

Calendar No. 394108TH CONGRESS
1ST SESSION**S. 793****[Report No. 108-198]**

To provide for increased energy savings and environmental benefits through the increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2003

Mr. BYRD (for himself, Mr. JEFFORDS, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

NOVEMBER 17, 2003

Reported by Mr. INHOFE, with an amendment

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

A BILL

To provide for increased energy savings and environmental benefits through the increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

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

1 **SECTION 1. INCREASED USE OF RECOVERED MINERAL**
 2 **COMPONENT IN FEDERALLY FUNDED**
 3 **PROJECTS INVOLVING PROCUREMENT OF**
 4 **CEMENT OR CONCRETE.**

5 (a) **AMENDMENT.**—Subtitle F of the Solid Waste
 6 Disposal Act (42 U.S.C. 6961 et seq.) is amended by add-
 7 ing at the end the following new section:

8 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL**
 9 **COMPONENT IN FEDERALLY FUNDED**
 10 **PROJECTS INVOLVING PROCUREMENT OF**
 11 **CEMENT OR CONCRETE.**

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

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

15 **“(A)** the Secretary of Transportation; and

16 **“(B)** the head of each other Federal agen-
 17 cy that on a regular basis procures, or provides
 18 Federal funds to pay or assist in paying the
 19 cost of procuring, material for cement or con-
 20 crete projects.

21 **“(2) CEMENT OR CONCRETE PROJECT.**—The
 22 term ‘cement or concrete project’ means a project
 23 for the construction or maintenance of a highway or
 24 other transportation facility or a Federal, State, or
 25 local government building or other public facility
 26 that—

1 “(A) involves the procurement of cement
2 or concrete; and

3 “(B) is carried out in whole or in part
4 using Federal funds.

5 “(3) RECOVERED MINERAL COMPONENT.—The
6 term ‘recovered mineral component’ means—

7 “(A) ground granulated blast furnace slag;

8 “(B) coal combustion fly ash; and

9 “(C) any other waste material or byprod-
10 uct recovered or diverted from solid waste that
11 the Administrator, in consultation with an
12 agency head, determines should be treated as
13 recovered mineral component under this section
14 for use in cement or concrete projects paid for,
15 in whole or in part, by the agency head.

16 “(b) IMPLEMENTATION OF REQUIREMENTS.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this section, the Adminis-
19 trator and each agency head shall take such actions
20 as are necessary to implement fully all procurement
21 requirements and incentives in effect as of the date
22 of enactment of this section (including guidelines
23 under section 6002) that provide for the use of ce-
24 ment and concrete incorporating recovered mineral
25 component in cement or concrete projects.

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

7 “(3) CONFORMANCE.—The Administrator and
8 each agency head shall carry out this subsection in
9 accordance with section 6002.

10 “(c) FULL IMPLEMENTATION STUDY.—

11 “(1) IN GENERAL.—The Administrator, in co-
12 operation with the Secretary of Transportation and
13 the Secretary of Energy, shall conduct a study to de-
14 termine the extent to which current procurement re-
15 quirements, when fully implemented in accordance
16 with subsection (b), may realize energy savings and
17 environmental benefits attainable with substitution
18 of recovered mineral component in cement used in
19 cement or concrete projects.

20 “(2) MATTERS TO BE ADDRESSED.—The study
21 shall—

22 “(A) quantify the extent to which recov-
23 ered mineral components are being substituted
24 for Portland cement, particularly as a result of
25 current procurement requirements, and the en-

1 energy savings and environmental benefits associ-
2 ated with that substitution;

3 “(B) identify all barriers in procurement
4 requirements to fuller realization of energy sav-
5 ings and environmental benefits, including bar-
6 riers resulting from exceptions from current
7 law; and

8 “(C)(i) identify potential mechanisms to
9 achieve greater substitution of recovered min-
10 eral component in types of cement or concrete
11 projects for which recovered mineral compo-
12 nents historically have not been used or have
13 been used only minimally;

14 “(ii) evaluate the feasibility of establishing
15 guidelines or standards for optimized substi-
16 tution rates of recovered mineral component in
17 those cement or concrete projects; and

18 “(iii) identify any potential environmental
19 or economic effects that may result from great-
20 er substitution of recovered mineral component
21 in those cement or concrete projects.

22 “(3) REPORT.—Not later than 30 months after
23 the date of enactment of this section, the Adminis-
24 trator shall submit to the Committee on Appropria-
25 tions and Committee on Environment and Public

1 Works of the Senate and the Committee on Appro-
2 priations, Committee on Energy and Commerce, and
3 Committee on Transportation and Infrastructure of
4 the House of Representatives a report on the study.

5 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—

6 Unless the study conducted under subsection (e) identifies
7 any effects or other problems described in subsection
8 (e)(2)(C)(iii) that warrant further review or delay, the Ad-
9 ministrator and each agency head shall, not later than 1
10 year after the date of submission of the report under sub-
11 section (e)(3), take additional actions authorized under
12 this Act to establish procurement requirements and incen-
13 tives that provide for the use of cement and concrete with
14 increased substitution of recovered mineral component in
15 the construction and maintenance of cement or concrete
16 projects, so as to—

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

20 “(2) eliminate barriers identified under sub-
21 section (e).

22 “(e) EFFECT OF SECTION.—Nothing in this section
23 affects the requirements of section 6002 (including the
24 guidelines and specifications for implementing those re-
25 quirements).”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table
 2 of contents of the Solid Waste Disposal Act (42 pre-
 3 6901) is amended by adding after the item relating to sec-
 4 tion 6004 the following new item:

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

5 **SECTION 1. INCREASED USE OF RECOVERED MINERAL**
 6 **COMPONENT IN FEDERALLY FUNDED**
 7 **PROJECTS INVOLVING PROCUREMENT OF CE-**
 8 **MENT OR CONCRETE.**

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

12 **“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COM-**
 13 **PONENT IN FEDERALLY FUNDED PROJECTS**
 14 **INVOLVING PROCUREMENT OF CEMENT OR**
 15 **CONCRETE.**

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

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

19 “(A) *the Secretary of Transportation; and*

20 “(B) *the head of each other Federal agency*
 21 *that, on a regular basis, procures, or provides*
 22 *Federal funds to pay or assist in paying the cost*
 23 *of procuring, material for cement or concrete*
 24 *projects.*

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

7 “(A) *involves the procurement of cement or*
 8 *concrete; and*

9 “(B) *is carried out, in whole or in part,*
 10 *using Federal funds.*

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

13 “(A) *ground-granulated blast furnace slag;*

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

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

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

23 “(1) *IN GENERAL.*—*Not later than 1 year after*
 24 *the date of enactment of this section, the Adminis-*
 25 *trator and each agency head shall take such actions*

1 *as are necessary to implement fully all procurement*
2 *requirements and incentives in effect as of the date of*
3 *enactment of this section (including guidelines under*
4 *section 6002) that provide for the use of cement and*
5 *concrete incorporating recovered mineral component*
6 *in cement or concrete projects.*

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

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

16 “(c) *FULL IMPLEMENTATION STUDY.*—

17 “(1) *IN GENERAL.*—*The Administrator, in co-*
18 *operation with the Secretary of Transportation and*
19 *the Secretary of Energy, shall conduct a study to de-*
20 *termine the extent to which current procurement re-*
21 *quirements, when fully implemented in accordance*
22 *with subsection (b), may realize energy savings and*
23 *environmental benefits attainable with substitution of*
24 *recovered mineral component in cement used in ce-*
25 *ment or concrete projects.*

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

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

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

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

20 “(ii) *evaluate the feasibility of establishing*
21 *guidelines or standards for optimized substi-*
22 *tution rates of recovered mineral component in*
23 *those cement or concrete projects; and*

24 “(iii) *identify any potential environmental*
25 *or economic effects that may result from greater*

1 *substitution of recovered mineral component in*
2 *those cement or concrete projects.*

3 “(3) *REPORT.*—*Not later than 30 months after*
4 *the date of enactment of this section, the Adminis-*
5 *trator shall submit to the Committee on Appropria-*
6 *tions and Committee on Environment and Public*
7 *Works of the Senate and the Committee on Appro-*
8 *priations, Committee on Energy and Commerce, and*
9 *Committee on Transportation and Infrastructure of*
10 *the House of Representatives a report on the study.*

11 “(d) *ADDITIONAL PROCUREMENT REQUIREMENTS.*—
12 *Unless the study conducted under subsection (c) identifies*
13 *any effects or other difficulties described in subsection*
14 *(c)(2)(C)(iii) that warrant further review or delay, the Ad-*
15 *ministrator and each agency head shall, not later than 1*
16 *year after the date of submission of the report under sub-*
17 *section (c)(3), take additional actions authorized under this*
18 *Act to establish procurement requirements and incentives*
19 *that provide for the use of cement and concrete with in-*
20 *creased substitution of recovered mineral component in the*
21 *construction and maintenance of cement or concrete*
22 *projects, so as to—*

23 “(1) *realize more fully the energy savings and*
24 *environmental benefits associated with increased sub-*
25 *stitution; and*

1 “(2) *eliminate barriers identified under sub-*
2 *section (c).*

3 **“SEC. 6006. USE OF GRANULAR MINE TAILINGS.**

4 “(a) *MINE TAILINGS.—*

5 “(1) *IN GENERAL.—Not later than 180 days*
6 *after the date of enactment of this section, the Admin-*
7 *istrator, in consultation with the Secretary of Trans-*
8 *portation and heads of other Federal agencies, shall*
9 *establish criteria (including an evaluation of whether*
10 *to establish a numerical standard for concentration of*
11 *lead and other hazardous substances) for the safe and*
12 *environmentally protective use of granular mine*
13 *tailings from the Tar Creek, Oklahoma Mining Dis-*
14 *trict, known as ‘chat’, for—*

15 “(A) *cement or concrete projects; and*

16 “(B) *transportation construction projects*
17 *(including transportation construction projects*
18 *involving the use of asphalt) that are carried*
19 *out, in whole or in part, using Federal funds.*

20 “(2) *REQUIREMENTS.—In establishing criteria*
21 *under paragraph (1), the Administrator shall con-*
22 *sider—*

23 “(A) *the current and previous uses of*
24 *granular mine tailings as an aggregate for as-*
25 *phalt; and*

1 “(B) any environmental and public health
2 risks and benefits derived from the removal,
3 transportation, and use in transportation
4 projects of granular mine tailings.

5 “(3) *PUBLIC PARTICIPATION.*—In establishing
6 the criteria under paragraph (1), the Administrator
7 shall solicit and consider comments from the public.

8 “(4) *APPLICABILITY OF CRITERIA.*—On the es-
9 tablishment of the criteria under paragraph (1), any
10 use of the granular mine tailings described in para-
11 graph (1) in a transportation project that is carried
12 out, in whole or in part, using Federal funds, shall
13 meet the criteria established under paragraph (1).

14 “(b) *EFFECT OF SECTIONS.*—Nothing in this section
15 or section 6005 affects any requirement of any law (includ-
16 ing a regulation) in effect on the date of enactment of this
17 section.”.

18 (b) *CONFORMING AMENDMENT.*—The table of contents
19 of the *Solid Waste Disposal Act* (42 U.S.C. prec. 6901) is
20 amended by adding at the end of the items relating to sub-
21 title F the following:

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

“Sec. 6006. Use of granular mine tailings.”.

Calendar No. 394

108TH CONGRESS
1ST SESSION

S. 793

[Report No. 108-198]

A BILL

To provide for increased energy savings and environmental benefits through the increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

NOVEMBER 17, 2003

Reported with an amendment