

of all parties or the allocated shares of all parties, or at sites where all parties are liable under sections 107(a)(1) and (2).

4. Allocations under 1.b. and 2. shall not be construed to require the payment of orphan shares, to confer reimbursement rights, or to permit the reopening of a settlement.

D. *Additional exemptions, limitations and clarifications:* Liability exemptions, limitations and clarifications should be provided, as appropriate, for the following additional parties: lenders; fiduciaries; bona fide prospective purchasers; inheritors of real property; federal, state and local governments who own rights-of-way or issue business licenses; federal agencies providing disaster relief; contiguous landowners; religious, charitable, scientific or educational organizations who receive property as gifts; owners of railroad spurs; and recyclers.

E. *Settlements:* any settlement or judgment signed or entered prior to date of enactment shall not be affected by any exemption or limitation set forth above.

F. *Fee Shifting:* Any party who seeks to bring a non-liable party or a party who has fully resolved its liability to the United States into the allocation system will be responsible for paying the attorney fees and other costs of the nominated party for participating in the allocation system. Any party who sues another party during the allocation moratorium or who sues a party who has fully settled its liability to the United States will be responsible for paying that party's attorney fees and other litigation costs.

G. *Small business ombudsman:* The Administrator shall establish a small business assistance section within EPA's small business ombudsman office, to act as a clearinghouse of information for small businesses regarding CERCLA. The office will also provide general advice and assistance to small businesses regarding the allocation and settlement process, but will not give legal advice or participate in the allocation process.

Mr. LAUTENBERG. Mr. President, we think our proposal addresses many of the concerns that have been raised about Superfund's liability system. It would increase fairness, increase efficiency, and reduce transaction costs. At the same time, it would protect both the pace and protectiveness of cleanups.

It would provide greater fairness and efficiency by establishing an allocation system under which those responsible for pollution pay only their fair share. Under this system, they would be able to do this quickly and without litigation.

Second, the proposal increases fairness and efficiency, and cuts down on lawsuits, by pulling out of the process people who never should have been pulled in. This is accomplished through

a series of exemptions and limitations on liability for small businesses, contributors of small amounts of waste, municipalities, charities, lenders, and other parties.

The proposal would exempt as many as 30,000 small businesses from Superfund liability. It would limit the liability of up to 525 municipal owners and operators of municipal landfills. It would exempt countless individuals, businesses, and small nonprofit organizations that otherwise would be liable as a generator or transporter of municipal solid waste.

It would exempt cities whose involvement is due solely to household trash created by its citizens. And it would exempt approximately 10,000 contributors of small amounts of waste.

This means that parties like the Girl Scouts, local taxpayers, pizza parlors, and churches will be protected from frivolous lawsuits—suits brought by polluters who have tried to force innocent parties to bear cleanup costs, simply because they have sent ordinary household garbage to Superfund sites.

At the same time, Mr. President, our proposal would reaffirm the principle that polluters should pay. It would ensure the availability of funding for more cleanups. And it would ensure that those responsible for pollution are held accountable for cleaning up the mess they have made.

It is important to provide relief to many who have been swept into the Superfund system unfairly. But it is equally critical that toxic waste sites not be left untended as a result, or passed off as a burden to local taxpayers.

Mr. President, I remain committed and hopeful about the possibility of enacting a Superfund bill in this Congress. I also want to express my appreciation to Senators SMITH and CHAFEE for their acknowledgment that the only way to get Superfund reform this year is through a bipartisan effort.

That kind of cooperation is part of a long tradition at the Environment and Public Works Committee, and it has resulted in landmark legislation protecting our citizens and environment. It will also be necessary if President Clinton is to sign a reform proposal into law.

Chairman CHAFEE has scheduled hearings next week on Superfund, and I hope we will have an opportunity to discuss this proposal, among others.

We have shared this proposal with our Republican colleagues, and we hope they will view it favorably. If we work together, we believe there is still time left in this session of Congress for the full Senate to consider a bill and work with our colleagues in the House of Representatives to approve a bipartisan, consensus bill the President can sign.

We believe our proposal is a serious effort to address concerns raised by our Republican colleagues. It also has the strong endorsement of the Administrator of the Environmental Protection Agency, Carol Browner, and the White House.

Mr. President, I believe that this proposal represents the best hope of securing a bipartisan Superfund bill this year that not only will be approved by the Senate, but which will be signed into law. And I remain committed to working hard with my colleagues to reach an agreement.

Mr. President, we can have a Superfund program that is both more fair and more efficient at protecting public health and the environment. To accomplish this goal, we need to continue working together in a cooperative fashion.

Seventy-three million Americans in every State of the country are counting on us to get the job done. I hope we will not let them down.

With that I conclude my remarks. I yield the floor.

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ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m. Friday, April 19, 1996.

Thereupon, the Senate, at 11:15 p.m., adjourned until Friday, April 19, 1996, at 10 a.m.

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#### NOMINATIONS

Executive nominations received by the Senate April 18, 1996:

##### THE JUDICIARY

ARTHUR GAJARSA, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE HELEN WILSON NIES, RETIRED.

LAWRENCE E. KAHN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE NEAL P. MCCURN, RETIRED.

WALKER D. MILLER, OF COLORADO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLORADO, VICE JIM R. CARRIGAN, RETIRED.