

# FEDERAL ADVOCACY WORKSHOP

**Peer to Peer: Reimagined**

Mary Ann Dickinson

December 8, 2020



Alliance  
*for* Water  
Efficiency



# A VOICE FOR WATER EFFICIENCY IN NORTH AMERICA

- Our mission is to promote and advocate for an efficient and sustainable water future
- Over 500 member organizations in 200 watersheds delivering water to 50 million water users
- CalWEP is AWE's First State Chapter – members of CalWEP are members of AWE too





# AGENDA FOR TODAY

1. Beginnings of Federal Advocacy: Plumbing Standards
2. Lobbying for a national water labeling program
3. Determining the national benefits of federal water efficiency investments
4. Keeping Funding for WaterSense alive
5. Dealing with President Trump's Tirade on efficient plumbing fixtures and appliances
6. Fighting to remove the Federal tax on water efficiency rebates
7. National Discussion: Water Affordability



# NATIONAL PLUMBING STANDARDS

- 13 states enacted standards for the 6 liter toilet before 1992
- Manufacturers wanted one national standard, not state by state patchwork
- Energy Policy Act of 1992 included standards for toilets, showerheads, faucets, urinals
  - Toilets: 1.6 gpf
  - Showerheads: 2.5 gpm
  - Faucets: 2.2gpm
  - Urinals: 2 gpf
- Covered Point of Sale as well as new construction
- First major federal law on water efficiency
- Went into effect 1/1/1994, except for commercial toilets, which went into effect 1/1/1997

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# SAVINGS DOCUMENTED QUICKLY AT CUWCC

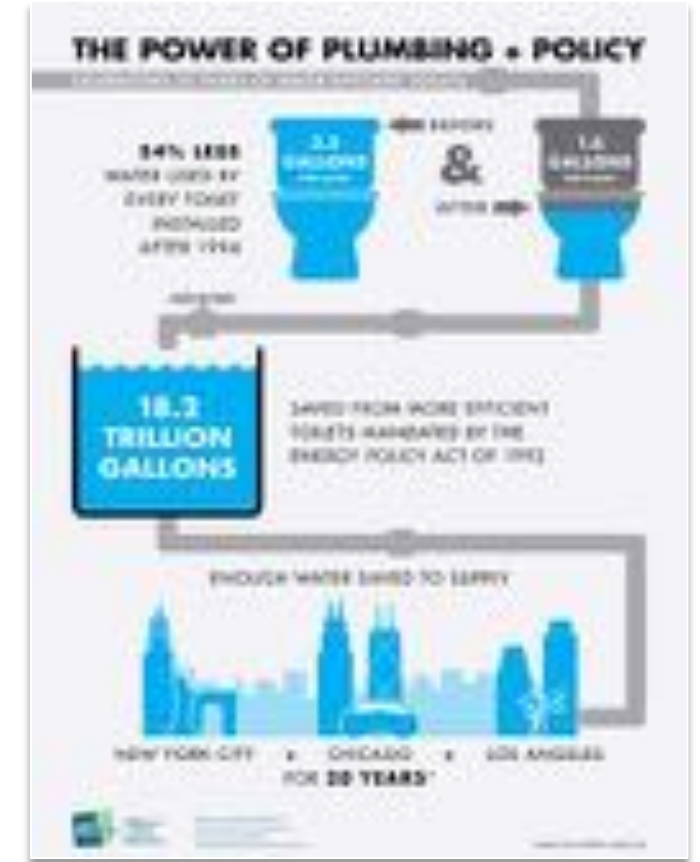
- January 2001 Report sent to Congress
- 5-8% reduction in customer demand
- Delays and defers capital investment
- \$26/person savings for \$7.5 billion nationally
- Government Accounting Office confirmed these findings in their own report





## TWENTY YEARS LATER

- AWE calculated cumulative savings from the Energy Policy Act
- For toilets alone, assuming a 4% change-out rate, 18.2 trillion gallons saved since 1994
- Enough to supply New York City, Chicago and Los Angeles for 20 years
- Free, permanent savings occur without cost to the water utility





# WHERE ARE WE TODAY?

- Plumbing standards have been embedded in national codes (UPC, IPC)
- Some states have adopted stretch codes (WE\*Stand, CALGreen)
- 10 States have enacted more stringent state standards, including California

	State
1	California
2	Colorado
3	Georgia
4	Hawaii
5	Illinois
6	Nevada
7	New York
8	Texas
9	Vermont
10	Washington



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## LAUNCHING A WATER PRODUCT LABELING PROGRAM

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- We had Energy Star Envy and lobbied EPA pretty hard for a water labeling program
- Manufacturers were on board too
- WaterSense program announced in San Antonio in June 2006 (Bush Administration)
- Voluntary labeling program, not regulatory
- Despite minimal funding, it has transformed the market and been remarkably successful
- Success doesn't mean the program is untouchable





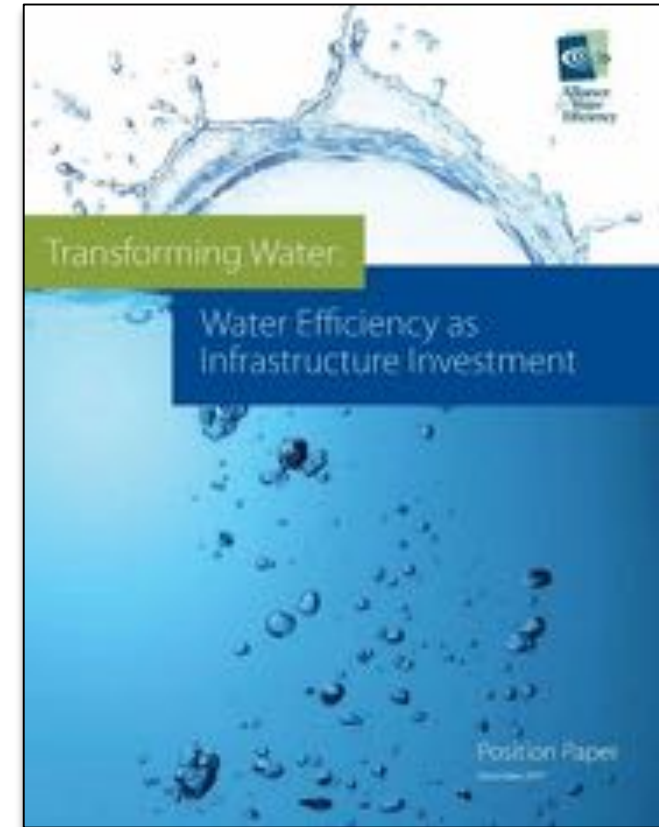
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# NATIONAL INVESTMENT BENEFIT OF WATER EFFICIENCY

- AWE analyzed national economic benefit of \$10 billion in water efficiency investments for the Obama transition team in 2008
- Revised in 2017 during Trump Administration
- Economic output benefits range between \$2.5 and \$2.8 billion per billion dollars of direct investment
- GDP benefits range between \$1.3 and \$1.5 billion per billion dollars of direct investment
- Employment potential ranges between 120,000 and 260,000 jobs per \$10 billion dollars of direct investment





## WHY \$10 BILLION IN WATER EFFICIENCY?

- Can save between 6.5 and 10 Trillion gallons of water
- Can be deployed in short time frames
- Can be readily scaled according to need
- Can be implemented in lower-income areas where appliance stocks tend to be older and less efficient
- Can have long-term economic, social, and environmental benefits
- Are “no-regret” investments
- But still no funding was enacted!!



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# WHY WAS FUNDING SUDDENLY A PROBLEM?

- President Trump!
- WaterSense program suddenly in jeopardy for the first time
- Program was never been authorized by Congress, despite 10 years of attempts
- Funding was only discretionary in the EPA Administrator's budget, right from the beginning
- The Trump administration's FY2018 “skinny budget” listed 50 programs to be zero funded, and WaterSense was on the list
- The budget memo proposed to cut all 8 FTE positions in the WaterSense program as well as \$1.9 million in extramural funding 😞



## AWE'S RESPONSE

- AWE's first letter in April 2017 to EPA Administrator Scott Pruitt urged continued funding of the WaterSense program
- Letter signed by 187 manufacturers, businesses, water providers, academic institutions, and efficiency advocates
- Response back from Administrator Pruitt:  
*"The President's budget also reflects the EPA's priority to ease the burden of unnecessary federal regulations that impose significant costs for workers and consumers without justifiable environmental benefits."*



# COALITION FORMED!

- AWE and numerous industry partners (PMI, IAPMO, Kohler, IA, AWWA) begin launching advocacy efforts on the Hill
- AWE created Fact Sheet, Infographic, and social media messages
- Asked AWE members to help





JUNE 8,  
2017  
OP ED



- AWE published Op Ed in The Hill, a top US political website, read by the White House and lawmakers
- Island Press assisted us getting it placed
- Subsequently entered in the Congressional Record by Congressman Jared Huffman



JULY,  
2017



- U.S. House Interior Appropriations Subcommittee oversees funding for EPA
- In July issued its Fiscal Year 2018 agency funding report rejecting the proposed elimination of the WaterSense program on page 58:

*“Water Quality Protection: The Committee recommends \$178,855,000 and rejects the proposed elimination of the WaterSENSE program.”*



## WHAT HAS BEEN THE RESULT?

- Every year since then Congress has passed a budget with language instructing the EPA Administrator to pass a budget that includes WaterSense funding at the previous year's level (\$2 million/year)
- The Trump Budgets have continued to defund WaterSense
- On March 22, 2018 AWE sent another letter to EPA Administrator Scott Pruitt urging continued funding of the WaterSense program
- Letter signed by 169 manufacturers, businesses, water providers, academic institutions, and efficiency advocates



# CONGRESS FINALLY AUTHORIZES WATERSENSE IN 2018

- Congressional authorization necessary to allow Congress to directly fund it with a budget line item
- Congressional authorization finally came in 2018 in S 3021: America's Water Infrastructure Act of 2018
- Included an amendment by Sen. Ben Cardin (D-MD) to authorize the WaterSense program
- But still no line item – Republicans in House and Senate not willing to add new line items to federal budget



## S 3021 PROVISIONS

- New Section 324B of The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.)
- No funding indicated
- Coordination with the Secretary of Energy
- 3<sup>rd</sup> party testing and certification
- Appropriate public notice and comment
- Annual water and energy savings
- Use technical specifications and testing protocols established by voluntary consensus standards organizations



# S 3021 PROVISIONS

- Products, buildings, landscapes, facilities, processes, and services that may be included:
  - ✓ (A) irrigation technologies and services;
  - ✓ (B) point-of-use water treatment devices;
  - ✓ (C) plumbing products;
  - ✓ (D) water reuse and recycling technologies;
  - ✓ (E) landscaping and gardening products, including moisture control or water enhancing technologies;
  - ✓ (F) xeriscaping and other landscape conversions that reduce water use;
  - ✓ (G) whole house humidifiers; and
  - ✓ (H) water-efficient buildings or facilities



## S 3021 PROVISIONS

- Not more frequently than every 6 years after adoption or major revision of any WaterSense performance criteria, review and, if appropriate, revise the performance criteria to achieve additional water savings
- Not later than December 31, 2019, consider for review and revise, if necessary, any WaterSense performance criteria adopted before January 1, 2012 (all would be reviewed except showerheads and commercial toilets)



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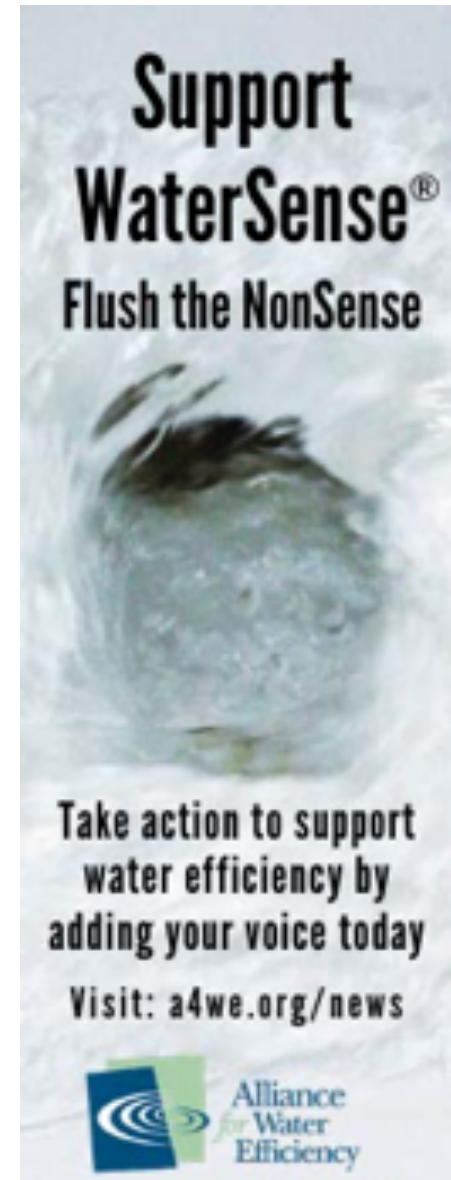
# PRESIDENT TRUMP CLEARLY UNHAPPY WITH WATER EFFICIENCY

- President Trump issued a directive to EPA and DOE on examining water efficiency standards
- Much press and social media exposure, became a rally sound bite
- AWE worried about what might happen; undertook Executive Order and Administration Rulemaking research
- WaterSense Funding: still not a President's budget line item; FY2020 budget passed by Congress with Appropriations Committee direction as before
- FY2021 budget also shows zero funding for WaterSense; same strategy will apply



# HIS FIRST MOVE: SEEK NEGATIVE PUBLIC COMMENT ON WATERSENSE

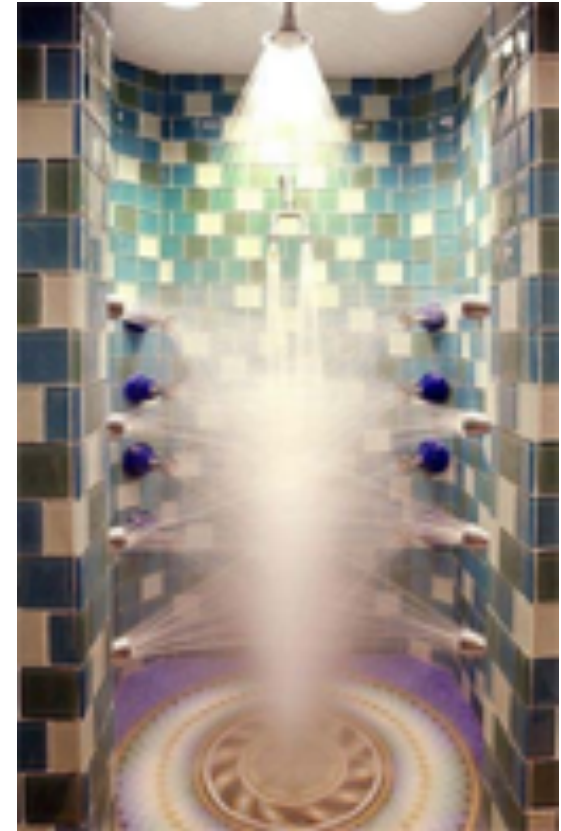
- Federal Register RFI posting on April 7
- Comment Deadline July 24
- AWE web posting with action items and resources
  - Press release
  - Executive Order Rulemaking research
  - REUS Memo from Peter Mayer
  - Detailed AWE Letter
  - Supplementary Letter on Showerheads
- 62 organizations signed onto AWE Letter
- Comments received in the record were largely only positive





# HIS SECOND MOVE: ISSUE TWO DOE PROPOSED RULEMAKINGS GUTTING EFFICIENCY

- Federal Register RFI posting on Aug 12
- 2 proposed rulemakings on a fast track:
  - Showerhead definition changes
  - New product class for clothes washers without any accompanying efficiency standards
- AWE web posting with detailed information and 2 comment letters for member sign-on
- Showerheads rulemaking comments were filed on Sep 30 – 60 signers
- Clothes Washer comments were filed on Oct 13 – 58 signers



**This would be legal  
under the new  
showerhead rule**





# STRONG OPPOSITION



October 24, 2020

The Honorable Everett Spivack  
Assistant Secretary  
Office of Energy Efficiency & Renewable Energy  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, DC 20458-0173

Residence and Equipment Standards Program  
U.S. Department of Energy  
Building Technologies Office  
10011 Oxford Place, NW, Suite 400  
Washington, DC 20034

RE: Comments on Request ID No. 2040-0028-01-FP-0002 Energy Conservation Program: Test Procedure for Showerheads

Dear Assistant Secretary Spivack:

The Alliance for Water Efficiency (AWE) and the undersigned 40 organizations write to express our firm opposition to the installation of a showerhead proposed by the U.S. Department of Energy (DOE), which will place multiple shower heads in a single stall. The current Federal



# WHAT IS LIKELY TO HAPPEN NOW?

- The DOE Rulemakings were an attempt to ram through efficiency changes
- Even with the Biden win, these rulemakings are likely to go forward before January 20
- A similar rulemaking on dishwashers has just been finalized
- The showerhead rule may be litigated for deficiencies in process and a NEPA exclusion
- If the rules stand, the Biden administration can reverse the rulings, but it will take at least 6 months as it needs to be a properly executed rulemaking
- AWE will participate and keep you posted



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# WATER EFFICIENCY NOT FEDERALLY TAX EXEMPT!

- Water efficiency rebates **not** federally tax-exempt
- Income from water conservation rebates is federally taxable to the consumer, unlike energy efficiency rebates
- All rebate income totaling \$600 or more in a calendar year must be sent in a 1099 at the end of the tax year
- Some states have made conservation tax-exempt at the state level, but even California repealed that
- Utility conservation programs are negatively affected by this



## WHY HASN'T THIS SURFACED BEFORE?

- We have been trying for years to get the attention of Congress to fix this
- Energy efficiency rebates have been tax exempt for over 20 years
- AWE has a fact sheet on this issue that it has distributed to Congress since 2010
- Water utilities haven't much appreciated the need for a legislative fix because so little of their consumer rebates in the past aggregated to the \$600 threshold
- Legislation was attempted in the 1990's by a Congressional Representative from Seattle – but no success



## SO WHY IS THIS A PROBLEM NOW?

- Landscape transformation rebates (often known as “cash for grass” rebates) are becoming popular, particularly in California and the arid West
- Many individual consumers now receiving much more than \$600 a year
- Water utilities are now realizing their federal tax obligations to send out 1099s to consumers
- Consumer reaction has been **very** negative
- A disincentive to customer participation; they believe that they are doing a public service by taking out their lawn and conserving water
- They maintain rightfully that this “benefit” should not be personally taxable to them





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Business



## Water-Conservation Rebate Recipients Surprised To Learn Rebates Are Taxable

By Laura Reilly [@laurareilly](#) January 16, 2015



SUBMIT A TIP

### TRENDING

- After Confusion Over PayPal Profits, LemonAid's Went Proud Of Drug's Actual Costs
- 7 Things We Learned About The Rapid Expansion Of Meal Kit Services Like Apron
- Amazon Can Charge Any Subscription To Any Card You Have On File If Your Primary Card Expires
- Sonic Drive-In Files Motion Over Receipts With Offensive Language
- Scars Holdings CEO Blogs About Is Doing Just Fine, Thanks

Thanks for participating in our comments beta test. While we reuse your feedback, you can [stay connected](#) and share tips. Please take this [survey](#) to share what we're doing well, what needs work, and what you'd like to see!





[LIVE: U.S. News](#)

# Turf rebate recipients will have to decide how to report funds on federal taxes



**Childhood Football & Brain Injury**

[Watch Video](#)

**In Case You Missed It**



The debate has a fresh twist as the...



## U.S. tax policy undercuts CA water conservation push

27

by [John R. ...](#)  
[John R. ...](#)

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Even before the current marathon drought, turf replacement subsidies have long been touted by the state government as a powerful way to get California homeowners to stop having water guzzling lawns. But the federal government sees these subsidies as taxable income. This is from a recent Los Angeles Times report.

Southern Californians who received cash rebates for replacing their lawns with drought-tolerant landscaping will never get a federal tax form in the mail reporting the amount, but water officials said Thursday it is still not clear whether the reimbursement will be taxable.

Officials from the Metropolitan Water District of Southern California — which funded a \$42 million incentive program — say they are sending 1099 forms to turf rebate recipients of \$500 or more and leaving reporting up to participants and their tax advisors.

"We're doing what we believe is our obligation, which is sending the 1099s," said Steven Quaffrey, an MWD manager. He points "toward the IRS, and will not seek to utilize a variety of the ways that they might characterize it in terms of the way they file their own taxes."



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[CalWatchdog Warning Recall—October 3](#)  
October 3, 2016

[Crisis hits as California sees more European immigrants](#)  
October 3, 2016



## WHAT'S THE SOLUTION?

- Energy efficiency has been exempt from federal taxation for three decades. Section 136 in the IRS Tax Code
- Thus, energy utilities don't face sending out thousands of 1099s every year to angry customers
- If water efficiency isn't treated similarly, consumer participation in water conservation programs will wane and eventually disappear
- Utility CFO's will not want to deal with the 1099 issue as well as angry customers



# WE CREATED A COALITION

- Formed by Western Urban Water Coalition, AWE, and others
- Purpose: to address and fix the tax-exemption barrier for water conservation and green infrastructure
- Work with IRS, OMB, and Congress
- Coordinate with energy efficiency advocates



**CPWC**

COALITION TO PROMOTE WATER CONSERVATION



## WHAT KIND OF FIX?

- Congressman Jared Huffman (CA) briefed by AWE on this issue early in 2015
- Letter sent to IRS on December 11, 2015 signed by 34 Congressional Representatives asking Treasury if this could be administratively fixed
- Treasury responded on January 5, 2016 saying a legislative change to Section 136 is required to add water efficiency and green infrastructure as tax-exempt programs
- Treasury included this issue as a need fix in their “green book” of legislative changes



# HOUSE LEGISLATION

- Bill introduced by Congressman Jared Huffman (CA) on February 25, 2016 – HR 4615 with 1 Republican co-sponsor (Dana Rohrabacher, also CA)
- “Water Conservation Rebate Tax Parity Act”
- “Gross income shall not include the value of any water conservation and efficiency measure or water runoff management improvement (or any subsidy, rebate, or other amount for such a measure or improvement) received directly or indirectly from a water department.”
- AWE sent support letter on day bill introduced
- Numerous bills in successive Congresses – never made it to the Senate (HR 448, HR 2313)
- HR 2 in 2020 (The Moving Forward Act) passed by the House and now sitting in the Senate



## SENATE LEGISLATION

- S 1464 introduced by Senator Diane Feinstein in 2017
- No Republican Senators would co-sponsor, although they were not opposed in concept to the idea of the exemption
- It is all politics
- Mitch McConnell would not add it to the Senate tax package unless Senator Feinstein promised to vote for the tax cuts
- Our last hope is for the Senate to pass HR 2
- At least Treasury still supports a fix



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# AFFORDABLE WATER – A ROLE FOR WATER EFFICIENCY?

- National discussions occurring on water affordability, prohibition on shutoffs, and bill forgiveness for COVID-19 impacted customers
- AWWA seeking funding for utilities with large numbers of customer delinquent bills
- Disadvantaged communities often have higher bills because of aging plumbing fixtures and appliances, and leaks in older housing
- AWE wants to showcase the connection between affordability and water efficiency
- Thursday's P2P Workshop is on AWE's Affordability Assessment for the city of Detroit and how it can be done for your community.

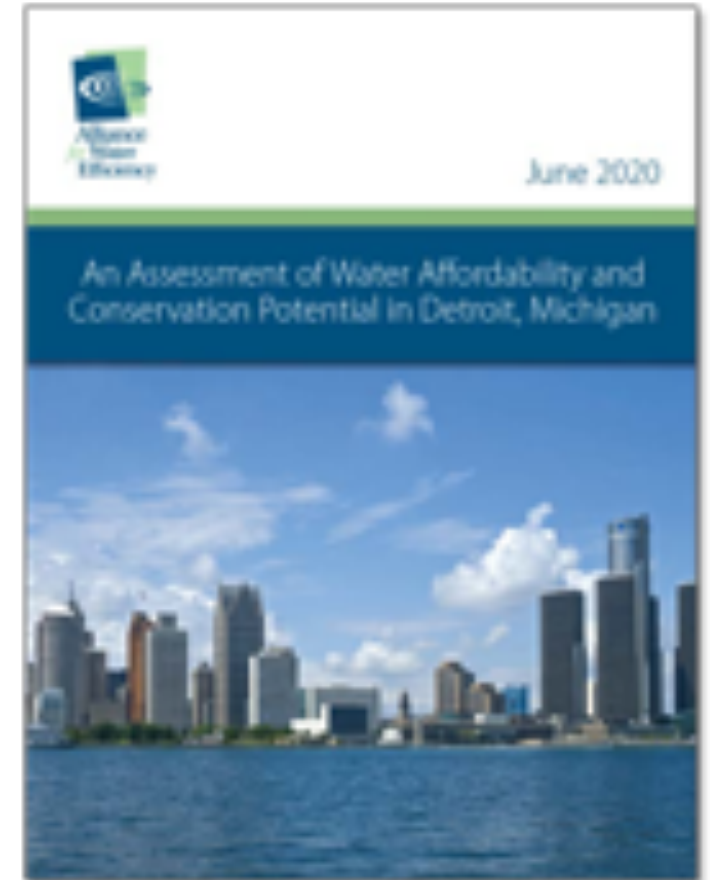


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## SNAPSHOT OF DETROIT REPORT

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- Evaluated inefficient fixture stock, household income, population over 65 years of age, and poverty at Census Tract level
- Applied newer affordability metrics (alternative to MHI) by Census Tract
- The results demonstrate a clear need for assistance and water conservation potential: as much as 1.17 BGY
- Average bill reduction for customers that replace toilets of 13.67% (based on average SF indoor water use)





A SINGULAR VOICE AND A PLATFORM FOR  
WATER USE EFFICIENCY AND WATER CONSERVATION,  
BRINGING A CRITICAL PERSPECTIVE TO AN INCREASINGLY  
THIRSTY NORTH AMERICA.

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