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**AMENDMENT**

**OFFERED BY MR. MCNERNEY OF CALIFORNIA**

After section 214, add the following new sections:

1 **SEC. 215. WATERSENSE.**

2 (a) **IN GENERAL.**—There is established within the  
3 Environmental Protection Agency a WaterSense program  
4 to identify and promote water efficient products, buildings  
5 and landscapes, and services in order—

6 (1) to reduce water use;

7 (2) to reduce the strain on water, wastewater,  
8 and stormwater infrastructure;

9 (3) to conserve energy used to pump, heat,  
10 transport, and treat water; and

11 (4) to preserve water resources for future gen-  
12 erations,

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

17 (b) **DUTIES.**—The Administrator of the Environ-  
18 mental Protection Agency shall—

19 (1) promote WaterSense labeled products,  
20 buildings and landscapes, and services in the market

1 place as the preferred technologies and services  
2 for—

3 (A) reducing water use; and

4 (B) ensuring product and service perform-  
5 ance;

6 (2) work to enhance public awareness of the  
7 WaterSense label through public outreach, edu-  
8 cation, and other means;

9 (3) establish and maintain performance stand-  
10 ards so that products, buildings and landscapes, and  
11 services labeled with the WaterSense label perform  
12 as well or better than their less efficient counter-  
13 parts;

14 (4) publicize the need for proper installation<sup>and maintenance</sup> of  
15 WaterSense ~~plumbing~~ products by a licensed, and  
16 <sup>where</sup> ~~when~~ ~~WaterSense~~ certification guidelines exist,  
17 WaterSense-certified ~~plumber or mechanical con-~~  
18 ~~tractor, and the installation, maintenance, and audit~~  
19 ~~of WaterSense irrigation systems by a WaterSense-~~  
20 ~~certified irrigation~~ professional to ensure optimal  
21 performance;

22 (5) preserve the integrity of the WaterSense  
23 label;

24 (6) regularly review and, when appropriate, up-  
25 date WaterSense criteria for categories of products,

1 buildings and landscapes, and services, at least once  
2 every four years;

3 (7) <sup>to the extent practical</sup> regularly estimate and make available to the  
4 public the production and relative market shares of  
5 WaterSense labeled products, buildings and land-  
6 scapes, and services, at least annually;

7 (8) <sup>to the extent practical</sup> regularly estimate and make available to the  
8 public the water and energy savings attributable to  
9 the use of WaterSense labeled products, buildings  
10 and landscapes, and services, at least annually;

11 (9) solicit comments from interested parties and  
12 the public prior to establishing or revising a  
13 WaterSense category, specification, installation cri-  
14 terion, or other criterion (or prior to effective dates  
15 for any such category, specification, installation cri-  
16 terion, or other criterion);

17 (10) provide reasonable notice to interested par-  
18 ties and the public of any changes (including effec-  
19 tive dates), on the adoption of a new or revised cat-  
20 egory, specification, installation criterion, or other  
21 criterion, along with—

22 (A) an explanation of changes; and

23 (B) as appropriate, responses to comments  
24 submitted by interested parties;

1 (11) provide appropriate lead time (as deter-  
 2 mined by the Administrator) prior to the applicable  
 3 effective date for a new or significant revision to a  
 4 category, specification, installation criterion, or other  
 5 criterion, taking into account the timing require-  
 6 ments of the manufacturing, marketing, training,  
 7 and distribution process for the specific product,  
 8 building and landscape, or service category ad-  
 9 dressed; and

10 (12) identify and, where appropriate, implement  
 11 other voluntary approaches, ~~such as labeling water-~~  
 12 ~~less devices that perform the same function as a~~  
 13 ~~water-consuming product or encouraging reuse and~~  
 14 ~~recycling technologies,~~ in commercial, institutional,  
 15 residential, municipal, and industrial sectors to im-  
 16 prove water efficiency or lower water use while meet-  
 17 ing, <sup>where applicable,</sup> the performance standards established under  
 18 paragraph (3).

→ encourage reuse and recycling technologies

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
 20 are authorized to be appropriated \$7,500,000 for fiscal  
 21 year 2010, \$10,000,000 for fiscal year 2011, \$20,000,000  
 22 for fiscal year 2012, and \$50,000,000 for fiscal year 2013  
 23 and each year thereafter, adjusted for inflation, to carry  
 24 out this section.

1 **SEC. 216. FEDERAL PROCUREMENT OF WATER EFFICIENT**  
2 **PRODUCTS.**

3 (a) **DEFINITIONS.**—In this section:

4 (1) **AGENCY.**—The term “agency” has the  
5 meaning given that term in section 7902(a) of title  
6 5, United States Code.

7 (2) **WATERSENSE PRODUCT OR SERVICE.**—The  
8 term “WaterSense product or service” means a  
9 product or service that is rated for water efficiency  
10 under the WaterSense program.

11 (3) **WATERSENSE PROGRAM.**—The term  
12 “WaterSense program” means the program estab-  
13 lished by section 215 of this Act.

14 (4) **FEMP DESIGNATED PRODUCT.**—The term  
15 “FEMP designated product” means a product that  
16 is designated under the Federal Energy Manage-  
17 ment Program of the Department of Energy as  
18 being among the highest 25 percent of equivalent  
19 products for efficiency.

20 (5) **PRODUCT AND SERVICE.**—The terms “prod-  
21 uct” and “service” do not include any water con-  
22 suming product or service designed or procured for  
23 combat or combat-related missions. The terms also  
24 exclude products or services already covered by the  
25 Federal procurement regulations established under

1 section 553 of the National Energy Conservation  
2 Policy Act (42 U.S.C. 8259b).

3 (b) PROCUREMENT OF WATER EFFICIENT PROD-  
4 UCTS.—

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

9 (A) a WaterSense product or service; or

10 (B) a FEMP designated product.

11 A WaterSense plumbing product should preferably,  
12 when possible, be installed by a licensed and, when  
13 WaterSense certification guidelines exist,  
14 WaterSense-certified plumber or mechanical con-  
15 tractor, and a WaterSense irrigation system should  
16 preferably, when possible, be installed, maintained,  
17 and audited by a WaterSense-certified irrigation  
18 professional to ensure optimal performance.

19 (2) EXCEPTIONS.—The head of an agency is  
20 not required to procure a WaterSense product or  
21 service or FEMP designated product under para-  
22 graph (1) if the head of the agency finds in writing  
23 that—

24 (A) a WaterSense product or service or  
25 FEMP designated product is not cost-effective

1 over the life of the product, taking energy and  
2 water cost savings into account; or

3 (B) no WaterSense product or service or  
4 FEMP designated product is reasonably avail-  
5 able that meets the functional requirements of  
6 the agency.

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

23 (c) REGULATIONS.—Not later than 180 days after  
24 the date of enactment of this Act, the Secretary of Energy,  
25 shall issue guidelines to carry out this section.

*Working in  
coordination  
with the  
Administrator  
of the  
Environmental  
Protection  
Agency.*

1 **SEC. 217. WATER EFFICIENT PRODUCT REBATE PROGRAMS.**

2 (a) DEFINITIONS.—In this section:

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

6 (2) ELIGIBLE STATE.—The term “eligible  
7 State” means a State that meets the requirements  
8 of subsection (b).

9 (3) RESIDENTIAL WATER EFFICIENT PRODUCT  
10 OR SERVICE.—The term “residential water efficient  
11 product or service” means a product or service for  
12 a residence or its landscape that is rated for water  
13 efficiency and performance—

14 (A) by the WaterSense program, *or where a WaterSense*  
15 (B) by a State program and approved by *specification does*  
*not exist*

16 the Administrator.

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

21 (3) STATE PROGRAM.—The term “State pro-  
22 gram” means a State program for administering re-  
23 bates or vouchers for consumer purchase of water ef-  
24 ficient products and services as described in sub-  
25 section (b)(1).



1           (4) WATERSENSE PROGRAM.—The term  
2           “WaterSense program” means the program estab-  
3           lished by section 215 of this Act.

4           (b) ELIGIBLE STATES.—A State shall be eligible to  
5           receive an allocation under subsection (c) if the State—

6           (1) establishes (or has established) a State pro-  
7           gram to provide rebates or vouchers to residential  
8           consumers for the purchase of residential water effi-  
9           cient products or services to replace used products  
10          of the same type;

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

14          (3) provides assurances satisfactory to the Ad-  
15          ministrator that the State will use the allocation to  
16          supplement, but not supplant, funds made available  
17          to carry out the State program.

18          (c) AMOUNT OF ALLOCATIONS.—

19          (1) IN GENERAL.—Subject to paragraph (2),  
20          for each fiscal year, the Administrator shall allocate  
21          to each eligible State to carry out subsection (d) an  
22          amount equal to the product obtained by multiplying  
23          the amount made available under subsection (g) for  
24          the fiscal year by the ratio that the population of the  
25          State in the most recent calendar year for which

1 data are available bears to the total population of all  
2 eligible States in that calendar year.

3 (2) MINIMUM ALLOCATIONS.—For each fiscal  
4 year, the amounts allocated under this subsection  
5 shall be adjusted proportionately so that no eligible  
6 State is allocated a sum that is less than an amount  
7 determined by the Administrator.

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

12 (e) FIXTURE RECYCLING.—States are encouraged to  
13 promote or implement fixture recycling programs to man-  
14 age the disposal of older fixtures replaced due to the re-  
15 bate program under this section.

16 (f) ISSUANCE OF REBATES.—Rebates or vouchers  
17 may be provided to residential consumers that meet the  
18 requirements of the State program. The State may issue  
19 all rebates or vouchers directly to residential consumers  
20 or, with approval of the Administrator, delegate some or  
21 all rebate and voucher administration to other organiza-  
22 tions including, but not limited to, local governments, mu-  
23 nicipal water authorities, and water utilities. The amount  
24 of a rebate or voucher shall be determined by the State,  
25 taking into consideration—

1 (1) the amount of the allocation to the State  
2 under subsection (c);

3 (2) the amount of any Federal or State tax in-  
4 centive available for the purchase of the residential  
5 water efficient product or service;

6 (3) the amount necessary to change consumer  
7 behavior to purchase water efficient products and  
8 services; and

9 (4) the consumer expenditures for onsite prepa-  
10 ration, assembly, and original installation of the  
11 product.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated to the Administrator to  
14 carry out this section \$50,000,000 for each of the fiscal  
15 years 2010 and 2011, \$75,000,000 for fiscal year 2012,  
16 \$100,000,000 for fiscal year 2013, and \$150,000,000 for  
17 fiscal year 2014 and each year thereafter, adjusted for in-  
18 flation.

