

115TH CONGRESS
1ST SESSION

S. 1137

To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to include provisions relating to drinking water and wastewater infrastructure, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2017

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to include provisions relating to drinking water and wastewater infrastructure, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Clean Safe Reliable Water Infrastructure Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DRINKING WATER INFRASTRUCTURE

Sec. 101. Sense of Congress on appropriations levels.
 Sec. 102. Other authorized activities.
 Sec. 103. Negotiation of contracts.
 Sec. 104. WaterSense program.

TITLE II—WASTEWATER INFRASTRUCTURE

Sec. 201. Sewer overflow control grants.

1 **TITLE I—DRINKING WATER** 2 **INFRASTRUCTURE**

3 **SEC. 101. SENSE OF CONGRESS ON APPROPRIATIONS LEV-** 4 **ELS.**

5 It is the sense of Congress that Congress should pro-
 6 vide robust funding of capitalization grants to States to
 7 fund those States’ drinking water treatment revolving loan
 8 funds established under section 1452 of the Safe Drinking
 9 Water Act (42 U.S.C. 300j–12) and the State water pollu-
 10 tion control revolving funds established under title VI of
 11 the Federal Water Pollution Control Act (33 U.S.C. 1381
 12 et seq.).

13 **SEC. 102. OTHER AUTHORIZED ACTIVITIES.**

14 Section 1452(k) of the Safe Drinking Water Act (42
 15 U.S.C. 300j–12(k)) is amended—

16 (1) in paragraph (1)(D), by inserting “and the
 17 implementation of plans to protect source water
 18 identified in a source water assessment under sec-
 19 tion 1453” before the period at the end; and

20 (2) in paragraph (2)(E), by inserting “and im-
 21 plement plans to protect source water identified in

1 a source water assessment under section 1453” after
 2 “wellhead protection programs”.

3 **SEC. 103. NEGOTIATION OF CONTRACTS.**

4 Section 1452 of the Safe Drinking Water Act (42
 5 U.S.C. 300j–12) is amended by adding at the end the fol-
 6 lowing:

7 “(s) NEGOTIATION OF CONTRACTS.—For commu-
 8 nities with populations of more than 10,000 individuals,
 9 a contract to be carried out using funds directly made
 10 available by a capitalization grant under this section for
 11 program management, construction management, feasi-
 12 bility studies, preliminary engineering, design, engineer-
 13 ing, surveying, mapping, or architectural or related serv-
 14 ices shall be negotiated in the same manner as—

15 “(1) a contract for architectural and engineer-
 16 ing services is negotiated under chapter 11 of title
 17 40, United States Code; or

18 “(2) an equivalent State qualifications-based re-
 19 quirement (as determined by the Governor of the
 20 State).”.

21 **SEC. 104. WATERSENSE PROGRAM.**

22 The Safe Drinking Water Act (42 U.S.C. 300j et
 23 seq.) is amended by adding after part F the following:

1 **“PART G—ADDITIONAL PROVISIONS**

2 **“SEC. 1471. WATERSENSE PROGRAM.**

3 “(a) ESTABLISHMENT OF WATERSENSE PRO-
4 GRAM.—

5 “(1) IN GENERAL.—There is established within
6 the Agency a voluntary WaterSense program to
7 identify and promote water-efficient products, build-
8 ings, landscapes, facilities, processes, and services
9 that, through voluntary labeling of, or other forms
10 of communications regarding, products, buildings,
11 landscapes, facilities, processes, and services while
12 meeting strict performance criteria, sensibly—

13 “(A) reduce water use;

14 “(B) reduce the strain on public and com-
15 munity water systems and wastewater and
16 stormwater infrastructure;

17 “(C) conserve energy used to pump, heat,
18 transport, and treat water; and

19 “(D) preserve water resources for future
20 generations.

21 “(2) INCLUSIONS.—The Administrator shall,
22 consistent with this section, identify water-efficient
23 products, buildings, landscapes, facilities, processes,
24 and services, including categories such as—

25 “(A) irrigation technologies and services;

26 “(B) point-of-use water treatment devices;

1 “(C) plumbing products;

2 “(D) reuse and recycling technologies;

3 “(E) landscaping and gardening products,
4 including moisture control or water enhancing
5 technologies;

6 “(F) xeriscaping and other landscape con-
7 versions that reduce water use;

8 “(G) whole house humidifiers; and

9 “(H) water-efficient buildings or facilities.

10 “(b) DUTIES.—The Administrator, coordinating as
11 appropriate with the Secretary of Energy, shall—

12 “(1) establish—

13 “(A) a WaterSense label to be used for
14 items meeting the certification criteria estab-
15 lished in accordance with this section; and

16 “(B) the procedure, including the methods
17 and means, and criteria by which an item may
18 be certified to display the WaterSense label;

19 “(2) enhance public awareness regarding the
20 WaterSense label through outreach, education, and
21 other means;

22 “(3) preserve the integrity of the WaterSense
23 label by—

24 “(A) establishing and maintaining feasible
25 performance criteria so that products, build-

1 ings, landscapes, facilities, processes, and serv-
2 ices labeled with the WaterSense label perform
3 as well or better than less water-efficient coun-
4 terparts;

5 “(B) overseeing WaterSense certifications
6 made by third parties, which shall be inde-
7 pendent third-party product certification bodies
8 accredited by an accreditation entity domiciled
9 in the United States, such as the American Na-
10 tional Standards Institute, as achieving—

11 “(i) the requirements described in the
12 document of the International Organiza-
13 tion for Standardization and the Inter-
14 national Electrotechnical Commission enti-
15 tled ‘ISO/IEC 17065 Conformity assess-
16 ment—Requirements for bodies certifying
17 products, processes and services’ and dated
18 September 2012; and

19 “(ii) the applicable WaterSense re-
20 quirements;

21 “(C) as determined appropriate by the Ad-
22 ministrator, using testing protocols, from the
23 appropriate, applicable, and relevant consensus
24 standards, for the purpose of determining
25 standards compliance; and

1 “(D) auditing the use of the WaterSense
2 label in the marketplace and preventing cases of
3 misuse;

4 “(4) not more than 6 years after adoption or
5 major revision of any WaterSense specification, re-
6 view and, if appropriate, revise the specification to
7 achieve additional water savings;

8 “(5) in revising a WaterSense specification—

9 “(A) provide reasonable notice to inter-
10 ested parties and the public of any changes, in-
11 cluding effective dates, and an explanation of
12 the changes;

13 “(B) solicit comments from interested par-
14 ties and the public prior to any changes;

15 “(C) as appropriate, respond to comments
16 submitted by interested parties and the public;
17 and

18 “(D) provide an appropriate transition
19 time prior to the applicable effective date of any
20 changes, taking into account the timing nec-
21 essary for the manufacture, marketing, train-
22 ing, and distribution of the specific water-effi-
23 cient product, building, landscape, process, or
24 service category being addressed; and

1 “(6) not later than December 31, 2018, con-
 2 sider for review and revision any WaterSense speci-
 3 fication adopted before January 1, 2012.

4 “(c) TRANSPARENCY.—The Administrator shall, to
 5 the maximum extent practicable and not less than annu-
 6 ally, regularly estimate and make available to the public
 7 the production and relative market shares and savings of
 8 water, energy, and capital costs of water, wastewater, and
 9 stormwater attributable to the use of WaterSense-labeled
 10 products, buildings, landscapes, facilities, processes, and
 11 services.

12 “(d) DISTINCTION OF AUTHORITIES.—In setting or
 13 maintaining specifications for Energy Star pursuant to
 14 section 324A of the Energy Policy and Conservation Act
 15 (42 U.S.C. 6294a), and WaterSense under this section,
 16 the Secretary of Energy and the Administrator shall co-
 17 ordinate to prevent duplicative or conflicting requirements
 18 among the respective programs.

19 “(e) NO WARRANTY.—A WaterSense label shall not
 20 create an express or implied warranty.”.

21 **TITLE II—WASTEWATER** 22 **INFRASTRUCTURE**

23 **SEC. 201. SEWER OVERFLOW CONTROL GRANTS.**

24 Section 221 of the Federal Water Pollution Control
 25 Act (33 U.S.C. 1301) is amended—

(1) in subsection (a), by striking the subsection designation and heading and all that follows through “subject to subsection (g), the Administrator may” in paragraph (2) and inserting the following:

“(a) **AUTHORITY.**—The Administrator may—

“(1) make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, designing, and constructing—

“(A) treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows; and

“(B) measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water; and

“(2) subject to subsection (g),”;

(2) in subsection (b)—

(A) in paragraph (1), by striking the semicolon at the end and inserting “; or”;

(B) by striking paragraphs (2) and (3); and

(C) by redesignating paragraph (4) as paragraph (2);

(3) by striking subsections (e) through (g) and inserting the following:

“(e) **ADMINISTRATIVE REQUIREMENTS.**—

1 “(1) IN GENERAL.—Subject to paragraph (2), a
 2 project that receives grant assistance under sub-
 3 section (a) shall be carried out subject to the same
 4 requirements as a project that receives assistance
 5 from a State water pollution control revolving fund
 6 established pursuant to title VI.

7 “(2) DETERMINATION OF GOVERNOR.—The re-
 8 quirement described in paragraph (1) shall not apply
 9 to a project that receives grant assistance under
 10 subsection (a) to the extent that the Governor of the
 11 State in which the project is located determines that
 12 a requirement described in title VI is inconsistent
 13 with the purposes of this section.

14 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated to carry out this section,
 16 to remain available until expended—

17 “(1) \$250,000,000 for fiscal year 2017;

18 “(2) \$300,000,000 for fiscal year 2018;

19 “(3) \$350,000,000 for fiscal year 2019;

20 “(4) \$400,000,000 for fiscal year 2020; and

21 “(5) \$500,000,000 for fiscal year 2021.

22 “(g) ALLOCATION OF FUNDS.—

23 “(1) FISCAL YEAR 2017 AND 2018.—For each of
 24 fiscal years 2017 and 2018, subject to subsection
 25 (h), the Administrator shall use the amounts made

1 available to carry out this section to provide grants
2 to municipalities and municipal entities under sub-
3 section (a)(2)—

4 “(A) in accordance with the priority cri-
5 teria described in subsection (b); and

6 “(B) with additional priority given to pro-
7 posed projects that involve the use of—

8 “(i) nonstructural, low-impact devel-
9 opment;

10 “(ii) water conservation, efficiency, or
11 reuse; or

12 “(iii) other decentralized stormwater
13 or wastewater approaches to minimize
14 flows into the sewer systems.

15 “(2) FISCAL YEAR 2019 AND THEREAFTER.—

16 For fiscal year 2019 and each fiscal year thereafter,
17 subject to subsection (h), the Administrator shall
18 use the amounts made available to carry out this
19 section to provide grants to States under subsection
20 (a)(1) in accordance with a formula that—

21 “(A) shall be established by the Adminis-
22 trator, after providing notice and an oppor-
23 tunity for public comment; and

24 “(B) allocates to each State a proportional
25 share of the amounts based on the total needs

1 of the State for municipal combined sewer over-
2 flow controls and sanitary sewer overflow con-
3 trols, as identified in the most recent survey—
4 “(i) conducted under section 210; and
5 “(ii) included in a report required
6 under section 516(b)(1).”; and
7 (4) by striking subsection (i).

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