

111TH CONGRESS
1ST SESSION

S. 2908

To amend the Energy Policy and Conservation Act to require the Secretary of Energy to publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2009

Mr. KOHL (for himself, Mr. CORKER, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Energy Policy and Conservation Act to require the Secretary of Energy to publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters, 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. SHORT TITLE.**

4 This Act may be cited as the “Water Heater Rating
5 Improvement Act of 2009”.

1 **SEC. 2. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED**
2 **WATER HEATERS.**

3 Section 325(e) of the Energy Policy and Conservation
4 Act (42 U.S.C. 6295(e)) is amended by adding at the end
5 the following:

6 “(5) UNIFORM EFFICIENCY DESCRIPTOR FOR
7 COVERED WATER HEATERS.—

8 “(A) DEFINITIONS.—In this paragraph:

9 “(i) COVERED WATER HEATER.—The
10 term ‘covered water heater’ means—

11 “(I) a water heater; and

12 “(II) a storage water heater, in-
13 stantaneous water heater, and unfired
14 water storage tank (as defined in sec-
15 tion 340).

16 “(ii) FINAL RULE.—The term ‘final
17 rule’ means the final rule published under
18 this paragraph.

19 “(B) PUBLICATION OF FINAL RULE.—Ex-
20 cept as otherwise provided in this paragraph,
21 the Secretary shall publish a final rule that es-
22 tablishes a uniform efficiency descriptor and ac-
23 companying test methods for covered water
24 heaters—

1 “(i) if the date of enactment of this
2 paragraph is on or before March 31, 2010,
3 not later than 270 days after that date; or

4 “(ii) if the date of enactment of this
5 paragraph is after March 31, 2010, not
6 later than 180 days after that date.

7 “(C) PURPOSE.—The purpose of the final
8 rule shall be to replace with a uniform effi-
9 ciency descriptor—

10 “(i) the energy factor descriptor for
11 water heaters established under this sub-
12 section; and

13 “(ii) the thermal efficiency and stand-
14 by loss descriptors for storage water heat-
15 ers, instantaneous water heaters, and
16 unfired water storage tanks established
17 under section 342(a)(5).

18 “(D) EFFECT OF FINAL RULE.—

19 “(i) IN GENERAL.—Notwithstanding
20 any other provision of this title, effective
21 beginning on the effective date of the final
22 rule, the efficiency standard for covered
23 water heaters shall be the efficiency
24 descriptor established by the final rule.

1 “(ii) EFFECTIVE DATE.—The final
2 rule shall take effect 1 year after the date
3 of publication of the final rule under sub-
4 paragraph (B).

5 “(E) CONVERSION FACTOR.—

6 “(i) IN GENERAL.—The Secretary
7 shall develop a mathematical conversion
8 factor for converting the measurement of
9 efficiency for covered water heaters from
10 the test procedures in effect on the date of
11 enactment of this paragraph to the new
12 energy descriptor established under the
13 final rule.

14 “(ii) APPLICATION.—The conversion
15 factor shall apply to models of covered
16 water heaters affected by the final rule and
17 tested prior to the effective date of the
18 final rule.

19 “(iii) EFFECT ON EFFICIENCY RE-
20 QUIREMENTS.—The conversion factor shall
21 not affect the minimum efficiency require-
22 ments for covered water heaters otherwise
23 established under this title.

24 “(iv) USE.—During the period de-
25 scribed in clause (v), a manufacturer may

1 apply the conversion factor established by
2 the Secretary to rerate existing models of
3 covered water heaters that are in existence
4 prior to the effective date of the rule de-
5 scribed in clause (v)(II) to comply with the
6 new efficiency descriptor.

7 “(v) PERIOD.—Subclause (I) shall
8 apply during the period—

9 “(I) beginning on the date of es-
10 tablishment of the conversion factor;
11 and

12 “(II) ending on the effective date
13 of the rule which is to be published by
14 the Secretary not later than March
15 31, 2010, with respect to covered
16 water heaters (as required by the con-
17 sent decree filed on November 6,
18 2006, in the United States District
19 Court for the Southern District of
20 New York in consolidated civil actions
21 by plaintiffs against Samuel W.
22 Bodman as Secretary of Energy).

23 “(F) EXCLUSIONS.—The final rule may
24 exclude a specific category of covered water
25 heaters from the uniform efficiency descriptor

established under this paragraph if the Secretary determines that the category of water heaters—

“(i) does not have a residential use and can be clearly described in the final rule; and

“(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (as of the date of enactment of this paragraph) to the category under section 342(a)(5).

“(G) OPTIONS.—The descriptor set by the final rule may be—

“(i) a revised version of the energy factor descriptor in use as of the date of enactment of this paragraph;

“(ii) the thermal efficiency and standby loss descriptors in use as of that date;

“(iii) a revised version of the thermal efficiency and standby loss descriptors;

“(iv) a hybrid of descriptors; or

“(v) a new approach.

“(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the

1 maximum extent practicable, to all water heat-
2 ing technologies in use as of the date of enact-
3 ment of this paragraph and to future water
4 heating technologies.

5 “(I) PARTICIPATION.—The Secretary shall
6 invite interested stakeholders to participate in
7 the rulemaking process used to establish the
8 final rule.

9 “(J) TESTING OF ALTERNATIVE
10 DESCRIPTORS.—In establishing the final rule,
11 the Secretary shall contract with the National
12 Institute of Standards and Technology, as nec-
13 essary, to conduct testing and simulation of al-
14 ternative descriptors identified for consider-
15 ation.

16 “(K) EXISTING COVERED WATER HEAT-
17 ERS.—A covered water heater shall be consid-
18 ered to comply with the final rule on and after
19 the effective date of the final rule and with any
20 revised labeling requirements established by the
21 Federal Trade Commission to carry out the
22 final rule if the covered water heater—

23 “(i) was manufactured prior to the ef-
24 fective date of the final rule; and

1 “(ii) complied with the efficiency
2 standards and labeling requirements in ef-
3 fect prior to the final rule.”.

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