

111TH CONGRESS
1ST SESSION

H. R. 2368

To encourage water efficiency.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2009

Mr. HOLT (for himself, Mr. GEORGE MILLER of California, Mr. MASSA, Ms. BORDALLO, Mrs. TAUSCHER, Mr. BLUMENAUER, Mr. MCNERNEY, Mr. LOBIONDO, Mr. SESTAK, Mr. CALVERT, Mr. CARDOZA, Mrs. NAPOLITANO, Mr. HONDA, Ms. ZOE LOFGREN of California, and Mr. COSTA) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Government Reform and Armed Services, 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

A BILL

To encourage water 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.**

4 This Act may be cited as the “Water Advanced Tech-
5 nologies for Efficient Resource Use Act of 2009”.

6 **SEC. 2. WATERSENSE.**

7 (a) IN GENERAL.—There is established within the
8 Environmental Protection Agency a WaterSense program

1 to identify and promote water efficient products, buildings
2 and landscapes, and services in order—

3 (1) to reduce water use;

4 (2) to reduce the strain on water, wastewater,
5 and stormwater infrastructure;

6 (3) to conserve energy used to pump, heat,
7 transport, and treat water; and

8 (4) to preserve water resources for future gen-
9 erations,

10 through voluntary labeling of, or other forms of commu-
11 nications about, products, buildings and landscapes, and
12 services that meet the highest water efficiency and per-
13 formance standards.

14 (b) DUTIES.—The Administrator of the Environ-
15 mental Protection Agency shall—

16 (1) promote WaterSense labeled products,
17 buildings and landscapes, and services in the market
18 place as the preferred technologies and services
19 for—

20 (A) reducing water use; and

21 (B) ensuring product and service perform-
22 ance;

23 (2) work to enhance public awareness of the
24 WaterSense label through public outreach, edu-
25 cation, and other means;

1 (3) establish and maintain performance stand-
2 ards so that products, buildings and landscapes, and
3 services labeled with the WaterSense label perform
4 as well or better than their less efficient counter-
5 parts;

6 (4) publicize the importance of proper installa-
7 tion of WaterSense plumbing products by a
8 WaterSense-certified or, if WaterSense certification
9 guidelines do not exist, licensed plumber or mechan-
10 ical contractor, and the installation, maintenance,
11 and audit of WaterSense irrigation systems by a
12 WaterSense-certified irrigation professional to en-
13 sure optimal performance;

14 (5) preserve the integrity of the WaterSense
15 label;

16 (6) regularly review and, when appropriate, up-
17 date WaterSense criteria for categories of products,
18 buildings and landscapes, and services, at least once
19 every four years;

20 (7) regularly collect and make available to the
21 public summary data on the production and relative
22 market shares of WaterSense labeled products,
23 buildings and landscapes, and services, at least an-
24 nually;

1 (8) regularly estimate and make available to the
2 public the water and energy savings attributable to
3 the use of WaterSense labeled products, buildings
4 and landscapes, and services, at least annually;

5 (9) solicit comments from interested parties and
6 the public prior to establishing or revising a
7 WaterSense category, specification, installation cri-
8 terion, or other criterion (or prior to effective dates
9 for any such category, specification, installation cri-
10 terion, or other criterion);

11 (10) provide reasonable notice to interested par-
12 ties and the public of any changes (including effec-
13 tive dates), on the adoption of a new or revised cat-
14 egory, specification, installation criterion, or other
15 criterion, along with—

16 (A) an explanation of changes; and

17 (B) as appropriate, responses to comments
18 submitted by interested parties;

19 (11) provide appropriate lead time (as deter-
20 mined by the Administrator) prior to the applicable
21 effective date for a new or significant revision to a
22 category, specification, installation criterion, or other
23 criterion, taking into account the timing require-
24 ments of the manufacturing, marketing, training,
25 and distribution process for the specific product,

1 building and landscape, or service category ad-
2 dressed; and

3 (12) identify and, where appropriate, implement
4 other voluntary approaches, such as labeling water-
5 less devices that perform the same function as a
6 water consuming product or encouraging reuse, rec-
7 lamation, and recycling technologies, in commercial,
8 institutional, residential, municipal, and industrial
9 sectors to improve water efficiency or lower water
10 use while meeting the performance standards estab-
11 lished under paragraph (3).

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated \$7,500,000 for fiscal
14 year 2010, \$10,000,000 for fiscal year 2011, \$20,000,000
15 for fiscal year 2012, and \$50,000,000 for fiscal year 2013
16 and each year thereafter, adjusted for inflation, to carry
17 out this section.

18 **SEC. 3. FEDERAL PROCUREMENT OF WATER EFFICIENT**
19 **PRODUCTS.**

20 (a) DEFINITIONS.—In this section:

21 (1) AGENCY.—The term “agency” has the
22 meaning given that term in section 7902(a) of title
23 5, United States Code.

24 (2) WATERSENSE PRODUCT OR SERVICE.—The
25 term “WaterSense product or service” means a

1 product or service that is rated for water efficiency
2 under the WaterSense program.

3 (3) WATERSENSE PROGRAM.—The term
4 “WaterSense program” means the program estab-
5 lished by section 2 of this Act.

6 (4) FEMP DESIGNATED PRODUCT.—The term
7 “FEMP designated product” means a product that
8 is designated under the Federal Energy Manage-
9 ment Program of the Department of Energy as
10 being among the highest 25 percent of equivalent
11 products for efficiency.

12 (5) PRODUCT AND SERVICE.—The terms “prod-
13 uct” and “service” do not include any water con-
14 suming product or service designed or procured for
15 combat or combat-related missions. The terms also
16 exclude products or services already covered by the
17 Federal procurement regulations established under
18 section 553 of the National Energy Conservation
19 Policy Act (42 U.S.C. 8259b).

20 (b) PROCUREMENT OF WATER EFFICIENT PROD-
21 UCTS.—

22 (1) REQUIREMENT.—To meet the requirements
23 of an agency for a water consuming product or serv-
24 ice, the head of the agency shall, except as provided
25 in paragraph (2), procure—

1 (A) a WaterSense product or service; or

2 (B) a FEMP designated product.

3 A WaterSense plumbing product should preferably,
4 when possible, be installed by a WaterSense-certified
5 or, if WaterSense certification guidelines do not
6 exist, licensed plumber or mechanical contractor,
7 and a WaterSense irrigation system should pref-
8 erably, when possible, be installed, maintained, and
9 audited by a WaterSense-certified irrigation profes-
10 sional to ensure optimal performance.

11 (2) EXCEPTIONS.—The head of an agency is
12 not required to procure a WaterSense product or
13 service or FEMP designated product under para-
14 graph (1) if the head of the agency finds in writing
15 that—

16 (A) a WaterSense product or service or
17 FEMP designated product is not cost-effective
18 over the life of the product, taking current and
19 future energy, water, and wastewater cost sav-
20 ings into account; or

21 (B) no WaterSense product or service or
22 FEMP designated product is reasonably avail-
23 able that meets the functional requirements of
24 the agency.

1 (3) PROCUREMENT PLANNING.—The head of an
2 agency shall incorporate into the specifications for
3 all procurements involving water consuming products
4 and systems, including guide specifications, project
5 specifications, and construction, renovation, and
6 services contracts that include provision of water
7 consuming products and systems, and into the fac-
8 tors for the evaluation of offers received for the pro-
9 curement, criteria used for rating WaterSense prod-
10 ucts and services and FEMP designated products.
11 The head of an agency shall consider, to the max-
12 imum extent practicable, additional measures for re-
13 ducing agency water consumption, including water
14 reuse, reclamation, and recycling technologies, leak
15 detection and repair, and use of waterless products
16 that perform similar functions to existing water-con-
17 suming products.

18 (c) LISTING OF WATER EFFICIENT PRODUCTS IN
19 FEDERAL CATALOGS.—WaterSense products and services
20 and FEMP designated products shall be clearly identified
21 and prominently displayed in any inventory or listing of
22 products by the General Services Administration or the
23 Defense Logistics Agency. The General Services Adminis-
24 tration and the Defense Logistics Agency shall supply only
25 WaterSense products or FEMP designated products for

1 all product categories covered by the WaterSense program
2 or the Federal Energy Management Program, except in
3 cases where the agency ordering a product specifies in
4 writing that no WaterSense product or FEMP designated
5 product is available to meet the buyer’s functional require-
6 ments, or that no WaterSense product or FEMP des-
7 ignated product is cost-effective for the intended applica-
8 tion over the life of the product, taking energy, water, and
9 wastewater cost savings into account.

10 (d) REGULATIONS.—Not later than 180 days after
11 the date of enactment of this Act, the Administrator of
12 the Environmental Protection Agency shall issue regula-
13 tions to carry out this section.

14 **SEC. 4. EARLY ADOPTER WATER EFFICIENT PRODUCTS IN-**
15 **CENTIVE PROGRAMS.**

16 (a) DEFINITIONS.—In this section:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) ELIGIBLE ENTITY.—The term “eligible enti-
21 ty” means a State government, local or county gov-
22 ernment, tribal government, wastewater or sewage
23 utility, municipal water authority, energy utility,
24 water utility, or nonprofit organization that meets
25 the requirements of subsection (b).

1 (3) INCENTIVE PROGRAM.—The term “incentive
2 program” means a program for administering finan-
3 cial incentives for consumer purchase and installa-
4 tion of residential water efficient products and serv-
5 ices as described in subsection (b)(1).

6 (4) RESIDENTIAL WATER EFFICIENT PRODUCT
7 OR SERVICE.—The term “residential water efficient
8 product or service” means a product or service for
9 a single-family or multifamily residence or its land-
10 scape that is rated for water efficiency and perform-
11 ance—

12 (A) by the WaterSense program; or

13 (B) by an incentive program and approved
14 by the Administrator.

15 Categories of water efficient products and services
16 may include faucets, irrigation technologies and
17 services, point-of-use water treatment devices, reuse,
18 reclamation, and recycling technologies, toilets, and
19 showerheads.

20 (5) WATERSENSE PROGRAM.—The term
21 “WaterSense program” means the program estab-
22 lished by section 2 of this Act.

23 (b) ELIGIBLE ENTITIES.—An entity shall be eligible
24 to receive an allocation under subsection (c) if the entity—

1 (1) establishes (or has established) an incentive
2 program to provide rebates, vouchers, other financial
3 incentives, or direct installs to consumers for the
4 purchase and installation of residential water effi-
5 cient products or services;

6 (2) submits an application for the allocation at
7 such time, in such form, and containing such infor-
8 mation as the Administrator may require; and

9 (3) provides assurances satisfactory to the Ad-
10 ministrator that the entity will use the allocation to
11 supplement, but not supplant, funds made available
12 to carry out the incentive program.

13 (c) AMOUNT OF ALLOCATIONS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 for each fiscal year, the Administrator shall deter-
16 mine the amount to allocate to each eligible entity
17 to carry out subsection (d) taking into consider-
18 ation—

19 (A) the population served by the eligible
20 entity in the most recent calendar year for
21 which data are available;

22 (B) the targeted population of the eligible
23 entity's incentive program, such as general
24 households, low-income households, or first-time

1 homeowners, and the probable effectiveness of
2 the incentive program for that population;

3 (C) for existing programs, the effectiveness
4 of the incentive program in encouraging the
5 adoption of water efficient products and serv-
6 ices; and

7 (D) any prior year's allocation to the eligi-
8 ble entity that remains unused.

9 (d) USE OF ALLOCATED FUNDS.—Funds allocated to
10 an entity under subsection (c) may be used to pay up to
11 50 percent of the cost of establishing and carrying out
12 an incentive program.

13 (e) FIXTURE RECYCLING.—Entities are encouraged
14 to promote or implement fixture recycling programs to
15 manage the disposal of older fixtures replaced due to the
16 incentive program under this section.

17 (f) ISSUANCE OF REBATES.—Financial incentives
18 may be provided to consumers that meet the requirements
19 of the incentive program. The entity may issue all finan-
20 cial incentives directly to consumers or, with approval of
21 the Administrator, delegate some or all financial incentive
22 administration to other organizations including, but not
23 limited to, local governments, municipal water authorities,
24 and water utilities. The amount of a financial incentive

1 shall be determined by the entity, taking into consider-
2 ation—

3 (1) the amount of the allocation to the entity
4 under subsection (c);

5 (2) the amount of any Federal, State, or other
6 organization's tax or financial incentive available for
7 the purchase of the residential water efficient prod-
8 uct or service;

9 (3) the amount necessary to change consumer
10 behavior to purchase water efficient products and
11 services; and

12 (4) the consumer expenditures for onsite prepa-
13 ration, assembly, and original installation of the
14 product.

15 (g) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Administrator to
17 carry out this section \$50,000,000 for fiscal year 2010,
18 \$100,000,000 for fiscal year 2011, \$150,000,000 for fis-
19 cal year 2012, \$100,000,000 for fiscal year 2013, and
20 \$50,000,000 for fiscal year 2014.

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