

Union Calendar No. 298

115TH CONGRESS
1ST SESSION

H. R. 3017

[Report No. 115–303, Part I]

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

SEPTEMBER 11, 2017

Reported from the Committee on Energy and Commerce

SEPTEMBER 11, 2017

Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than October 13, 2017

OCTOBER 12, 2017

Referral to the Committee on Transportation and Infrastructure extended for an additional period ending not later than November 9, 2017

NOVEMBER 9, 2017

Additional sponsors: Ms. ESTY of Connecticut and Mr. KATKO

NOVEMBER 9, 2017

The Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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”.

7 **SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-**
8 **MENTAL ENTITIES.**

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

18 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

19 Section 101(39)(D)(ii)(II) of the Comprehensive En-
20 vironmental Response, Compensation, and Liability Act of
21 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by
22 amending item (bb) to read as follows:

23 “(bb) is a site for which there is no
24 viable responsible party and that is deter-
25 mined by the Administrator or the State,

1 as appropriate, to be a site that will be as-
2 sessed, investigated, or cleaned up by a
3 person that is not potentially liable for
4 cleaning up the site under this Act or any
5 other law pertaining to the cleanup of pe-
6 troleum products; and”.

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

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

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

15 (2) in subparagraph (A), by inserting “or the
16 leasehold interest in the facility” before the period at
17 the end;

18 (3) in subparagraph (B)—

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

1 (B) in clause (iii), by inserting “, or acqui-
2 sition of a leasehold interest,” after “time of
3 purchase”;

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

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

9 “(I) LEASEHOLDERS.—In the case of a
10 person holding a leasehold interest in a facil-
11 ity—

12 “(i) the leasehold interest in the facil-
13 ity—

14 “(I) is for a term of not less than
15 10 years; and

16 “(II) grants the person control
17 of, and access to, the facility; and

18 “(ii) the person is responsible for the
19 management of all hazardous substances
20 at the facility.”.

21 **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
22 **ZATIONS.**

23 (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)
24 of the Comprehensive Environmental Response, Com-

1 pension, and Liability Act of 1980 (42 U.S.C.
2 9604(k)(1)) is amended—

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

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

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

8 “(I) an organization described in section
9 501(c)(3) of the Internal Revenue Code of 1986
10 and exempt from taxation under section 501(a)
11 of that Code;

12 “(J) a limited liability corporation in which
13 all managing members are organizations de-
14 scribed in subparagraph (I) or limited liability
15 corporations whose sole members are organiza-
16 tions described in subparagraph (I);

17 “(K) a limited partnership in which all
18 general partners are organizations described in
19 subparagraph (I) or limited liability corpora-
20 tions whose sole members are organizations de-
21 scribed in subparagraph (I); or

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

1 (b) CONFORMING AMENDMENTS.—Section 104(k)(3)
2 of the Comprehensive Environmental Response, Com-
3 pensation, and Liability Act of 1980 (42 U.S.C.
4 9604(k)(3)) is amended—

5 (1) in subparagraph (A)(ii)—

6 (A) by striking “or nonprofit organiza-
7 tions”; and

8 (B) by striking “entity or organization”
9 and inserting “eligible entity”; and

10 (2) in subparagraph (B)(ii)—

11 (A) by striking “or other nonprofit organi-
12 zation”; and

13 (B) by striking “or nonprofit organiza-
14 tion”.

15 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**
16 **SITES.**

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

20 (1) in paragraph (2), by adding at the end the
21 following:

22 “(C) EXEMPTION FOR CERTAIN PUBLICLY
23 OWNED BROWNFIELD SITES.—Notwithstanding
24 any other provision of law, an eligible entity de-
25 scribed in any of subparagraphs (A) through

1 (H) of paragraph (1) may receive a grant under
2 this paragraph for property acquired by that el-
3 igible entity prior to January 11, 2002, even if
4 such eligible entity does not qualify as a bona
5 fide prospective purchaser, so long as the eligi-
6 ble entity has not caused or contributed to a re-
7 lease or threatened release of a hazardous sub-
8 stance at the property.”; and

9 (2) in paragraph (3), by adding at the end the
10 following:

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

23 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

24 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
25 ronmental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
2 ing “\$200,000 for each site to be remediated” and insert-
3 ing “\$500,000 for each site to be remediated, which limit
4 may be waived by the Administrator, but not to exceed
5 a total of \$750,000 for each site, based on the anticipated
6 level of contamination, size, or ownership status of the
7 site”.

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

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

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

14 (2) in paragraph (3)(A), by striking “Subject to
15 paragraphs (4) and (5)” and inserting “Subject to
16 paragraphs (5) and (6)”;

17 (3) by inserting after paragraph (3) the fol-
18 lowing:

19 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (D) and paragraphs (5) and (6), the Ad-
22 ministrator shall establish a program to provide
23 multipurpose grants to an eligible entity based
24 on the criteria under subparagraph (C) and the
25 considerations under paragraph (3)(C), to carry

1 out inventory, characterization, assessment,
2 planning, technical assistance, or remediation
3 activities at 1 or more brownfield sites in an
4 area proposed by the eligible entity.

5 “(B) GRANT AMOUNTS.—Each grant
6 awarded under this paragraph shall not exceed
7 \$1,000,000.

8 “(C) CRITERIA.—In awarding a grant
9 under this paragraph, the Administrator shall
10 consider the extent to which the eligible entity
11 is able—

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

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

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

22 “(D) CONDITION.—As a condition of re-
23 ceiving a grant under this paragraph, each eli-
24 gible entity shall expend the full amount of the
25 grant not later than the date that is 5 years

1 after the date on which the grant is awarded to
2 the eligible entity, unless the Administrator pro-
3 vides an extension.

4 “(E) OWNERSHIP.—An eligible entity that
5 receives a grant under this paragraph may not
6 expend any of the grant funds on remediation
7 of a brownfield site until such time as the eligi-
8 ble entity owns the brownfield site.”; and

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

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

12 Paragraph (5) 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—

16 (1) in subparagraph (B)—

17 (A) in clause (i)—

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

19 (ii) by redesignating subclauses (IV)
20 and (V) as subclauses (III) and (IV), re-
21 spectively;

22 (B) by striking clause (ii);

23 (C) by redesignating clause (iii) as clause
24 (ii); and

1 (D) in clause (ii) (as redesignated by sub-
2 paragraph (C) of this paragraph), by striking
3 “Notwithstanding clause (i)(IV)” and inserting
4 “Notwithstanding clause (i)(III)”; and
5 (2) by adding at the end the following:

6 “(E) ADMINISTRATIVE COSTS.—

7 “(i) IN GENERAL.—An eligible entity
8 may use up to 5 percent of the amounts
9 made available under a grant or loan
10 under this subsection for administrative
11 costs.

12 “(ii) RESTRICTION.—For purposes of
13 clause (i), the term ‘administrative costs’
14 does not include—

15 “(I) investigation and identifica-
16 tion of the extent of contamination of
17 a brownfield site;

18 “(II) design and performance of
19 a response action; or

20 “(III) monitoring of a natural re-
21 source.”.

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

23 Paragraph (6) of section 104(k) of the Comprehen-
24 sive Environmental Response, Compensation, and Liabil-
25 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by

1 section 8 of this Act) is amended by adding at the end
2 of subparagraph (C) the following:

3 “(xi) The extent to which a grant
4 would facilitate the production of renew-
5 able energy on the site.”.

6 **SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE**
7 **GRANTS.**

8 Paragraph (7)(A) of section 104(k) of the Com-
9 prehensive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesign-
11 nated by section 8 of this Act) is amended—

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

15 “(i) IN GENERAL.—The Administrator
16 may provide, or fund eligible entities to
17 provide,”; and

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

19 “(ii) SMALL COMMUNITY, INDIAN
20 TRIBE, RURAL AREA, AND DISADVANTAGED
21 AREA RECIPIENTS.—

22 “(I) IN GENERAL.—The Admin-
23 istrator shall use not more than
24 \$1,500,000 of the amounts made
25 available to carry out this paragraph

1 in each fiscal year to make grants to
2 States that receive amounts under
3 section 128(a) in that fiscal year to
4 assist small communities, Indian
5 tribes, rural areas, or disadvantaged
6 areas in the State in carrying out ac-
7 tivities described in clause (i) with re-
8 spect to brownfield sites.

9 “(II) LIMITATION.—Each grant
10 made under subclause (I) shall be not
11 more than \$20,000.

12 “(iii) DEFINITIONS.—In this subpara-
13 graph:

14 “(I) DISADVANTAGED AREA.—
15 The term ‘disadvantaged area’ means
16 a community with an annual median
17 household income that is less than 2/
18 3 of the statewide annual median
19 household income, as determined by
20 the President based on the latest
21 available decennial census.

22 “(II) SMALL COMMUNITY.—The
23 term ‘small community’ means a com-
24 munity with a population of not more
25 than 20,000 individuals, as deter-

1 mined by the President based on the
2 latest available decennial census.”.

3 **SEC. 12. BROWNFIELDS FUNDING.**

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

8 “(13) AUTHORIZATION OF APPROPRIATIONS.—
9 There is authorized to be appropriated to carry out
10 this subsection \$200,000,000 for each of fiscal years
11 2017 through 2021.”.

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

13 Section 128(a)(3) of the Comprehensive Environ-
14 mental Response, Compensation, and Liability Act of
15 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
16 lows:

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

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[Report No. 115-303, Part I]

A BILL

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NOVEMBER 9, 2017

The Committee on Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed