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S. 1479

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2016

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

AN ACT

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to modify provisions relating to grants, 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 Utiliza-
3 tion, Investment, and Local Development Act of 2015” or
4 the “BUILD Act”.

5 **SEC. 2. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**
6 **ZATIONS.**

7 Section 104(k)(1) of the Comprehensive Environ-
8 mental Response, Compensation, and Liability Act of
9 1980 (42 U.S.C. 9604(k)(1)) is amended—

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

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

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

15 “(I) an organization described in section
16 501(c)(3) of the Internal Revenue Code of 1986
17 and exempt from taxation under section 501(a)
18 of that Code;

19 “(J) a limited liability corporation in which
20 all managing members are organizations de-
21 scribed in subparagraph (I) or limited liability
22 corporations whose sole members are organiza-
23 tions described in subparagraph (I);

24 “(K) a limited partnership in which all
25 general partners are organizations described in
26 subparagraph (I) or limited liability corpora-

1 tions whose sole members are organizations de-
 2 scribed in subparagraph (I); or

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

6 **SEC. 3. MULTIPURPOSE BROWNFIELDS GRANTS.**

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

10 (1) by redesignating paragraphs (4) through
 11 (9) and (10) through (12) as paragraphs (5)
 12 through (10) and (13) through (15), respectively;

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

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

18 “(4) MULTIPURPOSE BROWNFIELDS GRANTS.—

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

ment, planning, or remediation activities at 1 or more brownfield sites in a proposed area.

“(B) GRANT AMOUNTS.—

“(i) INDIVIDUAL GRANT AMOUNTS.—

Each grant awarded under this paragraph shall not exceed \$950,000.

“(ii) CUMULATIVE GRANT

AMOUNTS.—The total amount of grants awarded for each fiscal year under this paragraph shall not exceed 15 percent of the funds made available for the fiscal year to carry out this subsection.

“(C) CRITERIA.—In awarding a grant under this paragraph, the Administrator shall consider the extent to which an 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 eligible activities that will be funded by the multipurpose grant; and

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

4 “(D) CONDITION.—As a condition of re-
 5 ceiving a grant under this paragraph, each eli-
 6 gible entity shall expend the full amount of the
 7 grant not later than the date that is 3 years
 8 after the date on which the grant is awarded to
 9 the eligible entity unless the Administrator, in
 10 the discretion of the Administrator, provides an
 11 extension.”.

12 **SEC. 4. TREATMENT OF CERTAIN PUBLICLY OWNED**
 13 **BROWNFIELD SITES.**

14 Section 104(k)(2) of the Comprehensive Environ-
 15 mental Response, Compensation, and Liability Act of
 16 1980 (42 U.S.C. 9604(k)(2)) is amended by adding at the
 17 end the following:

18 “(C) EXEMPTION FOR CERTAIN PUBLICLY
 19 OWNED BROWNFIELD SITES.—Notwithstanding
 20 any other provision of law, an eligible entity
 21 that is a governmental entity may receive a
 22 grant under this paragraph for property ac-
 23 quired by that governmental entity prior to
 24 January 11, 2002, even if the governmental en-
 25 tity does not qualify as a bona fide prospective

1 purchaser (as that term is defined in section
 2 101(40)), so long as the eligible entity has not
 3 caused or contributed to a release or threatened
 4 release of a hazardous substance at the prop-
 5 erty.”.

6 **SEC. 5. INCREASED FUNDING FOR REMEDIATION GRANTS.**

7 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
 8 ronmental Response, Compensation, and Liability Act of
 9 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
 10 ing “\$200,000 for each site to be remediated” and insert-
 11 ing “\$500,000 for each site to be remediated, which limit
 12 may be waived by the Administrator, but not to exceed
 13 a total of \$650,000 for each site, based on the anticipated
 14 level of contamination, size, or ownership status of the
 15 site”.

16 **SEC. 6. ALLOWING ADMINISTRATIVE COSTS FOR GRANT**
 17 **RECIPIENTS.**

18 Paragraph (5) of section 104(k) of the Comprehen-
 19 sive Environmental Response, Compensation, and Liabil-
 20 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
 21 section 3(1)) is amended—

22 (1) in subparagraph (B)—

23 (A) in clause (i)—

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

1 (ii) by redesignating subclauses (IV)
 2 and (V) as subclauses (III) and (IV), re-
 3 spectively;

4 (B) by striking clause (ii);

5 (C) by redesignating clause (iii) as clause
 6 (ii); and

7 (D) in clause (ii) (as redesignated by sub-
 8 paragraph (C)), by striking “Notwithstanding
 9 clause (i)(IV)” and inserting “Notwithstanding
 10 clause (i)(III)”; and

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

12 “(E) ADMINISTRATIVE COSTS.—

13 “(i) IN GENERAL.—An eligible entity
 14 may use up to 8 percent of the amounts
 15 made available under a grant or loan
 16 under this subsection for administrative
 17 costs.

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

21 “(I) investigation and identifica-
 22 tion of the extent of contamination;

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

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

3 **SEC. 7. SMALL COMMUNITY TECHNICAL ASSISTANCE**
4 **GRANTS.**

5 Paragraph (7)(A) of section 104(k) of the Com-
6 prehensive Environmental Response, Compensation, and
7 Liability Act of 1980 (42 U.S.C. 9604(k)) (as redesign-
8 nated by section 3(1)) is amended—

9 (1) by striking “The Administrator may pro-
10 vide,” and inserting the following:

11 “(i) DEFINITIONS.—In this subpara-
12 graph:

13 “(I) DISADVANTAGED AREA.—
14 The term ‘disadvantaged area’ means
15 an area with an annual median house-
16 hold income that is less than 80 per-
17 cent of the State-wide annual median
18 household income, as determined by
19 the latest available decennial census.

20 “(II) SMALL COMMUNITY.—The
21 term ‘small community’ means a com-
22 munity with a population of not more
23 than 15,000 individuals, as deter-
24 mined by the latest available decennial
25 census.

“(ii) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide grants that provide,”; and

(2) by adding at the end the following:

“(iii) SMALL OR DISADVANTAGED COMMUNITY RECIPIENTS.—

“(I) IN GENERAL.—Subject to subclause (II), in carrying out the program under clause (ii), the Administrator shall use not more than \$600,000 of the amounts made available to carry out this paragraph to provide grants to States that receive amounts under section 128(a) to assist small communities, Indian tribes, rural areas, or disadvantaged areas in achieving the purposes described in clause (ii).

“(II) LIMITATION.—Each grant awarded under subclause (I) shall be not more than \$7,500.”.

SEC. 8. WATERFRONT BROWNFIELDS GRANTS.

Section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9604(k)) is amended by inserting after paragraph
2 (10) (as redesignated by section 3(1)) the following:

3 “(11) WATERFRONT BROWNFIELD SITES.—

4 “(A) DEFINITION OF WATERFRONT
5 BROWNFIELD SITE.—In this paragraph, the
6 term ‘waterfront brownfield site’ means a
7 brownfield site that is adjacent to a body of
8 water or a federally designated floodplain.

9 “(B) REQUIREMENTS.—In providing
10 grants under this subsection, the Administrator
11 shall—

12 “(i) take into consideration whether
13 the brownfield site to be served by the
14 grant is a waterfront brownfield site; and

15 “(ii) give consideration to waterfront
16 brownfield sites.”.

17 **SEC. 9. CLEAN ENERGY BROWNFIELDS GRANTS.**

18 Section 104(k) of the Comprehensive Environmental
19 Response, Compensation, and Liability Act of 1980 (42
20 U.S.C. 9604(k)) (as amended by section 8) is amended
21 by inserting after paragraph (11) the following:

22 “(12) CLEAN ENERGY PROJECTS AT
23 BROWNFIELD SITES.—

1 “(A) DEFINITION OF CLEAN ENERGY
2 PROJECT.—In this paragraph, the term ‘clean
3 energy project’ means—

4 “(i) a facility that generates renew-
5 able electricity from wind, solar, or geo-
6 thermal energy; and

7 “(ii) any energy efficiency improve-
8 ment project at a facility, including com-
9 bined heat and power and district energy.

10 “(B) ESTABLISHMENT.—The Adminis-
11 trator shall establish a program to provide
12 grants—

13 “(i) to eligible entities to carry out in-
14 ventory, characterization, assessment,
15 planning, feasibility analysis, design, or re-
16 mediation activities to locate a clean en-
17 ergy project at 1 or more brownfield sites;
18 and

19 “(ii) to capitalize a revolving loan
20 fund for the purposes described in clause
21 (i).

22 “(C) MAXIMUM AMOUNT.—A grant under
23 this paragraph shall not exceed \$500,000.”.

1 **SEC. 10. TARGETED FUNDING FOR STATES.**

2 Paragraph (15) 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 3(1)) is amended by adding at the end the fol-
 6 lowing:

7 “(C) TARGETED FUNDING.—Of the
 8 amounts made available under subparagraph
 9 (A) for a fiscal year, the Administrator may use
 10 not more than \$2,000,000 to provide grants to
 11 States for purposes authorized under section
 12 128(a), subject to the condition that each State
 13 that receives a grant under this subparagraph
 14 shall have used at least 50 percent of the
 15 amounts made available to that State in the
 16 previous fiscal year to carry out assessment and
 17 remediation activities under section 128(a).”.

18 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) BROWNFIELDS REVITALIZATION FUNDING.—
 20 Paragraph (15)(A) of section 104(k) of the Comprehen-
 21 sive Environmental Response, Compensation, and Liabil-
 22 ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
 23 section 3(1)) is amended by striking “2006” and inserting
 24 “2018”.

25 (b) STATE RESPONSE PROGRAMS.—Section
 26 128(a)(3) of the Comprehensive Environmental Response,

1 Compensation, and Liability Act of 1980 (42 U.S.C.
2 9628(a)(3)) is amended by striking “2006” and inserting
3 “2018”.

Passed the Senate June 27, 2016.

Attest:

JULIE E. ADAMS,
Secretary.