

2. **LEGISLATION AND EXECUTIVE ORDERS**

A. **Aviation and Transportation Security Act (P.L. 107-71)**

On November 19, 2001, President George W. Bush signed into law the Aviation and Transportation Security Act (P.L. 107-71). This legislation amends federal transportation law to establish in the U.S. Department of Transportation (DOT) the Transportation Security Administration to be headed by an Under Secretary of Transportation for Transportation Security, who is responsible for security in all modes of transportation.

Among the many responsibilities of the Transportation Security Administration are the following: (1) security in all modes of transportation, including civil aviation security and related research and development activities, as well as security responsibilities over other modes of transportation that are exercised by DOT; (2) federal security screening operations for passenger air transportation and intrastate air transportation; (3) enforcing security-related regulations and requirements; (4) developing policies, strategies, and plans for dealing with threats to transportation security; (5) receiving, assessing, and distributing intelligence information related to transportation security; (6) identifying and undertaking research and development activities necessary to enhance transportation security; (7) ensuring the adequacy of security measures for the transportation of cargo; (8) overseeing the implementation and ensuring the adequacy of security measures at airports and other transportation facilities; and (9) carrying out such other duties, and exercising such other powers, relating to transportation security as the Under Secretary considers appropriate, to the extent authorized by law.

During a national emergency and subject to the direction and control of the Secretary of Transportation, the Transportation Security Administration has additional responsibilities such as: (1) coordinating domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security); (2) coordinating and overseeing the transportation-related responsibilities of other departments and agencies of the federal government other than the U.S. Department of Defense and the military departments; and (3) coordinating and providing notice to other departments and agencies of the federal government, and appropriate agencies of state and local governments, including departments and agencies for transportation, law enforcement, and border control, about threats to transportation.

For further information, contact the Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law (C-10), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (telephone: (202) 366-4710).

B. **Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118)**

On January 11, 2002, President George W. Bush signed into law the Small Business Liability Relief and Brownfields Revitalization Act (P.L. 107-118). This legislation is intended to provide certain relief for small businesses from liability under the Comprehensive

Environmental Response, Compensation and Liability Act (CERCLA), and to amend CERCLA in order to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance state response programs, and for other purposes.

Among its provisions, P.L. 107-118:

1. Amends CERCLA to provide (with exceptions) that persons shall be liable for response costs at a National Priorities List (NPL) facility as non-owners or operators only if the total of material containing a hazardous substance that the business arranged for disposal, transport, or treatment, or accepted for transport, was greater than 110 gallons of liquid material or 200 pounds of solid material. This exemption only applies to activities taking place before April 1, 2001.
2. Amends CERCLA to provide for grants to eligible entities (including local government units, redevelopment agencies, states, and indian tribes) for inventorying, characterizing, assessing, remediating, and conducting planning related to brownfield sites. A “brownfield site” is defined, with exceptions, as real property, the expansion, redevelopment, or reuse of which is complicated by the presence or potential presence of a hazardous substance or pollutant. It also authorizes appropriations.
3. Exempts from liability under CERCLA certain owners of real property contiguous to property that is not owned by such persons and on which there has been a hazardous substance release or threatened release. It also absolves from liability for response actions prospective purchasers to the extent liability at a facility for a release or threat thereof is based solely on ownership or operation of a facility.
4. Adds CERCLA provisions authorizing the Environmental Protection Agency (EPA) to award grants to states or indian tribes to establish or enhance response programs comprised of elements including survey and inventory of brownfield sites, public participation opportunities, oversight and enforcement authorities, and certification mechanisms. It also authorizes appropriations.
5. The legislation places certain restrictions on federal authority to take enforcement actions under CERCLA in cases of hazardous substance releases adequately addressed by a state response plan. The federal government is authorized to bring enforcement actions in certain instances, including cases where a state requests assistance, there is migration of contamination across state lines or onto federal property, or there is imminent and substantial endangerment to public health or welfare or the environment and additional response actions are likely to be necessary.

For further information, contact Ms. Elaine F. Davies, Acting Director, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (telephone: (703) 603-8960, electronic mail: davies.elaine@epamail.epa.gov).