

115TH CONGRESS
1ST SESSION

H. R. 3017

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to reauthorize and improve the brownfields program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2017

Mr. MCKINLEY (for himself, Mr. WALDEN, Mr. PALLONE, Mr. SHIMKUS, and Mr. TONKO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to reauthorize and improve the brownfields program, 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.**

4 This Act may be cited as the “Brownfields Enhance-
5 ment, Economic Redevelopment, and Reauthorization Act
6 of 2017”.

1 **SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-**
2 **MENTAL ENTITIES.**

3 Section 101(20)(D) of the Comprehensive Environ-
4 mental Response, Compensation, and Liability Act of
5 1980 (42 U.S.C. 9601(20)(D)) is amended by striking
6 “ownership or control” and all that follows through “by
7 virtue” and inserting “ownership or control through sei-
8 zure or otherwise in connection with law enforcement ac-
9 tivity, or through bankruptcy, tax delinquency, abandon-
10 ment, or other circumstances in which the government ac-
11 quires title by virtue”.

12 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

13 Section 101(39)(D)(ii)(II) of the Comprehensive En-
14 vironmental Response, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by
16 amending item (bb) to read as follows:

17 “(bb) is a site for which there is no
18 viable responsible party and that is deter-
19 mined by the Administrator or the State,
20 as appropriate, to be a site that will be as-
21 sessed, investigated, or cleaned up by a
22 person that is not potentially liable for
23 cleaning up the site under this Act or any
24 other law pertaining to the cleanup of pe-
25 troleum products; and”.

1 **SEC. 4. CLARIFICATION OF LEASEHOLDER INTEREST.**

2 Section 101(40) of the Comprehensive Environmental
3 Response, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9601(40)) is amended—

5 (1) in the matter preceding subparagraph (A),
6 by striking “(or a tenant of a person) that acquires
7 ownership of” and inserting “who acquires owner-
8 ship of, or a leasehold interest in,”;

9 (2) in subparagraph (A), by inserting “or the
10 leasehold interest in the facility” before the period at
11 the end;

12 (3) in subparagraph (B)—

13 (A) in clause (ii), by inserting “with re-
14 spect to a person who acquires ownership of a
15 facility. The Administrator shall establish
16 standards and practices with respect to a per-
17 son who acquires a leasehold interest in a facil-
18 ity” before the period at the end; and

19 (B) in clause (iii), by inserting “, or acqui-
20 sition of a leasehold interest,” after “time of
21 purchase”;

22 (4) in subparagraph (H)(i)(II), by inserting “,
23 by the instruments by which the leasehold interest in
24 the facility is acquired after January 11, 2002,”
25 after “financed”; and

26 (5) by adding at the end the following:

1 “(I) LEASEHOLDERS.—In the case of a
2 person holding a leasehold interest in a facil-
3 ity—

4 “(i) the leasehold interest in the facil-
5 ity—

6 “(I) is for a term of not less than
7 10 years; and

8 “(II) grants the person control
9 of, and access to, the facility; and

10 “(ii) the person is responsible for the
11 management of all hazardous substances
12 at the facility.”.

13 **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
14 **ZATIONS.**

15 (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)
16 of the Comprehensive Environmental Response, Com-
17 pensation, and Liability Act of 1980 (42 U.S.C.
18 9604(k)(1)) is amended—

19 (1) in subparagraph (G), by striking “or” after
20 the semicolon;

21 (2) in subparagraph (H), by striking the period
22 at the end and inserting a semicolon; and

23 (3) by adding at the end the following:

24 “(I) an organization described in section
25 501(c)(3) of the Internal Revenue Code of 1986

1 and exempt from taxation under section 501(a)
2 of that Code;

3 “(J) a limited liability corporation in which
4 all managing members are organizations de-
5 scribed in subparagraph (I) or limited liability
6 corporations whose sole members are organiza-
7 tions described in subparagraph (I);

8 “(K) a limited partnership in which all
9 general partners are organizations described in
10 subparagraph (I) or limited liability corpora-
11 tions whose sole members are organizations de-
12 scribed in subparagraph (I); or

13 “(L) a qualified community development
14 entity (as defined in section 45D(c)(1) of the
15 Internal Revenue Code of 1986).”.

16 (b) CONFORMING AMENDMENTS.—Section 104(k)(3)
17 of the Comprehensive Environmental Response, Com-
18 pensation, and Liability Act of 1980 (42 U.S.C.
19 9604(k)(3)) is amended—

20 (1) in subparagraph (A)(ii)—

21 (A) by striking “or nonprofit organiza-
22 tions”; and

23 (B) by striking “entity or organization”
24 and inserting “eligible entity”; and

25 (2) in subparagraph (B)(ii)—

1 (A) by striking “or other nonprofit organi-
2 zation”; and

3 (B) by striking “or nonprofit organiza-
4 tion”.

5 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**
6 **SITES.**

7 Section 104(k) of the Comprehensive Environmental
8 Response, Compensation, and Liability Act of 1980 (42
9 U.S.C. 9604) is amended—

10 (1) in paragraph (2), by adding at the end the
11 following:

12 “(C) EXEMPTION FOR CERTAIN PUBLICLY
13 OWNED BROWNFIELD SITES.—Notwithstanding
14 any other provision of law, an eligible entity de-
15 scribed in any of subparagraphs (A) through
16 (H) of paragraph (1) may receive a grant under
17 this paragraph for property acquired by that el-
18 igible entity prior to January 11, 2002, even if
19 such eligible entity does not qualify as a bona
20 fide prospective purchaser, so long as the eligi-
21 ble entity has not caused or contributed to a re-
22 lease or threatened release of a hazardous sub-
23 stance at the property.”; and

24 (2) in paragraph (3), by adding at the end the
25 following:

1 “(E) EXEMPTION FOR CERTAIN PUBLICLY
2 OWNED BROWNFIELD SITES.—Notwithstanding
3 any other provision of law, an eligible entity de-
4 scribed in any of subparagraphs (A) through
5 (H) of paragraph (1) may receive a grant or
6 loan under this paragraph for property acquired
7 by that eligible entity prior to January 11,
8 2002, even if such eligible entity does not qual-
9 ify as a bona fide prospective purchaser, so long
10 as the eligible entity has not caused or contrib-
11 uted to a release or threatened release of a haz-
12 ardous substance at the property.”.

13 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

14 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
15 ronmental Response, Compensation, and Liability Act of
16 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
17 ing “\$200,000 for each site to be remediated” and insert-
18 ing “\$500,000 for each site to be remediated, which limit
19 may be waived by the Administrator, but not to exceed
20 a total of \$750,000 for each site, based on the anticipated
21 level of contamination, size, or ownership status of the
22 site”.

1 **SEC. 8. MULTIPURPOSE BROWNFIELDS GRANTS.**

2 Section 104(k) of the Comprehensive Environmental
3 Response, Compensation, and Liability Act of 1980 (42
4 U.S.C. 9604(k)) is amended—

5 (1) by redesignating paragraphs (4) through
6 (12) as paragraphs (5) through (13), respectively;

7 (2) in paragraph (3)(A), by striking “Subject to
8 paragraphs (4) and (5)” and inserting “Subject to
9 paragraphs (5) and (6)”;

10 (3) by inserting after paragraph (3) the fol-
11 lowing:

12 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (D) and paragraphs (5) and (6), the Ad-
15 ministrator shall establish a program to provide
16 multipurpose grants to an eligible entity based
17 on the criteria under subparagraph (C) and the
18 considerations under paragraph (3)(C), to carry
19 out inventory, characterization, assessment,
20 planning, technical assistance, or remediation
21 activities at 1 or more brownfield sites in an
22 area proposed by the eligible entity.

23 “(B) GRANT AMOUNTS.—Each grant
24 awarded under this paragraph shall not exceed
25 \$1,000,000.

1 “(C) CRITERIA.—In awarding a grant
2 under this paragraph, the Administrator shall
3 consider the extent to which the eligible entity
4 is able—

5 “(i) to provide an overall plan for re-
6 vitalization of the 1 or more brownfield
7 sites in the proposed area in which the
8 multipurpose grant will be used;

9 “(ii) to demonstrate a capacity to con-
10 duct the range of activities that will be
11 funded by the multipurpose grant; and

12 “(iii) to demonstrate that a multipur-
13 pose grant will meet the needs of the 1 or
14 more brownfield sites in the proposed area.

15 “(D) CONDITION.—As a condition of re-
16 ceiving a grant under this paragraph, each eli-
17 gible entity shall expend the full amount of the
18 grant not later than the date that is 5 years
19 after the date on which the grant is awarded to
20 the eligible entity, unless the Administrator pro-
21 vides an extension.

22 “(E) OWNERSHIP.—An eligible entity that
23 receives a grant under this paragraph may not
24 expend any of the grant funds on remediation

1 of a brownfield site until such time as the eligi-
2 ble entity owns the brownfield site.”; and
3 (4) by striking “(2) or (3)” each place it ap-
4 pears and inserting “(2), (3), or (4)”.

5 **SEC. 9. ADMINISTRATIVE COSTS FOR GRANT RECIPIENTS.**

6 Paragraph (5) of section 104(k) of the Comprehen-
7 sive Environmental Response, Compensation, and Liabil-
8 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
9 section 8 of this Act) is amended—

10 (1) in subparagraph (B)—

11 (A) in clause (i)—

12 (i) by striking subclause (III); and

13 (ii) by redesignating subclauses (IV)
14 and (V) as subclauses (III) and (IV), re-
15 spectively;

16 (B) by striking clause (ii);

17 (C) by redesignating clause (iii) as clause
18 (ii); and

19 (D) in clause (ii) (as redesignated by sub-
20 paragraph (C) of this paragraph), by striking
21 “Notwithstanding clause (i)(IV)” and inserting
22 “Notwithstanding clause (i)(III)”; and
23 (2) by adding at the end the following:

24 “(E) ADMINISTRATIVE COSTS.—

1 “(i) IN GENERAL.—An eligible entity
2 may use up to 5 percent of the amounts
3 made available under a grant or loan
4 under this subsection for administrative
5 costs.

6 “(ii) RESTRICTION.—For purposes of
7 clause (i), the term ‘administrative costs’
8 does not include—

9 “(I) investigation and identifica-
10 tion of the extent of contamination of
11 a brownfield site;

12 “(II) design and performance of
13 a response action; or

14 “(III) monitoring of a natural re-
15 source.”.

16 **SEC. 10. RENEWABLE ENERGY ON BROWNFIELD SITES.**

17 Paragraph (6) of section 104(k) of the Comprehen-
18 sive Environmental Response, Compensation, and Liabil-
19 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
20 section 8 of this Act) is amended by adding at the end
21 of subparagraph (C) the following:

22 “(xi) The extent to which a grant
23 would facilitate the production of renew-
24 able energy on the site.”.

1 **SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE**
2 **GRANTS.**

3 Paragraph (7)(A) of section 104(k) of the Com-
4 prehensive Environmental Response, Compensation, and
5 Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesi-
6 gated by section 8 of this Act) is amended—

7 (1) by striking “The Administrator may pro-
8 vide, or fund eligible entities or nonprofit organiza-
9 tions to provide,” and inserting the following:

10 “(i) IN GENERAL.—The Administrator
11 may provide, or fund eligible entities to
12 provide,”; and

13 (2) by adding at the end the following:

14 “(ii) SMALL COMMUNITY, INDIAN
15 TRIBE, RURAL AREA, AND DISADVANTAGED
16 AREA RECIPIENTS.—

17 “(I) IN GENERAL.—The Admin-
18 istrator shall use not more than
19 \$1,500,000 of the amounts made
20 available to carry out this paragraph
21 in each fiscal year to make grants to
22 States that receive amounts under
23 section 128(a) in that fiscal year to
24 assist small communities, Indian
25 tribes, rural areas, or disadvantaged
26 areas in the State in carrying out ac-

1 activities described in clause (i) with re-
2 spect to brownfield sites.

3 “(II) LIMITATION.—Each grant
4 made under subclause (I) shall be not
5 more than \$20,000.

6 “(iii) DEFINITIONS.—In this subpara-
7 graph:

8 “(I) DISADVANTAGED AREA.—
9 The term ‘disadvantaged area’ means
10 a community with an annual median
11 household income that is less than 2/
12 3 of the statewide annual median
13 household income, as determined by
14 the President based on the latest
15 available decennial census.

16 “(II) SMALL COMMUNITY.—The
17 term ‘small community’ means a com-
18 munity with a population of not more
19 than 20,000 individuals, as deter-
20 mined by the President based on the
21 latest available decennial census.”.

22 **SEC. 12. BROWNFIELDS FUNDING.**

23 Paragraph (13) of section 104(k) of the Comprehen-
24 sive Environmental Response, Compensation, and Liabil-

1 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
2 section 8 of this Act) is amended to read as follows:

3 “(13) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out
5 this subsection \$200,000,000 for each of fiscal years
6 2017 through 2021.”.

7 **SEC. 13. STATE RESPONSE PROGRAM FUNDING.**

8 Section 128(a)(3) of the Comprehensive Environ-
9 mental Response, Compensation, and Liability Act of
10 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
11 lows:

12 “(3) FUNDING.—There is authorized to be ap-
13 propriated to carry out this subsection \$50,000,000
14 for each of fiscal years 2017 through 2021.”.

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