

115TH CONGRESS
2D SESSION

S. 3779

To establish a voluntary program that strengthens the economy, public health, and environment of the United States by reducing emissions from wood heaters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2018

Mr. CARPER (for himself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a voluntary program that strengthens the economy, public health, and environment of the United States by reducing emissions from wood 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 “Wood Heaters Emis-
5 sions Reduction Act of 2018” or the “WHERA Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (2) AFFECTED WOOD HEATER MODEL.—The
5 term “affected wood heater model” means a model
6 of wood heater described in—

7 (A) section 60.530(a) of title 40, Code of
8 Federal Regulations (or a successor regulation);
9 and

10 (B) subsections (a) and (b) of section
11 60.5472 of that title.

12 (3) EPA-CERTIFIED STEP 2 WOOD HEATER.—
13 The term “EPA-certified Step 2 wood heater”
14 means a wood heater that—

15 (A) has been certified or verified by the
16 Administrator;

17 (B) meets or exceeds the Step 2 emission
18 reductions standards described in the Final
19 Rule; and

20 (C) is installed by a licensed or certified
21 professional or verified by the State in which
22 the wood heater is being installed.

23 (4) FINAL RULE.—The term “Final Rule”
24 means the final rule entitled “Standards of Perform-
25 ance for New Residential Wood Heaters, New Resi-

dential Hydronic Heaters and Forced-Air Furnaces”
(80 Fed. Reg. 13672 (March 16, 2015)).

(5) INDIAN TRIBE.—The term “Indian tribe”
has the meaning given the term in section 4 of the
Indian Self-Determination and Education Assistance
Act (25 U.S.C. 5304).

(6) REGIONAL AGENCY.—The term “regional
agency” means any regional or local government
agency with jurisdiction over air quality.

(7) REPLACEMENT OF AN OLD WOOD HEAT-
ER.—The term “replacement of an old wood heater”
means the replacement of an existing wood heater
that—

(A) does not meet the reductions standards
described in paragraph (3)(B);

(B) is removed from a home or building in
which the wood heater was the primary or sec-
ondary source of heat; and

(C) is surrendered to a supplier, retailer,
or other entity, as defined by the Adminis-
trator, who shall render the existing wood heat-
er inoperable and ensure the existing wood
heater is disposed through—

(i) recycling; or

(ii) scrappage.

1 (8) STATE.—The term “State” means—

2 (A) each of the several States of the
3 United States;

4 (B) the District of Columbia;

5 (C) the Commonwealth of Puerto Rico;

6 (D) Guam;

7 (E) the United States Virgin Islands;

8 (F) American Samoa; and

9 (G) the Commonwealth of the Northern
10 Mariana Islands.

11 (9) WOOD HEATER.—The term “wood heater”
12 means an enclosed, wood-burning appliance capable
13 of and intended for residential space heating or
14 space heating and domestic water heating that is an
15 affected wood heater model, including—

16 (A) a residential wood heater;

17 (B) a hydronic heater; and

18 (C) a forced-air furnace.

19 **SEC. 3. ESTABLISHMENT OF GRANT PROGRAM FOR WOOD**
20 **HEATER EMISSIONS REDUCTIONS.**

21 (a) IN GENERAL.—Subject to the availability of ap-
22 propriations, the Administrator shall establish a grant
23 program that provides funding for grant, rebate, and other
24 programs administered by States, regional agencies, and
25 Indian tribes that are designed—

(1) to provide financial incentives to homeowners for the replacement of old wood heaters that greatly contribute to particulate pollution with more efficient, cleaner-burning heaters that are—

(A) properly installed; and

(B) at least as efficient and clean-burning as EPA-certified Step 2 wood heaters;

(2) to achieve significant reductions in emissions from wood heaters in terms of pollution produced by wood heaters and wood heater emissions exposure;

(3) to help homeowners transition to safer and more efficient sources of heat; and

(4) to support retailers and manufacturers that sell and make wood heaters that are more efficient and cleaner-burning.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States, regional agencies, and Indian tribes guidance for use in applying for funding under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received under this section; and

1 (C) the cost-effectiveness of various emis-
2 sion reduction wood heater technologies eligible
3 for funds provided under this section;

4 (2) establish, for applications described in para-
5 graph (1)—

6 (A) an annual deadline for submission of
7 the applications;

8 (B) a process by which the Administrator
9 shall approve or disapprove each application;

10 (C) a simplified application submission
11 process to expedite the provision of funds; and

12 (D) a streamlined process by which a
13 State, regional agency, or Indian tribe may
14 renew an application described in paragraph (1)
15 for subsequent fiscal years;

16 (3) require States or regional agencies applying
17 for funding under this section to provide detailed in-
18 formation on how the State or regional agency in-
19 tends to carry out and verify projects under the
20 wood heater emissions reduction program of the
21 State or regional agency, including—

22 (A) a description of the air quality in the
23 State or the area in which the regional agency
24 has jurisdiction;

1 (B) the means by which the project will
2 achieve a significant reduction in wood heater
3 emissions and air pollution, including the esti-
4 mated quantity of—

5 (i) residences that depend on non-
6 EPA-certified Step 2 wood heaters as a
7 primary or secondary source of heat; and

8 (ii) air pollution produced by wood
9 heaters in the State or the area in which
10 the regional agency has jurisdiction;

11 (C) an estimate of the cost and economic
12 benefits of the proposed project;

13 (D) the means by which the funds will be
14 distributed, including a description of the in-
15 tended recipients of the funds;

16 (E) a description of any efforts to target
17 low-income individuals that own older wood
18 heaters;

19 (F) provisions for the monitoring and
20 verification of the project; and

21 (G) a description of how the program will
22 carry out the replacement of old wood heaters,
23 including—

24 (i) how the older units will be removed
25 and placed out of service; and

1 (ii) how new heaters purchased with
2 funding provided under this section will be
3 installed; and

4 (4) require Indian tribes applying for funding
5 under this section to provide detailed information on
6 how the Indian tribe intends to carry out and verify
7 projects under the wood heater emissions reduction
8 program of the Indian tribe, including—

9 (A) the means by which the project will
10 achieve a significant reduction in wood heater
11 emissions;

12 (B) an estimate of the cost and economic
13 benefits of the proposed project;

14 (C) the means by which the funds will be
15 distributed, including a description of the in-
16 tended recipients of the funds;

17 (D) a description of any efforts to target
18 low-income individuals that own older wood
19 heaters;

20 (E) provisions for the monitoring and
21 verification of the project; and

22 (F) a description of how the program will
23 carry out the replacement of old wood heaters,
24 including—

- 1 (i) how the older units will be removed
2 and placed out of service; and
3 (ii) how new heaters purchased with
4 funding provided under this section will be
5 installed.

6 (c) ALLOCATION OF FUNDS.—

7 (1) IN GENERAL.—For each fiscal year, the Ad-
8 ministrator shall allocate funds made available to
9 carry out this section—

10 (A) among States, regional agencies, and
11 Indian tribes that submitted an application
12 under this section that was approved by the Ad-
13 ministrator;

14 (B) of which not less than 4 percent shall
15 be allocated to Indian tribes to perform func-
16 tions that include—

17 (i) addressing subsequent mainte-
18 nance costs resulting from the installation
19 of wood heaters under this section; and

20 (ii) training qualified installers and
21 technicians; and

22 (C) among different geographic areas and
23 varying population densities.

24 (2) ALLOCATION PRIORITY.—The Administrator
25 shall provide to each State, regional agency, and In-

1 dian tribe described in paragraph (1) for a fiscal
2 year an allocation of funds, with priority given to
3 States, regional agencies, and Indian tribes that will
4 use the funds to support projects that—

5 (A) maximize public health benefits;

6 (B) are the most cost-effective;

7 (C) target the replacement of wood heaters
8 that emit the most pollution;

9 (D) include EPA-certified Step 2 wood
10 heaters and other heaters that achieve emission
11 reductions and efficiency improvements beyond
12 the Step 2 emission reductions standards, as
13 described in the Final Rule;

14 (E) target low-income households;

15 (F) encourage the recycling of old wood
16 heaters when replacing those heaters; and

17 (G) serve areas that—

18 (i) receive a disproportionate quantity
19 of air pollution from wood heaters;

20 (ii) have a high percentage of resi-
21 dents that use wood as their primary
22 source of heat; or

23 (iii) are poor air quality areas, includ-
24 ing areas identified by the Administrator
25 as—

1 (I) in nonattainment or maintenance of national ambient air quality
2 standards for particulate matter
3 under section 109 of the Clean Air
4 Act (42 U.S.C. 7409); or

5 (II) class I areas under section
6 162(a) of that Act (42 U.S.C.
7 7472(a)).

8
9 (3) UNOBLIGATED FUNDS.—Any funds that are
10 not obligated by a State, regional agency, or Indian
11 tribe by a date determined by the Administrator in
12 a fiscal year shall be reallocated pursuant to the pri-
13 orities described in paragraph (2).

14 (4) STATE, REGIONAL AGENCY, AND TRIBAL
15 MATCHING INCENTIVE.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B), if a State, regional agency, or In-
18 dian tribe agrees to match the allocation pro-
19 vided to the State, regional agency, or Indian
20 tribe under paragraph (1) for a fiscal year, the
21 Administrator shall provide to the State, re-
22 gional agency, or Indian tribe for the fiscal year
23 a matching incentive consisting of an additional
24 amount equal to 30 percent of the allocation of

1 the State, regional agency, or Indian tribe
2 under paragraph (1).

3 (B) REQUIREMENT.—To receive a match-
4 ing incentive under subparagraph (A), a State,
5 regional agency, or Indian tribe—

6 (i) may not use funds received under
7 this section to pay a matching share re-
8 quired under this subsection; and

9 (ii) shall not be required to provide a
10 matching share for any additional amount
11 received under that subparagraph.

12 (d) ADMINISTRATION.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), States, regional agencies, and Indian tribes
15 shall use any funds provided under this section—

16 (A) to develop and implement such pro-
17 grams in the State or in areas under the juris-
18 diction of the regional agency or Indian tribe as
19 are appropriate to meet the needs and goals of
20 the State, regional agency, or Indian tribe; and

21 (B) to the maximum extent practicable, to
22 use the programs described in subparagraph
23 (A) to give high priority to projects that serve
24 areas described in subsection (c)(2)(G).

1 (2) APPORTIONMENT OF FUNDS.—The chief ex-
 2 ecutive officer of a State, regional agency, or Indian
 3 tribe that receives funding under this section may
 4 determine the portion of funds to be provided as
 5 grants and the portion to be provided as rebates.

6 (3) USE OF FUNDS.—A State, regional agency,
 7 or Indian tribe shall use funds provided under this
 8 section for—

9 (A) projects to complete the replacement of
 10 old wood heaters, including the installation of
 11 heaters and training of certified installers of
 12 heaters that—

13 (i) are at least as efficient and clean-
 14 burning as EPA-certified Step 2 wood
 15 heaters; and

16 (ii) meet the purposes described in
 17 subsection (a); and

18 (B) with respect to Indian tribes, the pur-
 19 poses described in subsection (c)(1)(B).

20 (4) SUPPLEMENT, NOT SUPPLANT.—Funds
 21 made available under this section shall be used to
 22 supplement, not supplant, funds made available for
 23 existing State clean air programs.

24 (5) PUBLIC NOTIFICATION.—Not later than 60
 25 days after the date on which the Administrator

1 makes funding available under this section each fis-
2 cal year, the Administrator shall publish on the
3 website of the Environmental Protection Agency—

4 (A) the total number of grants awarded
5 and the amounts provided to States, regional
6 agencies, and Indian tribes;

7 (B) a general description of each applica-
8 tion of a State, regional agency, or Indian tribe
9 that received funding; and

10 (C) the estimated number of wood heaters
11 that will be replaced using funds made available
12 under this section.

13 (6) REPORT.—Not later than 2 years after the
14 date on which funds are first made available under
15 this section, and biennially thereafter, the Adminis-
16 trator shall submit to Congress a report evaluating
17 the implementation of the program under this sec-
18 tion.

19 **SEC. 4. OUTREACH AND INCENTIVES.**

20 The Administrator shall establish a program under
21 which the Administrator shall—

22 (1) inform stakeholders of the benefits of re-
23 placing wood heaters that do not meet or exceed the
24 Step 2 emission reductions standards described in
25 the Final Rule;

1 (2) develop nonfinancial incentives to promote
2 the proper installation and use of EPA-certified Step
3 2 wood heaters; and

4 (3) consult with Indian tribes to carry out the
5 purposes of this Act.

6 **SEC. 5. SUPPLEMENTAL ENVIRONMENTAL PROJECTS.**

7 (a) EPA AUTHORITY TO ACCEPT WOOD HEATER
8 EMISSIONS REDUCTION SUPPLEMENTAL ENVIRON-
9 MENTAL PROJECTS.—Section 1 of Public Law 110–255
10 (42 U.S.C. 16138) is amended—

11 (1) in the heading, by inserting “and wood
12 heater” after “diesel”; and

13 (2) in the matter preceding paragraph (1), by
14 inserting “and wood heater” after “diesel”.

15 (b) SETTLEMENT AGREEMENT PROVISIONS.—Sec-
16 tion 2 of Public Law 110–255 (42 U.S.C. 16139) is
17 amended in the first sentence—

18 (1) by inserting “or wood heater” after “diesel”
19 each place it appears;

20 (2) by inserting “, as applicable,” before “if the
21 Administrator”; and

22 (3) by inserting “, as applicable” before the pe-
23 riod at the end.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There is authorized to be appro-
3 priated to carry out this Act \$75,000,000 for each of fiscal
4 years 2019 through 2024, to remain available until ex-
5 pended.

6 (b) MANAGEMENT AND OVERSIGHT.—The Adminis-
7 trator may use not more than 1 percent of the amounts
8 made available under subsection (a) for each fiscal year
9 for management and oversight of the programs under this
10 Act.

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