

115TH CONGRESS
1ST SESSION

H. R. 3017

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2017

Received

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-**
6 **MENTAL ENTITIES.**

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

16 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

17 Section 101(39)(D)(ii)(II) of the Comprehensive En-
18 vironmental Response, Compensation, and Liability Act of
19 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by
20 amending item (bb) to read as follows:

21 “(bb) is a site for which there is no
22 viable responsible party and that is deter-
23 mined by the Administrator or the State,
24 as appropriate, to be a site that will be as-
25 sessed, investigated, or cleaned up by a
26 person that is not potentially liable for

1 cleaning up the site under this Act or any
2 other law pertaining to the cleanup of pe-
3 troleum products; and”.

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

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

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

12 (2) in subparagraph (A), by inserting “or the
13 leasehold interest in the facility” before the period at
14 the end;

15 (3) in subparagraph (B)—

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

22 (B) in clause (iii), by inserting “, or acqui-
23 sition of a leasehold interest,” after “time of
24 purchase”;

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

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

6 “(I) LEASEHOLDERS.—In the case of a
 7 person holding a leasehold interest in a facil-
 8 ity—

9 “(i) the leasehold interest in the facil-
 10 ity—

11 “(I) is for a term of not less than
 12 5 years; and

13 “(II) grants the person control
 14 of, and access to, the facility; and

15 “(ii) the person is responsible for the
 16 management of all hazardous substances
 17 at the facility.”.

18 **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
 19 **ZATIONS.**

20 (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)
 21 of the Comprehensive Environmental Response, Com-
 22 pensation, and Liability Act of 1980 (42 U.S.C.
 23 9604(k)(1)) is amended—

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

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

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

4 “(I) an organization described in section
5 501(c)(3) of the Internal Revenue Code of 1986
6 and exempt from taxation under section 501(a)
7 of that Code;

8 “(J) a limited liability corporation in which
9 all managing members are organizations de-
10 scribed in subparagraph (I) or limited liability
11 corporations whose sole members are organiza-
12 tions described in subparagraph (I);

13 “(K) a limited partnership in which all
14 general partners are organizations described in
15 subparagraph (I) or limited liability corpora-
16 tions whose sole members are organizations de-
17 scribed in subparagraph (I); or

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

21 (b) CONFORMING AMENDMENTS.—Section 104(k) of
22 the Comprehensive Environmental Response, Compensa-
23 tion, and Liability Act of 1980 (42 U.S.C. 9604(k)) is
24 amended—

25 (1) in paragraph (3)—

1 (A) in subparagraph (A)(ii)—

2 (i) by striking “or nonprofit organiza-
3 tions”; and

4 (ii) by striking “entity or organiza-
5 tion” and inserting “eligible entity”; and

6 (B) in subparagraph (B)(ii)—

7 (i) by striking “or other nonprofit or-
8 ganization”; and

9 (ii) by striking “or nonprofit organiza-
10 tion”; and

11 (2) in paragraph (6)(A), by striking “or non-
12 profit organizations”.

13 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**
14 **SITES.**

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

18 (1) in paragraph (2), by adding at the end the
19 following:

20 “(C) EXEMPTION FOR CERTAIN PUBLICLY
21 OWNED BROWNFIELD SITES.—Notwithstanding
22 any other provision of law, an eligible entity de-
23 scribed in any of subparagraphs (A) through
24 (H) of paragraph (1) may receive a grant under
25 this paragraph for property acquired by that el-

1 eligible entity prior to January 11, 2002, even if
2 such eligible entity does not qualify as a bona
3 fide prospective purchaser, so long as the eligi-
4 ble entity has not caused or contributed to a re-
5 lease or threatened release of a hazardous sub-
6 stance at the property.”;

7 (2) in paragraph (3), by adding at the end the
8 following:

9 “(E) EXEMPTION FOR CERTAIN PUBLICLY
10 OWNED BROWNFIELD SITES.—Notwithstanding
11 any other provision of law, an eligible entity de-
12 scribed in any of subparagraphs (A) through
13 (H) of paragraph (1) may receive a grant or
14 loan under this paragraph for property acquired
15 by that eligible entity prior to January 11,
16 2002, even if such eligible entity does not qual-
17 ify as a bona fide prospective purchaser, so long
18 as the eligible entity has not caused or contrib-
19 uted to a release or threatened release of a haz-
20 ardous substance at the property.”; and

21 (3) in paragraph (4)(B)(iii)—

22 (A) by striking “up to 25 percent of the”;
23 and

1 (B) by inserting “described in any of sub-
2 paragraphs (A) through (H) of paragraph (1)”
3 after “eligible entities”.

4 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

5 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
6 ronmental Response, Compensation, and Liability Act of
7 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
8 ing “\$200,000 for each site to be remediated” and insert-
9 ing “\$500,000 for each site to be remediated, which limit
10 may be waived by the Administrator, but not to exceed
11 a total of \$750,000 for each site, based on the anticipated
12 level of contamination, size, or ownership status of the
13 site”.

14 **SEC. 8. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

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

20 (2) in paragraph (3)(A), by striking “Subject to
21 paragraphs (4) and (5)” and inserting “Subject to
22 paragraphs (5) and (6)”;

23 (3) by inserting after paragraph (3) the fol-
24 lowing:

25 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (D) and paragraphs (5) and (6), the Ad-
3 ministrator shall establish a program to provide
4 multipurpose grants to an eligible entity based
5 on the criteria under subparagraph (C) and the
6 considerations under paragraph (3)(C), to carry
7 out inventory, characterization, assessment,
8 planning, or remediation activities at 1 or more
9 brownfield sites in an area proposed by the eli-
10 gible entity.

11 “(B) GRANT AMOUNTS.—

12 “(i) INDIVIDUAL GRANT AMOUNTS.—
13 Each grant awarded under this paragraph
14 shall not exceed \$1,000,000.

15 “(ii) CUMULATIVE GRANT
16 AMOUNTS.—The total amount of grants
17 awarded for each fiscal year under this
18 paragraph may not exceed 15 percent of
19 the amounts made available for the fiscal
20 year to carry out this subsection.

21 “(C) CRITERIA.—In awarding a grant
22 under this paragraph, the Administrator shall
23 consider the extent to which the eligible entity
24 is able—

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

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

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

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

18 “(E) OWNERSHIP.—An eligible entity that
19 receives a grant under this paragraph may not
20 expend any of the grant funds on remediation
21 of a brownfield site until such time as the eligi-
22 ble entity owns the brownfield site.”; and

23 (4) by striking “(2) or (3)” each place it ap-
24 pears and inserting “(2), (3), or (4)”.

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

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

6 (1) in subparagraph (B)—

7 (A) in clause (i)—

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

9 (ii) by redesignating subclauses (IV)
10 and (V) as subclauses (III) and (IV), re-
11 spectively;

12 (B) by striking clause (ii);

13 (C) by redesignating clause (iii) as clause
14 (ii); and

15 (D) in clause (ii) (as redesignated by sub-
16 paragraph (C) of this paragraph), by striking
17 “Notwithstanding clause (i)(IV)” and inserting
18 “Notwithstanding clause (i)(III)”; and

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

20 “(E) ADMINISTRATIVE COSTS.—

21 “(i) IN GENERAL.—An eligible entity
22 may use up to 5 percent of the amounts
23 made available under a grant or loan
24 under this subsection for administrative
25 costs.

1 “(ii) RESTRICTION.—For purposes of
2 clause (i), the term ‘administrative costs’
3 does not include—

4 “(I) investigation and identifica-
5 tion of the extent of contamination of
6 a brownfield site;

7 “(II) design and performance of
8 a response action; or

9 “(III) monitoring of a natural re-
10 source.”.

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

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

17 “(xi) The extent to which a grant
18 would facilitate the production of renew-
19 able energy on the site.”.

20 **SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE**
21 **GRANTS.**

22 (a) IN GENERAL.—Section 128(a)(1)(B) of the Com-
23 prehensive Environmental Response, Compensation, and
24 Liability Act of 1980 (42 U.S.C. 9628(a)(1)(B)) is
25 amended—

1 (1) in clause (ii)—

2 (A) in subclause (I), by striking “; or” and
3 inserting a semicolon;

4 (B) in subclause (II), by striking the pe-
5 riod at the end and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(III) assist small communities,
8 Indian tribes, rural areas, or dis-
9 advantaged areas in carrying out ac-
10 tivities described in section
11 104(k)(7)(A) with respect to
12 brownfield sites.”; and

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

14 “(iii) SMALL COMMUNITIES, INDIAN
15 TRIBES, RURAL AREAS, AND DISADVAN-
16 TAGED AREAS.—

17 “(I) IN GENERAL.—To make
18 grants to States or Indian tribes
19 under clause (ii)(III), the Adminis-
20 trator may use not more than
21 \$1,500,000 of the amounts made
22 available to carry out section
23 104(k)(7) in each fiscal year.

1 “(II) LIMITATION.—Each grant
2 made under subclause (I) may be not
3 more than \$20,000.

4 “(iv) DEFINITIONS.—In this subpara-
5 graph:

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

14 “(II) SMALL COMMUNITY.—The
15 term ‘small community’ means a com-
16 munity with a population of not more
17 than 10,000 individuals, as deter-
18 mined by the President based on the
19 latest available decennial census.”.

20 (b) CONFORMING AMENDMENT.—Section 104(g)(1)
21 of the Comprehensive Environmental Response, Com-
22 pensation, and Liability Act of 1980 (42 U.S.C.
23 9604(g)(1)) is amended by inserting “or section
24 128(a)(1)(B)(ii)(III)” after “under this section”.

1 **SEC. 12. BROWNFIELDS FUNDING.**

2 Paragraph (13) of section 104(k) of the Comprehen-
3 sive Environmental Response, Compensation, and Liabil-
4 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
5 section 8 of this Act) is amended to read as follows:

6 “(13) AUTHORIZATION OF APPROPRIATIONS.—

7 There is authorized to be appropriated to carry out
8 this subsection \$200,000,000 for each of fiscal years
9 2018 through 2022.”.

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

11 Section 128(a)(3) of the Comprehensive Environ-
12 mental Response, Compensation, and Liability Act of
13 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
14 lows:

15 “(3) FUNDING.—There is authorized to be ap-
16 propriated to carry out this subsection \$50,000,000
17 for each of fiscal years 2018 through 2022.”.

Passed the House of Representatives November 30,
2017.

Attest:

KAREN L. HAAS,

Clerk.