motor vehicles distributed by such
 15 agency in any fiscal year.”.

16 **TITLE III—FEDERAL** 17 **PROCUREMENT**

18 **SEC. 301. PROCUREMENT OF ENERGY EFFICIENT PROD-** 19 **UCTS.**

20 (a) *REQUIREMENTS.*—Part 3 of title V of the National
 21 Energy Conservation Policy Act is amended by adding at
 22 the end the following:

23 **“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT** 24 **PRODUCTS.**

25 “(a) *DEFINITIONS.*—In this section:

1 “(1) *ENERGY STAR PRODUCT*.—The term ‘En-
2 energy Star product’ means a product that is rated for
3 energy efficiency under an Energy Star program.

4 “(2) *ENERGY STAR PROGRAM*.—The term ‘En-
5 energy Star program’ means the program established by
6 section 324A of the Energy Policy and Conservation
7 Act.

8 “(3) *EXECUTIVE AGENCY*.—The term ‘executive
9 agency’ has the meaning given the term in section 4
10 of the Office of Federal Procurement Policy Act (41
11 U.S.C. 403).

12 “(4) *FEMP DESIGNATED PRODUCT*.—The term
13 ‘FEMP designated product’ means a product that is
14 designated under the Federal Energy Management
15 Program of the Department of Energy as being
16 among the highest 25 percent of equivalent products
17 for energy efficiency.

18 “(b) *PROCUREMENT OF ENERGY EFFICIENT PROD-*
19 *UCTS*.—

20 “(1) *REQUIREMENT*.—To meet the requirements
21 of an executive agency for an energy consuming prod-
22 uct, the head of the executive agency shall, except as
23 provided in paragraph (2), procure—

24 “(A) an Energy Star product; or

25 “(B) a FEMP designated product.

1 “(2) *EXCEPTIONS.*—*The head of an executive*
2 *agency is not required to procure an Energy Star*
3 *product or FEMP designated product under para-*
4 *graph (1) if the head of the executive agency finds in*
5 *writing that—*

6 “(A) *an Energy Star product or FEMP des-*
7 *ignated product is not cost-effective over the life*
8 *of the product taking energy cost savings into ac-*
9 *count; or*

10 “(B) *no Energy Star product or FEMP des-*
11 *ignated product is reasonably available that*
12 *meets the functional requirements of the executive*
13 *agency.*

14 “(3) *PROCUREMENT PLANNING.*—*The head of an*
15 *executive agency shall incorporate into the specifica-*
16 *tions for all procurements involving energy con-*
17 *suming products and systems, including guide speci-*
18 *fications, project specifications, and construction, ren-*
19 *ovation, and services contracts that include provision*
20 *of energy consuming products and systems, and into*
21 *the factors for the evaluation of offers received for the*
22 *procurement, criteria for energy efficiency that are*
23 *consistent with the criteria used for rating Energy*
24 *Star products and for rating FEMP designated prod-*
25 *ucts.*

1 “(c) *LISTING OF ENERGY EFFICIENT PRODUCTS IN*
2 *FEDERAL CATALOGS.—Energy Star products and FEMP*
3 *designated products shall be clearly identified and promi-*
4 *nently displayed in any inventory or listing of products*
5 *by the General Services Administration or the Defense Lo-*
6 *gistics Agency. The General Services Administration or the*
7 *Defense Logistics Agency shall supply only Energy Star*
8 *products or FEMP designated products for all product cat-*
9 *egories covered by the Energy Star program or the Federal*
10 *Energy Management Program, except in cases where the*
11 *agency ordering a product specifies in writing that no En-*
12 *ergy Star product or FEMP designated product is available*
13 *to meet the buyer’s functional requirements, or that no En-*
14 *ergy Star product or FEMP designated product is cost-effec-*
15 *tive for the intended application over the life of the product,*
16 *taking energy cost savings into account.*

17 “(d) *DESIGNATION OF ELECTRIC MOTORS.—In the*
18 *case of electric motors of 1 to 500 horsepower, agencies shall*
19 *select only premium efficient motors that meet a standard*
20 *designated by the Secretary. The Secretary shall designate*
21 *such a standard within 120 days after the date of the enact-*
22 *ment of this section, after considering the recommendations*
23 *of associated electric motor manufacturers and energy effi-*
24 *ciency groups.*

1 “(e) *REGULATIONS.*—Not later than 180 days after the
2 date of the enactment of this section, the Secretary shall
3 issue guidelines to carry out this section.”.

4 (b) *CONFORMING AMENDMENT.*—The table of contents
5 in section 1(b) of the National Energy Conservation Policy
6 Act (42 U.S.C. 8201 note) is amended by inserting after
7 the item relating to section 551 the following:

 “Sec. 552. Federal procurement of energy efficient products.”.

8 **SEC. 302. INCREASED USE OF RECOVERED MINERAL COM-**
9 **PONENT IN FEDERALLY FUNDED PROJECTS**
10 **INVOLVING PROCUREMENT OF CEMENT OR**
11 **CONCRETE.**

12 (a) *AMENDMENT.*—Subtitle F of the Solid Waste Dis-
13 posal Act (42 U.S.C. 6961 et seq.) is amended by adding
14 at the end the following new section:

15 “*INCREASED USE OF RECOVERED MINERAL COMPONENT IN*
16 *FEDERALLY FUNDED PROJECTS INVOLVING PROCURE-*
17 *MENT OF CEMENT OR CONCRETE*”

18 “*SEC. 6005. (a) DEFINITIONS.*—In this section:

19 “(1) *AGENCY HEAD.*—The term ‘agency head’
20 *means—*

21 “(A) the Secretary of Transportation; and

22 “(B) the head of each other Federal agency
23 that on a regular basis procures, or provides
24 Federal funds to pay or assist in paying the cost

1 *of procuring, material for cement or concrete*
 2 *projects.*

3 “(2) *CEMENT OR CONCRETE PROJECT.*—*The*
 4 *term ‘cement or concrete project’ means a project for*
 5 *the construction or maintenance of a highway or*
 6 *other transportation facility or a Federal, State, or*
 7 *local government building or other public facility*
 8 *that—*

9 *“(A) involves the procurement of cement or*
 10 *concrete; and*

11 *“(B) is carried out in whole or in part*
 12 *using Federal funds.*

13 “(3) *RECOVERED MINERAL COMPONENT.*—*The*
 14 *term ‘recovered mineral component’ means—*

15 *“(A) ground granulated blast furnace slag;*

16 *“(B) coal combustion fly ash; and*

17 *“(C) any other waste material or byproduct*
 18 *recovered or diverted from solid waste that the*
 19 *Administrator, in consultation with an agency*
 20 *head, determines should be treated as recovered*
 21 *mineral component under this section for use in*
 22 *cement or concrete projects paid for, in whole or*
 23 *in part, by the agency head.*

24 “(b) *IMPLEMENTATION OF REQUIREMENTS.*—

1 “(1) *IN GENERAL.*—Not later than 1 year after
2 the date of enactment of this section, the Adminis-
3 trator and each agency head shall take such actions
4 as are necessary to implement fully all procurement
5 requirements and incentives in effect as of the date of
6 enactment of this section (including guidelines under
7 section 6002) that provide for the use of cement and
8 concrete incorporating recovered mineral component
9 in cement or concrete projects.

10 “(2) *PRIORITY.*—In carrying out paragraph (1)
11 an agency head shall give priority to achieving great-
12 er use of recovered mineral component in cement or
13 concrete projects for which recovered mineral compo-
14 nents historically have not been used or have been
15 used only minimally.

16 “(3) *CONFORMANCE.*—The Administrator and
17 each agency head shall carry out this subsection in
18 accordance with section 6002.

19 “(c) *FULL IMPLEMENTATION STUDY.*—

20 “(1) *IN GENERAL.*—The Administrator, in co-
21 operation with the Secretary of Transportation and
22 the Secretary of Energy, shall conduct a study to de-
23 termine the extent to which current procurement re-
24 quirements, when fully implemented in accordance
25 with subsection (b), may realize energy savings and

1 *environmental benefits attainable with substitution of*
2 *recovered mineral component in cement used in ce-*
3 *ment or concrete projects.*

4 “(2) *MATTERS TO BE ADDRESSED.—The study*
5 *shall—*

6 “(A) *quantify the extent to which recovered*
7 *mineral components are being substituted for*
8 *Portland cement, particularly as a result of cur-*
9 *rent procurement requirements, and the energy*
10 *savings and environmental benefits associated*
11 *with that substitution;*

12 “(B) *identify all barriers in procurement*
13 *requirements to fuller realization of energy sav-*
14 *ings and environmental benefits, including bar-*
15 *riers resulting from exceptions from current law;*
16 *and*

17 “(C)(i) *identify potential mechanisms to*
18 *achieve greater substitution of recovered mineral*
19 *component in types of cement or concrete projects*
20 *for which recovered mineral components histori-*
21 *cally have not been used or have been used only*
22 *minimally;*

23 “(ii) *evaluate the feasibility of establishing*
24 *guidelines or standards for optimized substi-*

1 *tution rates of recovered mineral component in*
2 *those cement or concrete projects; and*

3 *“(iii) identify any potential environmental*
4 *or economic effects that may result from greater*
5 *substitution of recovered mineral component in*
6 *those cement or concrete projects.*

7 *“(3) REPORT.—Not later than 30 months after*
8 *the date of enactment of this section, the Adminis-*
9 *trator shall submit to the Committee on Appropria-*
10 *tions, Committee on Environment and Public Works,*
11 *and Committee on Governmental Affairs of the Senate*
12 *and the Committee on Appropriations, Committee on*
13 *Energy and Commerce, Committee on Transportation*
14 *and Infrastructure, and Committee on Government*
15 *Reform of the House of Representatives a report on*
16 *the study.*

17 *“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—*
18 *Unless the study conducted under subsection (c) identifies*
19 *any effects or other problems described in subsection*
20 *(c)(2)(C)(iii) that warrant further review or delay, the Ad-*
21 *ministrator and each agency head shall, within 1 year of*
22 *the release of the report in accordance with subsection*
23 *(c)(3), take additional actions authorized under this Act to*
24 *establish procurement requirements and incentives that pro-*
25 *vide for the use of cement and concrete with increased sub-*

stitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

“(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

“(2) eliminate barriers identified under subsection (c).

“(e) *EFFECT OF SECTION*.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).”.

(b) *TABLE OF CONTENTS AMENDMENT*.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following new item:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

SEC. 303. PARTICIPATION OF SMALL BUSINESS CONCERNS.

(a) *SENSE OF CONGRESS*.—It is the sense of Congress that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, Congress urges the sponsors of the pipeline project to maximize, to the maximum extent practicable, the participation of small business

1 *concerns in contracts and subcontracts awarded in carrying*
 2 *out the project.*

3 *(b) STUDY.—*

4 *(1) IN GENERAL.—The Comptroller General shall*
 5 *conduct a study on the extent to which small business*
 6 *concerns participate in the construction of oil and gas*
 7 *pipelines in the United States.*

8 *(2) REPORT.—Not later than 1 year after the*
 9 *date of enactment of this Act, the Comptroller General*
 10 *shall transmit to Congress a report containing the re-*
 11 *sults of the study.*

12 *(3) UPDATES.—The Comptroller General shall*
 13 *update the study at least once every 5 years and*
 14 *transmit to Congress a report containing the results*
 15 *of the update.*

16 *(4) APPLICABILITY.—After the date of completion*
 17 *of the construction of an Alaska natural gas transpor-*
 18 *tation project, this subsection shall no longer apply.*

19 *(c) SMALL BUSINESS CONCERN DEFINED.—In this*
 20 *section, the term “small business concern” has the meaning*
 21 *given such term in section 3(a) of the Small Business Act*
 22 *(15 U.S.C. 632(a)).*

23 **SEC. 304. AMENDMENT TO BUY INDIAN ACT.**

24 *Section 23 of the Act of June 25, 1910 (25 U.S.C. 47;*
 25 *commonly known as the “Buy Indian Act”) is amended by*

1 inserting “energy products, and energy by-products,” after
 2 “printing,”.

3 **SEC. 305. BUY AMERICAN.**

4 *It is the sense of Congress that no purchase of supplies,*
 5 *other than for the construction, alteration, or repair of any*
 6 *public building or public work in the United States, should*
 7 *be made from a person or entity found in violation of a*
 8 *certificate provided by the person or entity pursuant to the*
 9 *Buy American Act (41 U.S.C. 10a–10c).*

10 **TITLE IV—FEDERAL WORKERS**

11 **SEC. 401. TELECOMMUTING STUDY.**

12 (a) *STUDY REQUIRED.*—*The Secretary, in consulta-*
 13 *tion with the Commission, the Director of the Office of Per-*
 14 *sonnel Management, the Administrator of General Services,*
 15 *and the Administrator of NTIA, shall conduct a study of*
 16 *the energy conservation implications of the widespread*
 17 *adoption of telecommuting by Federal employees in the*
 18 *United States.*

19 (b) *REQUIRED SUBJECTS OF STUDY.*—*The study re-*
 20 *quired by subsection (a) shall analyze the following subjects*
 21 *in relation to the energy saving potential of telecommuting*
 22 *by Federal employees:*

23 (1) *Reductions of energy use and energy costs in*
 24 *commuting and regular office heating, cooling, and*
 25 *other operations.*

1 (2) *Other energy reductions accomplished by tele-*
 2 *commuting.*

3 (3) *Existing regulatory barriers that hamper*
 4 *telecommuting, including barriers to broadband tele-*
 5 *communications services deployment.*

6 (4) *Collateral benefits to the environment, family*
 7 *life, and other values.*

8 (c) *REPORT REQUIRED.*—*The Secretary shall submit*
 9 *to the President and the Congress a report on the study*
 10 *required by this section not later than 6 months after the*
 11 *date of the enactment of this Act. Such report shall include*
 12 *a description of the results of the analysis of each of the*
 13 *subject described in subsection (b).*

14 (d) *DEFINITIONS.*—*As used in this section:*

15 (1) *SECRETARY.*—*The term “Secretary” means*
 16 *the Secretary of Energy.*

17 (2) *COMMISSION.*—*The term “Commission”*
 18 *means the Federal Communications Commission.*

19 (3) *NTIA.*—*The term “NTIA” means the Na-*
 20 *tional Telecommunications and Information Admin-*
 21 *istration of the Department of Commerce.*

22 (4) *TELECOMMUTING.*—*The term “telecom-*
 23 *muting” means the performance of work functions*
 24 *using communications technologies, thereby elimi-*

1 *nating or substantially reducing the need to commute*
2 *to and from traditional worksites.*

3 (5) *FEDERAL EMPLOYEE.*—*The term “Federal*
4 *employee” has the meaning provided the term “em-*
5 *ployee” by section 2105 of title 5, United States Code.*

6 **SEC. 402. ELIMINATION OF PENSION OFFSET.**

7 *Section 161 of the Atomic Energy Act of 1954 (42*
8 *U.S.C. 2201) is amended by adding at the end the following:*

9 *“y. exempt from the application of sections 8344*
10 *and 8468 of title 5, United States Code, an annuitant*
11 *who was formerly an employee of the Commission*
12 *who is hired by the Commission as a consultant, if*
13 *the Commission finds that the annuitant has a skill*
14 *that is critical to the performance of the duties of the*
15 *Commission.”.*

Union Calendar No. 70

108TH CONGRESS
1ST SESSION

H. R. 1346

[Report No. 108-78, Part I]

A BILL

To amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency.

JUNE 2, 2003

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