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Part 1

SMALL BUSINESS LIABILITY PROTECTION ACT

MAY 21, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. TAUZIN, from the Committee on Energy and Commerce, submitted the following

R E P O R T

[To accompany H.R. 1831]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1831) to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for Legislation	2
Hearings	2
Committee Consideration	2
Committee Votes	3
Committee Oversight Findings	3
Statement of General Performance Goals and Objectives	3
New Budget Authority, Entitlement Authority, and Tax Expenditures	3
Committee Cost Estimate	3
Congressional Budget Office Estimate	3
Federal Mandates Statement	6
Advisory Committee Statement	6
Constitutional Authority Statement	6
Applicability to Legislative Branch	6
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill, as Reported	8

PURPOSE AND SUMMARY

H.R. 1831, the Small Business Liability Protection Act, amends the Comprehensive Environmental Response, Compensation and

Liability Act of 1980 (CERCLA) for the purpose of exempting certain parties from liability under the Act, and for other purposes.

First, H.R. 1831 exempts from liability for response costs under Section 107 of CERCLA, at a facility on the National Priorities List (NPL), a person who disposed of, or arranged for disposal of, materials containing hazardous substances if they consisted of less than 110 gallons of liquid or less than 200 pounds of solid materials and they were disposed of before April 1, 2001. Second, H.R. 1831 exempts from liability for response costs under Section 107 of CERCLA at a facility on the NPL a residential property owner, a small business concern, or a small non-profit organization for disposal of municipal solid waste. Third, H.R. 1831 provides that any party commencing a new action against a party who is not liable due to the exemptions in the Act must pay that party's reasonable attorney's fees and court costs. Finally, H.R. 1831 authorizes the President to reduce the amount of a settlement for response costs for a person who demonstrates to the President an inability or limited ability to pay for the cleanup and who otherwise fully cooperates with the government in its cleanup efforts.

Background and Need for Legislation

In an effort to clean up the Nation's most polluted toxic waste sites, Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This law, commonly known as "Superfund," has been interpreted by the courts to have established responsibility for cleanups based upon a retroactive, strict, joint and several liability scheme. This means that in order to hold someone liable for cleanup costs, the government must show that a person falls in one of the categories of liable parties under Superfund (owner, operator, generator, or transporter) at a facility at which there has been a release of hazardous substances. Superfund also provided the Environmental Protection Agency (EPA) or a third party with the authority to clean up a site and later seek contribution from other liable parties for their portions of cleanup costs.

Small businesses that have disposed of minor quantities of hazardous waste or municipal solid waste can be held liable under Superfund. In previous Congresses, the Committee has received testimony from small businesses, such as restaurant owners, about the unfairness of Superfund's liability regime when used by third parties to threaten or sue small businesses or homeowners for disposing of municipal solid waste. H.R. 1831, the Small Business Liability Protection Act, is intended to address this unfairness by creating certain liability exemptions for parties that disposed of municipal solid waste or disposed of very small quantities of materials containing hazardous substances.

Hearings

The Committee on Energy and Commerce has not held hearings during the 107th Congress on the legislation.

Committee Consideration

On May 16, 2001, the Subcommittee on Environment and Hazardous Materials met in open markup session and approved H.R.

1831, for Full Committee consideration, without amendment, by a voice vote. On May 17, 2001, the Energy and Commerce Committee met in open markup session and ordered H.R. 1831, reported to the House, without amendment, by a voice vote.

COMMITTEE VOTES

There were no record votes taken in connection with ordering H.R. 1831 reported. A motion by Mr. Tauzin to order H.R. 1831 reported to the House, without amendment, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 1831 is to exempt certain parties from Superfund liability and authorizing the President to take into account a person's inability or limited ability to pay for response costs in reaching settlements.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1831, The Small Business Liability Protection Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 17, 2001.

Hon. W. J. "BILLY" TAUZIN,
Committee on Energy and Commerce,
House on Representative, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1831, the Small Business Liability Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman

(for federal costs), Victoria Heid Hall (for the state and local impact), and Lauren Marks (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1831—Small Business Liability Protection Act

Summary: H.R. 1831 would establish two new exemptions from liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly known as the Superfund Act, which governs the cleanup of sites contaminated with hazardous substances. A "de micromis" liability exemption and apply to those who generate or transport very small volumes of waste; the second new exemption would apply to certain small businesses and organizations that dispose of municipal solid waste. A "de micromis" settlement under CERCLA refers to a settlement between the Environmental Protection Agency (EPA) and parties who are responsible for only a comparatively small amount and comparatively low toxicity of hazardous substances at a Superfund site. "De micromis" settlements are a subset of de minimus settlements that may be available to parties who are responsible for a miniuscule amount of waste as a Superfund site.

CBO estimates that enacting H.R. 1831 would result in no significant impact on the federal budget. Because enactment of this bill could affect offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply, but CBO estimates that any such effects would not be significant.

H.R. 1831 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Major provisions: Under the de micromis exemption that would be established under the bill, those who generate or transport less than 200 pounds of waste, or 110 gallons of material containing hazardous waste disposed of at a National Priorities List (NPL) site before April 1, 2001, would be released from Superfund liability. This exemption would not apply to those whose waste could significantly contribute to cleanup costs or natural resource damages, those who fail to comply with government requests or subpoenas for information, those who impede cleanup work at the site, or anyone who has been convicted of a criminal violation related to waste disposal activities at the site.

Under the municipal solid waste exemption that would be established under the bill, households, and businesses or nonprofit organizations with not more than 100 employees would be released from Superfund liability for generating municipal solid waste (which includes household waste and other waste containing little or no hazardous substances) disposed of at a NPL site. This exemption would not apply to those whose waste could significantly contribute to cleanup costs or natural resource damages, those who fail to comply with government requests or subpoenas for information, or those who impede cleanup work at the site. Unlike the de micromis exemption, this exemption would apply regardless of when the waste was generated.

Estimated cost to the Federal Government: The Environmental Protection Agency's enforcement program attempts to recover any costs the agency incurs at Superfund cleanup projects that are the responsibility of private parties (known as potentially responsible parties, or PRPs). Under H.R. 1831, CBO estimates that such future cost recoveries could be reduced because the Superfund liability of some PRPs would be eliminated. PRPs who have generated or transported small volumes of waste or who have generated municipal solid waste, however, are rarely pursued to recover cleanup expenses under EPA's current enforcement practices. EPA does not consider the pursuit of these types of PRPs to be consistent with the intent of CERCLA, nor a cost-effective use of government enforcement resources.

Based on information from EPA, CBO estimates that only a negligible amount of funds are recovered by EPA each year from generators of municipal solid waste who seek settlements with EPA under CERCLA. Under EPA's current policy, such PRPs seeking settlements with EPA can pay $5.30 per ton of municipal solid waste disposed of at the site to the agency and be relieved of any future liability. Enacting this bill would eliminate the need for some PRPs to seek such a settlement. However, because there are so few of these settlements and because EPA does not pursue the recovery of costs from PRPs who generate or transport very small amounts of waste disposed of at a site, CBO estimates that any reduction in the amount of funds recovered for the Treasury would be less than $500,000 each year. Furthermore, to the extent EPA could recover the exempted PRP's share of the costs from any other remaining PRPs at a particular site, there would be no reduction in costs recovered.

Pay-as-you-go considerations: the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 1831 could affect direct spending, however, CBO estimates any additional costs would be negligible.

Estimated impact on State, local, and tribal governments: H.R. 1831 contains no intergovernmental mandates was defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments. The bill would amend current law concerning the liability under CERCLA of persons generating or transporting small amounts of waste. These changes in liability are not preemptions of state law. They could make it more difficult for any states that currently rely on CERCLA to recover costs and damages under their own cleanup programs from parties whose liability now would be eliminated by the bill. However, these changes could benefit state, local, and tribal governments if their liability would be eliminated. On balance, because EPA's current policy under CERCLA is not to pursue the small parties affected by this bill, such effects would not be significant.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On May 17, 2001, CBO transmitted a cost estimate for H.R. 1831, the Small Business Liability Protection Act, as ordered reported by the House Committee on Transportation and Infrastructure on May 16, 2001. The two versions of H.R. 1831 are identical, as are the cost estimates.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on State, local, and tribal governments: Victoria Heid Hall; Impact on the private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of the bill, the "Small Business Liability Protection Act."

Section 2. Small business liability relief

Section 2(a) of this Act amends Section 107 of CERCLA by adding new subsection 107(o) creating a de micomis exemption and new subsection 107(p) creating a municipal solid waste exemption.

New subsection 107(o) of CERCLA exempts from liability for response costs under Section 107 of CERCLA, at a facility on the NPL, a person who disposed of, or arranged for disposal of, waste materials containing hazardous substances if they consisted of less than 110 gallons of liquid or less than 200 pounds of solid materials and they were disposed of before April 1, 2001.

New subsection 107(o)(2)(A)(ii) provides that the President may determine that a person who otherwise qualifies for the de micromis exemption shall not receive the exemption if the person fails to comply with an information request or administrative subpoena issued by the President. The Committee intends that the determination lies solely within the discretion of the President and that the President will exercise this discretion as appropriate to the facts and circumstances presented in each case.

New subsection 107(o)(4) provides that in the case of a contribution action, with respect to response costs at a facility on the NPL,

brought by a party other than a Federal, State, or local government under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the specified conditions have not been met.

New subsection 107(p) of CERCLA exempts from liability for response costs under Section 107 of CERCLA at a facility on the NPL, a residential property owner, a small business concern, or a small non-profit organization for disposal of municipal solid waste. Municipal solid waste means waste material (i) generated by a household (including a single or multifamily residence); and (ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—(I) is essentially the same as waste normally generated by a household; (II) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and (III) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household. The relative quantity refers to the percentage of hazardous substances to total municipal solid waste. The Committee intends that the percentage of hazardous substances in the municipal solid waste for commercial, institutional and industrial entities that qualify for this exemption should be no greater than the percentage of hazardous substances in municipal solid waste that a typical single-family household generates and sends to a landfill.

The municipal solid waste exemption does not apply to a party if the President determines that party's wastes have contributed or could contribute significantly, either individually or in the aggregate, to cleanup costs or natural resource damages with respect to the facility. The Committee intends that the phrase "in the aggregate" in new section 107(p)(2)(A) refer to all of the municipal solid waste generated by that owner, operator, or lessee, business entity or charitable organization and sent to the facility which otherwise qualifies for the municipal solid waste exemption. The Committee does not intend that the phrase "in the aggregate" be interpreted to encompass all of the municipal solid waste contained in a landfill disposed of by different persons or business entities. Similarly, the de micromis exemption does not apply to a party if the President determines that party's wastes have contributed or could contribute significantly, either individually or in the aggregate, to cleanup costs or natural resource damages with respect to the facility, and in new section 107(o)(2)(A), the Committee does not intend that the phrase "in the aggregate" be interpreted to encompass all waste materials containing hazardous substances disposed of at the facility by different persons or business entities.

New subsection 107(p)(5) provides that in the case of an action with respect to response costs at a facility on the NPL, brought under section 107 or 113 of CERCLA by (A) a party, other than a Federal, State, or local government, with respect to municipal solid waste disposed of on or after April 1, 2001, or (B) any party with respect to municipal solid waste disposed of before April 1, 2001, the burden of proof shall be on the party bringing the action to demonstrate that the specified conditions have not been met.

This subsection also provides that a non-governmental entity that commences, after the date of the enactment, a contribution ac-

tion under this Act shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution based on an exemption under new subsection 107(o) and 107(p) of CERCLA.

Section 2(b) of this Act amends Section 122(g) of CERCLA by authorizing the President to reduce the amount of a settlement for response costs with a person who demonstrates to the President an inability or limited financial ability to pay for the cleanup and who otherwise fully cooperates with the government in its cleanup efforts. In addition, the Federal government is given the ability to weigh non- financial contributions towards a person's cleanup payments.

The Committee does not intend that this Act give rise to negative implications with respect to the Agency's existing settlement authorities for potentially responsible parties that are ineligible for the Act's exemptions. In particular, although the de micromis and municipal solid waste exemptions do not apply at sites that are not on the NPL, the Committee does not intend to affect the authority of the President to reach settlements with other potentially responsible parties under CERCLA.

Section 3. Effect on concluded actions

Section 3 provides that the amendments made by this Act shall not apply to or in any way affect any settlement lodged in, or judgment issued by, a United States District Court, or any administrative settlement or order entered into or issued by the United States or any State, before the date of the enactment of this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

* * * * * * *

TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY, COMPENSATION

* * * * * * *

LIABILITY

SEC. 107. (a) * * *

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(o) DE MICROMIS EXEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under this Act if liability is based solely on paragraph (3) or (4) of subsection (a), and the

person, except as provided in paragraph (4) of this subsection, can demonstrate that—

(A) the total amount of the material containing hazardous substances that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such greater or lesser amounts as the Administrator may determine by regulation); and

(B) all or part of the disposal, treatment, or transport concerned occurred before April 1, 2001.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

(A) the President determines that—

(i) the materials containing hazardous substances referred to in paragraph (1) have contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility; or

(ii) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility; or

(B) a person has been convicted of a criminal violation for the conduct to which the exemption would apply, and that conviction has not been vitiated on appeal or otherwise.

(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2)(A) shall not be subject to judicial review.

(4) NONGOVERNMENTAL THIRD-PARTY CONTRIBUTION ACTIONS.—In the case of a contribution action, with respect to response costs at a facility on the National Priorities List, brought by a party, other than a Federal, State, or local government, under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraph (1)(A) and (B) of this subsection are not met.

(p) MUNICIPAL SOLID WASTE EXEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under paragraph (3) of subsection (a) for municipal solid waste disposed of at a facility if the person, except as provided in paragraph (5) of this subsection, can demonstrate that the person is—

(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

(B) a business entity (including a parent, subsidiary, or affiliate of the entity) that, during its 3 taxable years preceding the date of transmittal of written notification from the President of its potential liability under this section, employed on average not more than 100 full-time individ-

uals, or the equivalent thereof, and that is a small business concern (within the meaning of the Small Business Act (15 U.S.C. 631 et seq.)) from which was generated all of the municipal solid waste attributable to the entity with respect to the facility; or

(C) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that, during its taxable year preceding the date of transmittal of written notification from the President of its potential liability under this section, employed not more than 100 paid individuals at the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

For purposes of this subsection, the term "affiliate" has the meaning of that term provided in the definition of "small business concern" in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that—

(A) the municipal solid waste referred to in paragraph (1) has contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility;

(B) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act; or

(C) the person has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility.

(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2) shall not be subject to judicial review.

(4) DEFINITION OF MUNICIPAL SOLID WASTE.—

(A) IN GENERAL.—For purposes of this subsection, the term "municipal solid waste" means waste material—

(i) generated by a household (including a single or multifamily residence); and

(ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—

(I) is essentially the same as waste normally generated by a household;

(II) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and

(III) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

(B) EXAMPLES.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and

metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

(C) EXCLUSIONS.—The term "municipal solid waste" does not include—

(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

(ii) waste material from manufacturing or processing operations (including pollution control operations) that is not essentially the same as waste normally generated by households.

(5) BURDEN OF PROOF.—In the case of an action, with respect to response costs at a facility on the National Priorities List, brought under section 107 or 113 by—

(A) a party, other than a Federal, State, or local government, with respect to municipal solid waste disposed of on or after April 1, 2001; or

(B) any party with respect to municipal solid waste disposed of before April 1, 2001, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraphs (1) and (4) for exemption for entities and organizations described in paragraph (1)(B) and (C) are not met.

(6) CERTAIN ACTIONS NOT PERMITTED.—No contribution action may be brought by a party, other than a Federal, State, or local government, under this Act with respect to circumstances described in paragraph (1)(A).

(7) COSTS AND FEES.—A nongovernmental entity that commences, after the date of the enactment of this subsection, a contribution action under this Act shall be liable to the defendant for all reasonable costs of defending the action, including all reasonable attorney's fees and expert witness fees, if the defendant is not liable for contribution based on an exemption under this subsection or subsection (o).

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SEC. 122. SETTLEMENTS.

(a) * * *

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(g) DE MINIMIS SETTLEMENTS.—

(1) * * *

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(7) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

(A) IN GENERAL.—The condition for settlement under this paragraph is that the potentially responsible party is a person who demonstrates to the President an inability or a limited ability to pay response costs.

(B) CONSIDERATIONS.—In determining whether or not a demonstration is made under subparagraph (A) by a person, the President shall take into consideration the ability of the person to pay response costs and still maintain its basic business operations, including consideration of the overall financial condition of the person and demonstrable constraints on the ability of the person to raise revenues.

(C) INFORMATION.—A person requesting settlement under this paragraph shall promptly provide the President with all relevant information needed to determine the ability of the person to pay response costs.

(D) ALTERNATIVE PAYMENT METHODS.—If the President determines that a person is unable to pay its total settlement amount at the time of settlement, the President shall consider such alternative payment methods as may be necessary or appropriate.

(8) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

(A) WAIVER OF CLAIMS.—The President shall require, as a condition for settlement under this subsection, that a potentially responsible party waive all of the claims (including a claim for contribution under this Act) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

(B) FAILURE TO COMPLY.—The President may decline to offer a settlement to a potentially responsible party under this subsection if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action with respect to the facility.

(C) RESPONSIBILITY TO PROVIDE INFORMATION AND ACCESS.—A potentially responsible party that enters into a settlement under this subsection shall not be relieved of the responsibility to provide any information or access requested in accordance with subsection (e)(3)(B) or section 104(e).

(9) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall provide the reasons for the determination in writing to the potentially responsible party that requested a settlement under this subsection.

(10) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the President shall notify any person that the President determines is eligible under paragraph (1) of the person's eligibility for an expedited settlement.

(11) NO JUDICIAL REVIEW.—A determination by the President under paragraph (7), (8), (9), or (10) shall not be subject to judicial review.

(12) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.

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