

NOVEMBER 17, 2017

**RULES COMMITTEE PRINT 115–40**  
**TEXT OF H. R. 3017, BROWNFIELDS ENHANCE-**  
**MENT, ECONOMIC REDEVELOPMENT, AND RE-**  
**AUTHORIZATION ACT OF 2017**

**[Showing the text of H.R. 3017 as ordered reported by the  
Committee on Energy and Commerce, with modifications]**

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”.

1 **SEC. 3. PETROLEUM BROWNFIELD ENHANCEMENT.**

2 Section 101(39)(D)(ii)(II) of the Comprehensive En-  
3 vironmental Response, Compensation, and Liability Act of  
4 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by  
5 amending item (bb) to read as follows:

6 “(bb) is a site for which there is no  
7 viable responsible party and that is deter-  
8 mined by the Administrator or the State,  
9 as appropriate, to be a site that will be as-  
10 sessed, investigated, or cleaned up by a  
11 person that is not potentially liable for  
12 cleaning up the site under this Act or any  
13 other law pertaining to the cleanup of pe-  
14 troleum products; and”.

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

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

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

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

26 (3) in subparagraph (B)—

1 (A) in clause (ii), by inserting “with re-  
2 spect to a person who acquires ownership of a  
3 facility. The Administrator shall establish  
4 standards and practices with respect to a per-  
5 son who acquires a leasehold interest in a facil-  
6 ity” before the period at the end; and

7 (B) in clause (iii), by inserting “, or acqui-  
8 sition of a leasehold interest,” after “time of  
9 purchase”;

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

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

15 “(I) LEASEHOLDERS.—In the case of a  
16 person holding a leasehold interest in a facil-  
17 ity—

18 “(i) the leasehold interest in the facil-  
19 ity—

20 “(I) is for a term of not less than  
21 5 years; and

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

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

4 **SEC. 5. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-**  
5 **ZATIONS.**

6           (a) NONPROFIT ORGANIZATIONS.—Section 104(k)(1)  
7 of the Comprehensive Environmental Response, Com-  
8 pensation, and Liability Act of 1980 (42 U.S.C.  
9 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

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

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

7           (b) CONFORMING AMENDMENTS.—Section 104(k) of  
8           the Comprehensive Environmental Response, Compensa-  
9           tion, and Liability Act of 1980 (42 U.S.C. 9604(k)) is  
10          amended—

11           (1) in paragraph (3)—

12                   (A) in subparagraph (A)(ii)—

13                           (i) by striking “or nonprofit organiza-  
14                           tions”; and

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

17                   (B) in subparagraph (B)(ii)—

18                           (i) by striking “or other nonprofit or-  
19                           ganization”; and

20                           (ii) by striking “or nonprofit organiza-  
21                           tion”; and

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

1 **SEC. 6. TREATMENT OF PUBLICLY OWNED BROWNFIELD**  
2 **SITES.**

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

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

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

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

22 “(E) 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  
26 (H) of paragraph (1) may receive a grant or

1 loan under this paragraph for property acquired  
2 by that eligible entity prior to January 11,  
3 2002, even if such eligible entity does not qual-  
4 ify as a bona fide prospective purchaser, so long  
5 as the eligible entity has not caused or contrib-  
6 uted to a release or threatened release of a haz-  
7 ardous substance at the property.”; and

8 (3) in paragraph (4)(B)(iii)—

9 (A) by striking “up to 25 percent of the”;

10 and

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

14 **SEC. 7. REMEDIATION GRANT ENHANCEMENT.**

15 Section 104(k)(3)(A)(ii) of the Comprehensive Envi-  
16 ronmental Response, Compensation, and Liability Act of  
17 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-  
18 ing “\$200,000 for each site to be remediated” and insert-  
19 ing “\$500,000 for each site to be remediated, which limit  
20 may be waived by the Administrator, but not to exceed  
21 a total of \$750,000 for each site, based on the anticipated  
22 level of contamination, size, or ownership status of the  
23 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, or remediation activities at 1 or more  
21 brownfield sites in an area proposed by the eli-  
22 gible entity.

23 “(B) GRANT AMOUNTS.—

24 “(i) INDIVIDUAL GRANT AMOUNTS.—

25 Each grant awarded under this paragraph  
26 shall not exceed \$1,000,000.

1                   “(ii)           CUMULATIVE           GRANT  
2                   AMOUNTS.—The total amount of grants  
3                   awarded for each fiscal year under this  
4                   paragraph may not exceed 15 percent of  
5                   the amounts made available for the fiscal  
6                   year to carry out this subsection.

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

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

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

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

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

1 the eligible entity, unless the Administrator pro-  
2 vides an extension.

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

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

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

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

15 (1) in subparagraph (B)—

16 (A) in clause (i)—

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

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

21 (B) by striking clause (ii);

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

24 (D) in clause (ii) (as redesignated by sub-  
25 paragraph (C) of this paragraph), by striking

1 “Notwithstanding clause (i)(IV)” and inserting  
2 “Notwithstanding clause (i)(III)”; and  
3 (2) by adding at the end the following:

4 “(E) ADMINISTRATIVE COSTS.—

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

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

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

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

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

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

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

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

4 **SEC. 11. SMALL COMMUNITY TECHNICAL ASSISTANCE**  
5 **GRANTS.**

6           (a) IN GENERAL.—Section 128(a)(1)(B) of the Com-  
7 prehensive Environmental Response, Compensation, and  
8 Liability Act of 1980 (42 U.S.C. 9628(a)(1)(B)) is  
9 amended—

10           (1) in clause (ii)—

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

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

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

16                                   “(III) assist small communities,  
17                                   Indian tribes, rural areas, or dis-  
18                                   advantaged areas in carrying out ac-  
19                                   tivities described in section  
20                                   104(k)(7)(A) with respect to  
21                                   brownfield sites.”; and

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

23                                   “(iii) SMALL COMMUNITIES, INDIAN  
24                                   TRIBES, RURAL AREAS, AND DISADVAN-  
25                                   TAGED AREAS.—

1                   “(I) IN GENERAL.—To make  
2 grants to States or Indian tribes  
3 under clause (ii)(III), the Adminis-  
4 trator may use not more than  
5 \$1,500,000 of the amounts made  
6 available to carry out section  
7 104(k)(7) in each fiscal year.

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

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

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

21                   “(II) SMALL COMMUNITY.—The  
22 term ‘small community’ means a com-  
23 munity with a population of not more  
24 than 10,000 individuals, as deter-

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

3           (b) CONFORMING AMENDMENT.—Section 104(g)(1)  
4 of the Comprehensive Environmental Response, Com-  
5 pensation, and Liability Act of 1980 (42 U.S.C.  
6 9604(g)(1)) is amended by inserting “or section  
7 128(a)(1)(B)(ii)(III)” after “under this section”.

8 **SEC. 12. BROWNFIELDS FUNDING.**

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

13                   “(13) AUTHORIZATION OF APPROPRIATIONS.—  
14           There is authorized to be appropriated to carry out  
15           this subsection \$200,000,000 for each of fiscal years  
16           2018 through 2022.”.

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

18           Section 128(a)(3) of the Comprehensive Environ-  
19 mental Response, Compensation, and Liability Act of  
20 1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-  
21 lows:

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

