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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. REDEVELOPMENT CERTAINTY FOR GOVERN-
MENT ENTITIES.

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

SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.

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

“(bb) is a site for which there is no
viable responsible party and that is deter-
mined by the Administrator or the State,
as appropriate, to be a site that will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site under this Act or any other law pertaining to the cleanup of petroleum products; and”.

SEC. 4. CLARIFICATION OF LEASEHOLDER INTEREST.

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

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

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

(3) in subparagraph (B)—

(A) in clause (ii), by inserting “with respect to a person who acquires ownership of a facility. The Administrator shall establish standards and practices with respect to a person who acquires a leasehold interest in a facility” before the period at the end; and
(B) in clause (iii), by inserting “, or acquisition of a leasehold interest,” after “time of purchase”;

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

(5) by adding at the end the following:

“(I) LEASEHOLDERS.—In the case of a person holding a leasehold interest in a facility—

“(i) the leasehold interest in the facility—

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

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

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

SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANIZATIONS.

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

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

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

(3) by adding at the end the following:

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

“(J) a limited liability corporation in which all managing members are organizations described in subparagraph (I) or limited liability corporations whose sole members are organizations described in subparagraph (I);

“(K) a limited partnership in which all general partners are organizations described in subparagraph (I) or limited liability corporations whose sole members are organizations described in subparagraph (I); or

“(L) a qualified community development entity (as defined in section 45D(c)(1) of the Internal Revenue Code of 1986).”.
(b) CONFORMING AMENDMENTS.—Section 104(k)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(3)) is amended—

(1) in subparagraph (A)(ii)—

(A) by striking “or nonprofit organizations”; and

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

(2) in subparagraph (B)(ii)—

(A) by striking “or other nonprofit organization”; and

(B) by striking “or nonprofit organization”.

SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD SITES.

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

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

“(C) EXEMPTION FOR CERTAIN PUBLICLY OWNED BROWNFIELD SITES.—Notwithstanding any other provision of law, an eligible entity described in any of subparagraphs (A) through
(H) of paragraph (1) may receive a grant under this paragraph for property acquired by that eligible entity prior to January 11, 2002, even if such eligible entity does not qualify as a bona fide prospective purchaser, so long as the eligible entity has not caused or contributed to a release or threatened release of a hazardous substance at the property.”; and

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

“(E) EXEMPTION FOR CERTAIN PUBLICLY OWNED BROWNFIELD SITES.—Notwithstanding any other provision of law, an eligible entity described in any of subparagraphs (A) through (H) of paragraph (1) may receive a grant or loan under this paragraph for property acquired by that eligible entity prior to January 11, 2002, even if such eligible entity does not qualify as a bona fide prospective purchaser, so long as the eligible entity has not caused or contributed to a release or threatened release of a hazardous substance at the property.”.

SEC. 7. REMEDIATION GRANT ENHANCEMENT.

Section 104(k)(3)(A)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of
1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by striking “$200,000 for each site to be remediated” and inserting “$500,000 for each site to be remediated, which limit may be waived by the Administrator, but not to exceed a total of $750,000 for each site, based on the anticipated level of contamination, size, or ownership status of the site”.

SEC. 8. MULTIPURPOSE BROWNFIELDS GRANTS.

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

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

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

(3) by inserting after paragraph (3) the following:

“(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

“(A) IN GENERAL.—Subject to subparagraph (D) and paragraphs (5) and (6), the Administrator shall establish a program to provide multipurpose grants to an eligible entity based on the criteria under subparagraph (C) and the considerations under paragraph (3)(C), to carry
out inventory, characterization, assessment, planning, technical assistance, or remediation activities at 1 or more brownfield sites in an area proposed by the eligible entity.

“(B) Grant amounts.—Each grant awarded under this paragraph shall not exceed $1,000,000.

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

“(i) to provide an overall plan for revitalization of the 1 or more brownfield sites in the proposed area in which the multipurpose grant will be used;

“(ii) to demonstrate a capacity to conduct the range of activities that will be funded by the multipurpose grant; and

“(iii) to demonstrate that a multipurpose grant will meet the needs of the 1 or more brownfield sites in the proposed area.

“(D) Condition.—As a condition of receiving a grant under this paragraph, each eligible entity shall expend the full amount of the grant not later than the date that is 5 years
after the date on which the grant is awarded to the eligible entity, unless the Administrator provides an extension.

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

(4) by striking “(2) or (3)” each place it appears and inserting “(2), (3), or (4)”.

SEC. 9. ADMINISTRATIVE COSTS FOR GRANT RECIPIENTS.

Paragraph (5) of section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by section 8 of this Act) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) by striking subclause (III); and

(ii) by redesignating subclauses (IV) and (V) as subclauses (III) and (IV), respectively;

(B) by striking clause (ii);

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

“(E) ADMINISTRATIVE COSTS.—

“(i) In general.—An eligible entity
may use up to 5 percent of the amounts
made available under a grant or loan
under this subsection for administrative
costs.

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

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

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

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

SEC. 10. RENEWABLE ENERGY ON BROWNFIELD SITES.

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

“(xi) The extent to which a grant would facilitate the production of renewable energy on the site.”.

SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE GRANTS.

Paragraph (7)(A) of section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by section 8 of this Act) is amended—

(1) by striking “The Administrator may provide, or fund eligible entities or nonprofit organizations to provide,” and inserting the following:

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

(2) by adding at the end the following:

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

“(I) IN GENERAL.—The Administrator shall use not more than $1,500,000 of the amounts made available to carry out this paragraph
in each fiscal year to make grants to States that receive amounts under section 128(a) in that fiscal year to assist small communities, Indian tribes, rural areas, or disadvantaged areas in the State in carrying out activities described in clause (i) with respect to brownfield sites.

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

“(iii) DEFINITIONS.—In this subparagraph:

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

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

SEC. 12. BROWNFIELDS FUNDING.

Paragraph (13) of section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by section 8 of this Act) is amended to read as follows:

“(13) AUTHORIZATION OF APPROPRIATIONS.—

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

SEC. 13. STATE RESPONSE PROGRAM FUNDING.

Section 128(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9628(a)(3)) is amended to read as follows:

“(3) FUNDING.—There is authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 2017 through 2021.”.
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.

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