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U.S. GOVERNMENT
INFORMATION
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II

116TH CONGRESS
1ST SESSION

S. 2260

To provide for the improvement of domestic infrastructure in order to prevent marine debris, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2019

Mr. SULLIVAN (for himself, Mr. WHITEHOUSE, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To provide for the improvement of domestic infrastructure in order to prevent marine debris, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Save Our Seas 2.0: Improving Domestic Infrastructure to Prevent Marine Debris Act''.

(b) DEFINITIONS.—In this Act:

(1) EPA ADMINISTRATOR.—The term ''EPA Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian Tribe'' has the meaning given the term ''Indian tribe'' in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), without regard to capitalization.

(3) INTENDED USE PLAN.—The term ''intended use plan'' means a plan developed by a State under section 3(c)(1).

(4) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(5) POST-CONSUMER MATERIALS MANAGEMENT.—The term ''post-consumer materials management'' means the systems, operation, supervision, and aftercare of processes and equipment used for post-use material (including packaging, goods, products, and other materials), including—

(A) collection;

(B) transport;

(C) safe disposal of waste that cannot be recovered, reused, recycled, repaired, or refurbished; and

(D) systems and processes related to post-use materials that can be recovered, reused, recycled, repaired, or refurbished.

(6) STATE.—The term ''State'' means—

(A) a State;

(B) an Indian Tribe;

(C) the District of Columbia; and

(D) a territory or possession of the United States.

(7) STATE LOAN FUND.—The term ''State loan fund'' means a post-consumer materials management revolving State loan fund established by a State under section 3(a)(2)(B).

(8) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

SEC. 2. STRATEGY FOR IMPROVING POST-CONSUMER MATERIALS MANAGEMENT AND WATER MANAGEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the EPA Administrator shall, in consultation with stakeholders, develop a strategy to improve post-consumer materials management and resi-

dential recycling infrastructure, particularly for post-consumer materials management that is (at the time of enactment of this Act) not meeting existing national standards, for the purpose of reducing potential leakage of plastic waste and other post-consumer materials into waterways and oceans.

(b) RELEASE.—On development of the strategy under subsection (a), the EPA Administrator shall—

(1) distribute the strategy to States and units of local government; and

(2) make the strategy publicly available for use by—

(A) for-profit private entities involved in post-consumer materials management; and

(B) other nongovernmental entities.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the strategy under subsection (a) should include guidance, for the purpose of reducing potential leakage of plastic waste and other post-consumer materials into waterways and oceans, relating to—

(1) the harmonization of post-consumer materials management protocols, such as waste collection and municipal recycling, including—

(A) best practices for the collection of residential recyclables;

(B) improved quality and sorting of residential recyclable materials through opportunities such as—

(i) education and awareness programs;

(ii) improved infrastructure, including new equipment and innovative technologies for processing of recyclable materials;

(iii) enhanced markets for recycled material; and

(iv) standardized measurements; and

(C) increasing capacity for more types of plastic (including plastic films) and other materials to be collected, processed, and recycled or repurposed into usable materials or products;

(2) the development of new strategies and programs that prioritize engagement and cooperation with States and the private sector to expedite efforts and assistance in States to partner with, encourage, advise, and facilitate the development and execution, where practicable, of projects, programs, and initiatives—

(A) to improve the capacity, security, and standards of operations for post-consumer materials management;

(B) to monitor and track how well post-consumer materials management entities are functioning, based on uniform and transparent standards developed in cooperation with municipal, industrial, Federal, and civil society stakeholders;

(C)(i) to identify the operational challenges of post-consumer materials management; and

(ii) to develop policy and programmatic solutions to those challenges; and

(D) to end intentional and unintentional incentives for municipalities, industries, and individuals to improperly dispose of municipal post-consumer materials; and

(3) strengthening markets for products with high levels of recycled plastic content.

(d) COMPLEMENTARY ACTIVITIES.—It is the sense of Congress that the strategy developed under subsection (a) should include guidance on activities that are complementary to the activities described in subsection (c), such as—

(1) reducing waste at the source of the waste, including anti-litter initiatives;

(2) developing effective post-consumer materials management provisions for—

(A) national pollutant discharge elimination system permits issued to municipal separate storm sewer systems under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); and

(B) stormwater management plans;

(3) capturing post-consumer materials at stormwater inlets, at stormwater outfalls, or in bodies of water;

(4) providing education and outreach relating to post-consumer materials movement and reduction; and

(5) monitoring or modeling post-consumer material flows and the reduction of post-consumer materials resulting from the implementation of best management practices.

SEC. 3. POST-CONSUMER MATERIALS MANAGEMENT STATE REVOLVING FUNDS.

(a) BLOCK GRANTS TO STATES TO ESTABLISH LOAN FUNDS.—

(1) IN GENERAL.—The EPA Administrator shall offer to enter into agreements with eligible States to make capitalization block grants, including letters of credit, to the States under this subsection—

(A) to support improvements to local post-consumer materials management, including municipal recycling programs;

(B) to assist local waste management authorities in making improvements to local waste management systems—

(i) to meet waste management standards, particularly with respect to systems falling significantly below national standards, as determined by the EPA Administrator; and

(ii) to implement the strategy developed under section 2(a);

(C) to deploy waste interceptor technologies, such as ''trash wheels'' and litter traps, to manage the collection and cleanup of aggregated waste from waterways; and

(D) for such other purposes as the EPA Administrator determines to be appropriate.

(2) ELIGIBILITY.—To be eligible to receive a capitalization block grant under this subsection, a State shall—

(A) enter into a capitalization agreement with the EPA Administrator under paragraph (1); and

(B) establish a post-consumer materials management revolving State loan fund.

(3) DEPOSIT.—Funds from a capitalization block grant to a State under this subsection shall be deposited in the State loan fund established by the State.

(4) PERIOD.—Funds from a capitalization block grant to a State under this subsection shall be available to the State for obligation—

(A) during the fiscal year for which the funds are authorized; and

(B) during the following fiscal year.

(5) ALLOTMENT.—Funds made available to carry out this section shall be allotted to States at the discretion of the EPA Administrator.

(6) REALLOTMENT.—Any funds not obligated by a State by the last day of the period for which the block grants are available shall be reallotted in accordance with paragraph (5).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts deposited in a State loan fund, including loan repayments and interest earned on the amounts, shall be used only—

(A) for providing loans or loan guarantees;

(B) for outcomes-based or performance payments; or

(C) as a source of reserve and security for leveraged loans.

(2) LIMITATIONS.—Loans or loan guarantees made by a State under paragraph (1)(A)—

(A) may be used only for expenditures of a type or category that the EPA Administrator has determined, through guidance, will—

(i) facilitate compliance with an intended use plan; or

(ii) otherwise significantly further the purposes described in subparagraphs (A) through (C) of subsection (a)(1); and

(B) may not be used for the acquisition of real property or an interest in real property, unless the acquisition is—

(i) integral to an intended use plan; and

(ii) from a willing seller.

(c) INTENDED USE PLANS.—

(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement under subsection (a)(1) annually shall prepare a plan that identifies

the intended uses of the amounts available from the State loan fund of the State.

(2) CONTENTS.—An intended use plan shall include—

(A) a list of the projects to be carried out by entities receiving the loans in the first fiscal year that begins after the date of the intended use plan, including a description of the project;

(B) a description of how the funds will support disadvantaged communities;

(C) an explanation of any local restrictions, such as flow control measures, that restrict access to recyclable materials;

(D) the criteria and methods established for the use of the funds; and

(E) a description of the financial status of the State loan fund and the short- and long-term goals of the State loan fund.

(3) LIST OF PROJECTS.—Each State, after notice and opportunity for public comment, shall publish, and periodically update, a list of projects in the State that are eligible for assistance under this section, including—

(A) the priority assigned to each project; and

(B) to the maximum extent practicable, the expected funding schedule for each project.

(d) FUND MANAGEMENT.—

(1) IN GENERAL.—Each State loan fund shall be established, maintained, and credited with repayments and interest, and the fund corpus shall be available in perpetuity in accordance with this section.

(2) INVESTMENT AUTHORIZED.—To the extent amounts in the State loan fund of a State are not required for current obligation or expenditure, the amounts shall be invested in interest bearing obligations.

(e) STATE CONTRIBUTIONS.—Each capitalization agreement entered into under subsection (a)(1) shall require that the State deposit in the State loan fund from State funds an amount equal to not less than 20 percent of the total amount of the block grant to be made to the State on or before the date on which the block grant payment is made to the State.

(f) ADMINISTRATION OF STATE LOAN FUND.—

(1) IN GENERAL.—Each State annually may use not greater than 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under

this section, including the recovery of reasonable costs expended to establish a State loan fund that are incurred after the date of enactment of this Act.

(2) GUIDANCE AND REGULATIONS.—The EPA Administrator shall issue guidance and promulgate regulations as are necessary to carry out this section, including guidance and regulations—

(A) to ensure that each State commits and expends funds allotted to the State under this section as efficiently as practicable in accordance with this section and applicable State law;

(B) to prevent waste, fraud, and abuse; and

(C) to ensure that the States receiving block grants under this section use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(3) STATE REPORT.—Not less frequently than every 2 years, each State administering a State loan fund under this section shall submit to the EPA Administrator a report describing the activities carried out under this section, including the findings of the most recent audit of the State loan fund and the entire State allotment.

(4) AUDITS.—The EPA Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States in accordance with procedures established by the Comptroller General of the United States.

(g) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The EPA Administrator shall ensure that all laborers and mechanics employed on projects funded directly, or assisted in whole or in part, by a State loan fund established by this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of part A of subtitle II of title 40, United States Code.

(2) AUTHORITY.—With respect to the labor standards specified in paragraph (1), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $300,000,000 for each of fiscal years 2020 through 2025.

SEC. 4. GRANT PROGRAMS.

(a) POST-CONSUMER MATERIALS MANAGEMENT INFRASTRUCTURE GRANT PROGRAM.—

(1) IN GENERAL.—The EPA Administrator may provide grants to units of local government, Indian Tribes, and local post-consumer materials management entities—

(A) to assist those entities in making improvements to post-consumer materials management—

(i) to meet waste management standards; and

(ii) to implement the strategy developed under section 2(a); and

(B) to support improvements to local post-consumer materials management, including traditional and innovative recycling and reuse technologies and processes for transforming recyclable plastics into commodity-grade materials for use.

(2) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), an applicant shall submit to the EPA Administrator an application at such time, in such manner, and containing such information as the EPA Administrator may require.

(b) DRINKING WATER INFRASTRUCTURE GRANTS.—

(1) IN GENERAL.—The EPA Administrator may provide competitive grants to units of local government (including units of local government that own treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292))), Indian Tribes, and public water systems (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)), as applicable, to support improvements in removing plastic waste from drinking water, including planning, design, construction, technical assistance, and planning support for operational adjustments.

(2) PREFERENCE.—In making grants under paragraph (1), the EPA Administrator shall give preference to applicants that—

(A) seek to improve the removal of microplastics, including microfibers, from drinking water; and

(B) have demonstrated prior commitment and success in reducing other pollution sources in drinking water, such as lead and other contaminants.

(3) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), an applicant shall submit to the EPA Administrator an application at

such time, in such manner, and containing such information as the EPA Administrator may require.

(c) WASTEWATER INFRASTRUCTURE GRANTS.—

(1) IN GENERAL.—The EPA Administrator may provide grants to units of local government (including units of local government that own treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292))) and public water systems (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)), as applicable, to support improvements in removing plastic waste from wastewater.

(2) PREFERENCE.—In making grants under paragraph (1), the EPA Administrator shall give preference to applicants that—

(A) seek to improve the removal of microplastics, including microfibers, from wastewater; and

(B) have demonstrated prior commitment and success in reducing other pollution sources in wastewater, such as nutrient pollution and other contaminants.

(3) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), an applicant shall submit to the EPA Administrator an application at

such time, in such manner, and containing such information as the EPA Administrator may require.

(d) TRASH-FREE WATERS GRANTS.—

(1) IN GENERAL.—The EPA Administrator may provide grants to political subdivisions of States and units of local government, Indian Tribes, and nonprofit organizations—

(A) to support projects to reduce the quantity of solid waste in bodies of water by reducing the quantity of waste at the source, including through anti-litter initiatives;

(B) to enforce local post-consumer materials management ordinances;

(C) to implement the solid waste provisions of a national pollutant discharge elimination system permit issued to a municipal separate storm sewer system under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342);

(D) to capture post-consumer materials at stormwater inlets, at stormwater outfalls, or in bodies of water;

(E) to provide education and outreach about post-consumer materials movement and reduction; and

(F) to monitor or model flows of post-consumer materials, including monitoring or modeling a reduction in trash as a result of the implementation of best management practices for the reduction of plastic waste and other post-consumer materials in sources of drinking water.

(2) APPLICATIONS.—To be eligible to receive a grant under paragraph (1), an applicant shall submit to the EPA Administrator an application at such time, in such manner, and containing such information as the EPA Administrator may require.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated, for each of the programs described in this section, $50,000,000 per year for each of fiscal years 2020 through 2025.

(2) NO IMPACT ON OTHER FEDERAL FUNDS.—

(A) IN GENERAL.—No funds shall be made available under paragraph (1) to carry out subsections (b) and (c) in a fiscal year if the total amount made available to carry out the programs described in subparagraph (B) for that fiscal year is less than the total amount made

available to carry out the programs described in subparagraph (B) for fiscal year 2019.

(B) PROGRAMS DESCRIBED.—The programs referred to in subparagraph (A) are—

(i) State drinking water treatment revolving loan funds established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12);

(ii) programs for assistance for small and disadvantaged communities under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a); and

(iii) State water pollution control revolving funds established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.).

SEC. 5. STUDY ON REPURPOSING PLASTIC WASTE IN INFRASTRUCTURE.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this section as the ''Secretary'') and the EPA Administrator shall seek to jointly enter into an arrangement with the National Academies of Sciences, Engineering, and Medicine under which the National Academies will—

(1) conduct a study of the feasibility and advisability of innovative uses of plastic waste in roadways, bridges, and other infrastructure; and

(2) as part of the study under paragraph (1)—

(A) identify international examples of—

(i) the use of materials described in that paragraph; and

(ii) projects in which the use of plastic waste has been applied;

(B) assess the economic benefits, if any, including employment opportunities, to municipalities and States in investing in innovative reuse of plastic waste in infrastructure; and

(C) if the National Academies consider uses described in that paragraph to be advisable, make recommendations with respect to what Federal testing standards and other barriers may need to be addressed to enable those uses, including with respect to ensuring human health and safety.

(b) REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a).

(c) GRANT PROGRAM.—

(1) IN GENERAL.—If the National Academies consider the innovative uses of plastic waste described in subsection (a)(1) to be advisable, and the Secretary agrees, the Secretary shall establish a grant program to encourage those uses.

(2) DEMONSTRATION PROJECTS.—If the Secretary establishes a grant program under paragraph (1), the Secretary shall carry out the grant program by selecting, through a competitive process, not more than 5 projects to demonstrate the uses described in subsection (a)(1), each of which shall be located in a different region of the United States.

(3) REPORT.—Not later than 180 days after the date on which the last demonstration project, if any, is completed under paragraph (2), the Secretary shall submit to Congress a report summarizing the results of the demonstration projects, including—

(A) the total quantity of plastic waste redirected from the waste stream into infrastructure;

(B) the durability of the infrastructure constructed with plastic waste; and

(C) any cost savings achieved through the use of plastic waste in the demonstration projects.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 6. STUDY ON OPTIONS TO ADVANCE TECHNOLOGIES FOR CONVERTING PLASTIC WASTE TO CHEMICALS, FEEDSTOCKS, AND OTHER PRODUCTS.

(a) IN GENERAL.—The EPA Administrator shall seek to enter into an arrangement with the National Academies of Sciences, Engineering, and Medicine under which the National Academies will conduct a study on options to advance technologies (including pyrolysis, hydropyrolysis, methanolysis, gasification, and enzymatic breakdown) for converting plastic waste to useful products, such as chemicals, feedstocks, fuels, and energy.

(b) INCLUSIONS.—As part of the study under subsection (a), the National Academies shall conduct an evaluation of—

(1) the air emissions associated with technologies described in that subsection; and

(2) an evaluation of the ability of those technologies to become cost-competitive with other op-

tions for obtaining source materials or producing energy.

(c) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the EPA Administrator shall submit to Congress a report on the study conducted under subsection (a).

SEC. 7. STUDY ON EFFECTS OF MICROPLASTICS IN FOOD SUPPLIES AND SOURCES OF DRINKING WATER.

(a) IN GENERAL.—The EPA Administrator, in consultation with the Under Secretary, shall seek to enter into an arrangement with the National Academies of Sciences, Engineering, and Medicine under which the National Academies will conduct a human health and environmental risk assessment on microplastics, including microfibers, in food supplies and sources of drinking water.

(b) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the EPA Administrator shall submit to Congress a report on the study conducted under subsection (a) that includes—

(1) a science-based definition of ''microplastics'' that can be adopted in federally supported monitoring and future assessments supported or conducted by a Federal agency;

(2) recommendations for standardized monitoring, testing, and other necessary protocols relating to microplastics;

(3)(A) an assessment of whether microplastics are currently present in the food supplies and sources of drinking water of United States consumers; and

(B) if the assessment under subparagraph (A) is positive—

(i) the extent to which microplastics are present in the food supplies and sources of drinking water; and

(ii) an assessment of the type, source, prevalence, and risk of microplastics in the food supplies and sources of drinking water;

(4) an assessment of the risk posed, if any, by the presence of microplastics in the food supplies and sources of drinking water of United States consumers that includes—

(A) an identification of the most significant sources of those microplastics; and

(B) a review of the best available science to determine any potential hazards of microplastics in the food supplies and sources of drinking water of United States consumers; and

(5) a measurement of—

(A) the quantity of environmental chemicals that absorb to microplastics; and

(B) the quantity described in subparagraph (A) that would be available for human exposure through food supplies or sources of drinking water.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 8. REPORT ON ELIMINATING BARRIERS TO INCREASE THE COLLECTION OF RECYCLABLE MATERIALS.

Not later than 1 year after the date of enactment of this Act, the EPA Administrator shall submit to Congress a report describing—

(1) the economic, technological, resource availability, or other barriers to increasing the collection of recyclable materials; and

(2) recommendations to overcome the barriers described under paragraph (1).

SEC. 9. REPORT ON ECONOMIC INCENTIVES TO SPUR DEVELOPMENT OF NEW END-USE MARKETS FOR RECYCLED PLASTICS.

Not later than 1 year after the date of enactment of this Act, the EPA Administrator shall submit to Congress a report describing the most efficient and effective economic incentives to spur the development of additional new end-use markets for recyclable plastics (including plastic film), including the use of increased recycled content by manufacturers in the production of plastic goods and packaging.

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