

S. 1857, Carper #1

An amendment in the nature of a substitute to S. 1857 that reduces the regulatory burden for residential wood heater retailers and manufacturers, codifies critical residential wood heater emission standards, and establishes a \$75 million voluntary program to incentivize the removal and replacement of old, inefficient wood heaters.

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 1857

To establish a compliance deadline of May 15, 2023, for Step 2 emissions standards for new residential wood heaters, new residential hydronic heaters, and forced-air furnaces.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. Carper

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. DEFINITIONS.**

4 In this Act:

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

8 (2) AFFECTED WOOD HEATER MODEL.—The
9 term “affected wood heater model” means a model
10 of wood heater described in—

1 (A) section 60.530(a) of title 40, Code of
2 Federal Regulations (or a successor regulation);
3 and

4 (B) subsections (a) and (b) of section
5 60.5472 of that title.

6 (3) EPA-CERTIFIED STEP 2 WOOD HEATER.—
7 The term “EPA-certified Step 2 wood heater”
8 means a wood heater that—

9 (A) has been certified or verified by the
10 Administrator;

11 (B) meets or exceeds the Step 2 emission
12 reductions standards described in the Final
13 Rule; and

14 (C) is installed by a licensed or certified
15 professional or verified by the State in which
16 the wood heater is being installed.

17 (4) FINAL RULE.—The term “Final Rule”
18 means the final rule entitled “Standards of Perform-
19 ance for New Residential Wood Heaters, New Resi-
20 dential Hydronic Heaters and Forced-Air Furnaces”
21 (80 Fed. Reg. 13672 (March 16, 2015)).

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

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

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

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

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

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

18 (i) recycling; or

19 (ii) scrappage.

20 (8) STATE.—The term “State” means—

21 (A) each of the several States of the
22 United States;

23 (B) the District of Columbia;

24 (C) the Commonwealth of Puerto Rico;

25 (D) Guam;

1 (E) the United States Virgin Islands;
2 (F) American Samoa; and
3 (G) the Commonwealth of the Northern
4 Mariana Islands.

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

10 (A) a residential wood heater;

11 (B) a hydronic heater; and

12 (C) a forced-air furnace.

13 **TITLE I—STEP 2 RETAIL**
14 **COMPLIANCE**

15 **SEC. 101. STEP 2 RETAIL COMPLIANCE DEADLINE FOR NEW**
16 **RESIDENTIAL WOOD HEATERS, NEW RESI-**
17 **DENTIAL HYDRONIC HEATERS, AND FORCED-**
18 **AIR FURNACES.**

19 (a) IN GENERAL.—With respect to the Final Rule,
20 until May 15, 2021, retailers may sell an affected wood
21 heater model that is—

22 (1) manufactured before May 15, 2020; and

23 (2) certified as compliant with Step 1, but not
24 yet certified as compliant with Step 2, as described
25 in the Final Rule.

1 (b) REVISED TEST METHODS.—The 30-day notice of
2 the certification testing described in section 60.534(g) of
3 title 40, Code of Federal Regulations, may be waived by
4 a manufacturer of an affected wood heater model line if—

5 (1) testing of the affected wood heater model is
6 recorded; and

7 (2) all test data from the test under paragraph
8 (1)—

9 (A) is securely stored; and

10 (B) provided to the Administrator to verify
11 results.

12 (c) CODIFICATION OF STEP 2.—Subject to sub-
13 sections (a) and (b), the Administrator shall carry out,
14 without alteration, the Final Rule.

15 (d) TECHNICAL AND CONFORMING CHANGES.—Not
16 later than 60 days after the date of enactment of this Act,
17 the Administrator shall finalize such technical and con-
18 forming changes to rules and guidance documents as may
19 be necessary to implement subsections (a) and (b).

20 **TITLE II—WOOD HEATERS**
21 **EMISSIONS REDUCTIONS**

22 **SEC. 201. SHORT TITLE.**

23 This title may be cited as the “Wood Heaters Emis-
24 sions Reduction Act of 2018” or the “WHERA Act”.

1 **SEC. 202. ESTABLISHMENT OF GRANT PROGRAM FOR**
2 **WOOD HEATER EMISSIONS REDUCTIONS.**

3 (a) IN GENERAL.—Subject to the availability of ap-
4 propriations, the Administrator shall establish a grant
5 program that provides funding for grant, rebate, and other
6 programs administered by States, regional agencies, and
7 Indian tribes that are designed—

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

12 (A) properly installed; and

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

15 (2) to achieve significant reductions in emis-
16 sions from wood heaters in terms of pollution pro-
17 duced by wood heaters and wood heater emissions
18 exposure;

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

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

24 (b) APPLICATIONS.—The Administrator shall—

25 (1) provide to States, regional agencies, and In-
26 dian tribes guidance for use in applying for funding

1 under this section, including information regard-
2 ing—

3 (A) the process and forms for applications;

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

6 (C) the cost-effectiveness of various emis-
7 sion reduction wood heater technologies eligible
8 for funds provided under this section;

9 (2) establish, for applications described in para-
10 graph (1)—

11 (A) an annual deadline for submission of
12 the applications;

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

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

17 (D) a streamlined process by which a
18 State, regional agency, or Indian tribe may
19 renew an application described in paragraph (1)
20 for subsequent fiscal years;

21 (3) require States or regional agencies applying
22 for funding under this section to provide detailed in-
23 formation on how the State or regional agency in-
24 tends to carry out and verify projects under the

1 wood heater emissions reduction program of the
2 State or regional agency, including—

3 (A) a description of the air quality in the
4 State or the area in which the regional agency
5 has jurisdiction;

6 (B) the means by which the project will
7 achieve a significant reduction in wood heater
8 emissions and air pollution, including the esti-
9 mated quantity of—

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

13 (ii) air pollution produced by wood
14 heaters in the State or the area in which
15 the regional agency has jurisdiction;

16 (C) an estimate of the cost and economic
17 benefits of the proposed project;

18 (D) the means by which the funds will be
19 distributed, including a description of the in-
20 tended recipients of the funds;

21 (E) a description of any efforts to target
22 low-income individuals that own older wood
23 heaters;

24 (F) provisions for the monitoring and
25 verification of the project; and

1 (G) a description of how the program will
2 carry out the replacement of old wood heaters,
3 including—

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

6 (ii) how new heaters purchased with
7 funding provided under this section will be
8 installed; and

9 (4) require Indian tribes applying for funding
10 under this section to provide detailed information on
11 how the Indian tribe intends to carry out and verify
12 projects under the wood heater emissions reduction
13 program of the Indian tribe, including—

14 (A) the means by which the project will
15 achieve a significant reduction in wood heater
16 emissions;

17 (B) an estimate of the cost and economic
18 benefits of the proposed project;

19 (C) the means by which the funds will be
20 distributed, including a description of the in-
21 tended recipients of the funds;

22 (D) a description of any efforts to target
23 low-income individuals that own older wood
24 heaters;

1 (E) provisions for the monitoring and
2 verification of the project; and

3 (F) a description of how the program will
4 carry out the replacement of old wood heaters,
5 including—

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

8 (ii) how new heaters purchased with
9 funding provided under this section will be
10 installed.

11 (e) ALLOCATION OF FUNDS.—

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

15 (A) among States, regional agencies, and
16 Indian tribes that submitted an application
17 under this section that was approved by the Ad-
18 ministrator;

19 (B) of which not less than 4 percent shall
20 be allocated to Indian tribes to perform func-
21 tions that include—

22 (i) addressing subsequent mainte-
23 nance costs resulting from the installation
24 of wood heaters under this section; and

1 (ii) training qualified installers and
2 technicians; and

3 (C) among different geographic areas and
4 varying population densities.

5 (2) ALLOCATION PRIORITY.—The Administrator
6 shall provide to each State, regional agency, and In-
7 dian tribe described in paragraph (1) for a fiscal
8 year an allocation of funds, with priority given to
9 States, regional agencies, and Indian tribes that will
10 use the funds to support projects that—

11 (A) maximize public health benefits;

12 (B) are the most cost-effective;

13 (C) target the replacement of wood heaters
14 that emit the most pollution;

15 (D) include EPA-certified Step 2 wood
16 heaters and other heaters that achieve emission
17 reductions and efficiency improvements beyond
18 the Step 2 emission reductions standards, as
19 described in the Final Rule;

20 (E) target low-income households;

21 (F) encourage the recycling of old wood
22 heaters when replacing those heaters; and

23 (G) serve areas that—

24 (i) receive a disproportionate quantity
25 of air pollution from wood heaters;

1 (ii) have a high percentage of resi-
2 dents that use wood as their primary
3 source of heat; or

4 (iii) are poor air quality areas, includ-
5 ing areas identified by the Administrator
6 as—

7 (I) in nonattainment or mainte-
8 nance of national ambient air quality
9 standards for particulate matter
10 under section 109 of the Clean Air
11 Act (42 U.S.C. 7409); or

12 (II) class I areas under section
13 162(a) of that Act (42 U.S.C.
14 7472(a)).

15 (3) UNOBLIGATED FUNDS.—Any funds that are
16 not obligated by a State, regional agency, or Indian
17 tribe by a date determined by the Administrator in
18 a fiscal year shall be reallocated pursuant to the pri-
19 orities described in paragraph (2).

20 (4) STATE, REGIONAL AGENCY, AND TRIBAL
21 MATCHING INCENTIVE.—

22 (A) IN GENERAL.—Subject to subpara-
23 graph (B), if a State, regional agency, or In-
24 dian tribe agrees to match the allocation pro-
25 vided to the State, regional agency, or Indian

1 tribe under paragraph (1) for a fiscal year, the
2 Administrator shall provide to the State, re-
3 gional agency, or Indian tribe for the fiscal year
4 a matching incentive consisting of an additional
5 amount equal to 30 percent of the allocation of
6 the State, regional agency, or Indian tribe
7 under paragraph (1).

8 (B) REQUIREMENT.—To receive a match-
9 ing incentive under subparagraph (A), a State,
10 regional agency, or Indian tribe—

11 (i) may not use funds received under
12 this section to pay a matching share re-
13 quired under this subsection; and

14 (ii) shall not be required to provide a
15 matching share for any additional amount
16 received under that subparagraph.

17 (d) ADMINISTRATION.—

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

21 (A) to develop and implement such pro-
22 grams in the State or in areas under the juris-
23 diction of the regional agency or Indian tribe as
24 are appropriate to meet the needs and goals of
25 the State, regional agency, or Indian tribe; and

1 (B) to the maximum extent practicable, to
2 use the programs described in subparagraph
3 (A) to give high priority to projects that serve
4 areas described in subsection (c)(2)(G).

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

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

13 (A) projects to complete the replacement of
14 old wood heaters, including the installation of
15 heaters and training of certified installers of
16 heaters that—

17 (i) are at least as efficient and clean-
18 burning as EPA-certified Step 2 wood
19 heaters; and

20 (ii) meet the purposes described in
21 subsection (a); and

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

24 (4) SUPPLEMENT, NOT SUPPLANT.—Funds
25 made available under this section shall be used to

1 supplement, not supplant, funds made available for
2 existing State clean air programs.

3 (5) PUBLIC NOTIFICATION.—Not later than 60
4 days after the date on which the Administrator
5 makes funding available under this section each fis-
6 cal year, the Administrator shall publish on the
7 website of the Environmental Protection Agency—

8 (A) the total number of grants awarded
9 and the amounts provided to States, regional
10 agencies, and Indian tribes;

11 (B) a general description of each applica-
12 tion of a State, regional agency, or Indian tribe
13 that received funding; and

14 (C) the estimated number of wood heaters
15 that will be replaced using funds made available
16 under this section.

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

23 **SEC. 203. OUTREACH AND INCENTIVES.**

24 The Administrator shall establish a program under
25 which the Administrator shall—

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

5 (2) develop nonfinancial incentives to promote
6 the proper installation and use of EPA-certified Step
7 2 wood heaters; and

8 (3) consult with Indian tribes to carry out the
9 purposes of this title.

10 **SEC. 204. SUPPLEMENTAL ENVIRONMENTAL PROJECTS.**

11 (a) EPA AUTHORITY TO ACCEPT WOOD HEATER
12 EMISSIONS REDUCTION SUPPLEMENTAL ENVIRON-
13 MENTAL PROJECTS.—Section 1 of Public Law 110–255
14 (42 U.S.C. 16138) is amended—

15 (1) in the heading, by inserting “**AND WOOD**
16 **HEATER**” after “**DIESEL**”; and

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

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

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

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

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

3 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) **IN GENERAL.**—There is authorized to be appro-
5 priated to carry out this title \$75,000,000 for each of fis-
6 cal years 2019 through 2024, to remain available until ex-
7 pended.

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