

retary may take any action authorized in section 114 of title 49.

(c) Limitation on Secretary

The Secretary shall not initiate civil enforcement actions for violations of administrative and procedural requirements pertaining to the application for and expenditure of funds awarded under transportation security grant programs under this subchapter.

(Pub. L. 110-53, title XIV, § 1415, Aug. 3, 2007, 121 Stat. 422.)

SUBCHAPTER IV—SURFACE
TRANSPORTATION SECURITY

PART A—GENERAL PROVISIONS

§ 1151. Definitions

In this subchapter, the following definitions apply:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Secretary

The term “Secretary” means the Secretary of Homeland Security.

(3) Department

The term “Department” means the Department of Homeland Security.

(4) Over-the-road bus

The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(5) Over-the-road bus frontline employees

In this section,¹ the term “over-the-road bus frontline employees” means over-the-road bus drivers, security personnel, dispatchers, maintenance and maintenance support personnel, ticket agents, other terminal employees, and other employees of an over-the-road bus operator or terminal owner or operator that the Secretary determines should receive security training under this subchapter.

(6) Railroad frontline employees

In this section,¹ the term “railroad frontline employees” means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, and any other employees of railroad carriers that the Secretary determines should receive security training under this subchapter.

(7) Railroad

The term “railroad” has the meaning that term has in section 20102 of title 49.

(8) Railroad carrier

The term “railroad carrier” has the meaning that term has in section 20102 of title 49.

(9) State

The term “State” means any one of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(10) Terrorism

The term “terrorism” has the meaning that term has in section 101 of this title.

(11) Transportation

The term “transportation”, as used with respect to an over-the-road bus, means the movement of passengers or property by an over-the-road bus—

(A) in the jurisdiction of the United States between a place in a State and a place outside the State (including a place outside the United States); or

(B) in a State that affects trade, traffic, and transportation described in subparagraph (A).

(12) United States

The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(13) Security-sensitive material

The term “security-sensitive material” means a material, or a group or class of material, in a particular amount and form that the Secretary, in consultation with the Secretary of Transportation, determines, through a rule-making with opportunity for public comment, poses a significant risk to national security while being transported in commerce due to the potential use of the material in an act of terrorism. In making such a designation, the Secretary shall, at a minimum, consider the following:

(A) Class 7 radioactive materials.

(B) Division 1.1, 1.2, or 1.3 explosives.

(C) Materials poisonous or toxic by inhalation, including Division 2.3 gases and Division 6.1 materials.

(D) A select agent or toxin regulated by the Centers for Disease Control and Prevention under part 73 of title 42, Code of Federal Regulations.

(14) Disadvantaged business concerns

The term “disadvantaged business concerns” means small businesses that are owned and controlled by socially and economically disadvantaged individuals as defined in section 124,² of title 13, Code of Federal Regulations.

(15) Amtrak

The term “Amtrak” means the National Railroad Passenger Corporation.

(Pub. L. 110-53, title XV, § 1501, Aug. 3, 2007, 121 Stat. 422.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title XV of Pub. L. 110-53,

¹ So in original. “In this section,” probably should not appear.

² So in original. Probably should be “part 124.”.

Aug. 3, 2007, 121 Stat. 422, which enacted this subchapter, amended section 1992 of Title 18, Crimes and Criminal Procedure, and sections 114, 5103a, 14504, 20106, 20109, 24301, 28101, and 31105 of Title 49, Transportation, enacted provisions set out as notes under sections 13908 and 14504 of Title 49, and amended provisions set out as a note under section 14504 of Title 49. For complete classification of title XV to the Code, see Tables.

§ 1152. Oversight and grant procedures

(a) Secretarial oversight

The Secretary, in coordination with¹ Secretary of Transportation for grants awarded to Amtrak, shall establish necessary procedures, including monitoring and audits, to ensure that grants made under this subchapter are expended in accordance with the purposes of this subchapter and the priorities and other criteria developed by the Secretary.

(b) Additional audits and reviews

The Secretary, and the Secretary of Transportation for grants awarded to Amtrak, may award contracts to undertake additional audits and reviews of the safety, security, procurement, management, and financial compliance of a recipient of amounts under this subchapter.

(c) Procedures for grant award

Not later than 180 days after August 3, 2007, the Secretary shall prescribe procedures and schedules for the awarding of grants under this subchapter, including application and qualification procedures, and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107(i) and (j) of title 46.

(d) Additional authority

(1) Issuance

The Secretary may issue non-binding letters of intent to recipients of a grant under this subchapter, to commit funding from future budget authority of an amount, not more than the Federal Government's share of the project's cost, for a capital improvement project.

(2) Schedule

The letter of intent under this subsection shall establish a schedule under which the Secretary will reimburse the recipient for the Government's share of the project's costs, as amounts become available, if the recipient, after the Secretary issues that letter, carries out the project without receiving amounts under a grant issued under this subchapter.

(3) Notice to Secretary

A recipient that has been issued a letter of intent under this section shall notify the Secretary of the recipient's intent to carry out a project before the project begins.

(4) Notice to Congress

The Secretary shall transmit to the appropriate congressional committees a written notification at least 5 days before the issuance of a letter of intent under this subsection.

(5) Limitations

A letter of intent issued under this subsection is not an obligation of the Federal Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(e) Return of misspent grant funds

As part of the grant agreement under subsection (c), the Secretary shall require grant applicants to return any misspent grant funds received under this subchapter that the Secretary considers to have been spent for a purpose other than those specified in the grant award. The Secretary shall take all necessary actions to recover such funds.

(f) Congressional notification

Not later than 5 days before the award of any grant is made under this subchapter, the Secretary shall notify the appropriate congressional committees of the intent to award such grant.

(g) Guidelines

The Secretary shall ensure, to the extent practicable, that grant recipients under this subchapter who use contractors or subcontractors use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors when appropriate.

(Pub. L. 110–53, title XV, § 1502, Aug. 3, 2007, 121 Stat. 424.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title XV of Pub. L. 110–53, which is classified principally to this subchapter. For complete classification of title XV to the Code, see References in Text note under section 1151 of this title and Tables.

§ 1153. Authorization of appropriations

There are authorized to be appropriated to the Secretary of Transportation to carry out section 1165 of this title—

- (1) \$38,000,000 for fiscal year 2008;
- (2) \$40,000,000 for fiscal year 2009;
- (3) \$55,000,000 for fiscal year 2010; and
- (4) \$70,000,000 for fiscal year 2011.

(Pub. L. 110–53, title XV, § 1503(b), Aug. 3, 2007, 121 Stat. 425.)

§ 1154. Public awareness

Not later than 180 days after August 3, 2007, the Secretary shall develop a national plan for railroad and over-the-road bus security public outreach and awareness. Such a plan shall be designed to increase awareness of measures that the general public, passengers, and employees of railroad carriers and over-the-road bus operators can take to increase the security of the national railroad and over-the-road bus transportation systems. Such a plan shall also provide outreach to railroad carriers and over-the-road bus operators and their employees to improve

¹ So in original. The word “the” probably should appear.

their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve security. Not later than 9 months after August 3, 2007, the Secretary shall implement the plan developed under this section.

(Pub. L. 110-53, title XV, § 1504, Aug. 3, 2007, 121 Stat. 425.)

§ 1155. Security awareness program

(a) Establishment

The Administrator shall establish a program to promote surface transportation security through the training of surface transportation operators and frontline employees on each of the skills identified in subsection (c).

(b) Application

The program established under subsection (a) shall apply to all modes of surface transportation, including public transportation, rail, highway, motor carrier, and pipeline.

(c) Training

The program established under subsection (a) shall cover, at a minimum, the skills necessary to recognize, assess, and respond to suspicious items or actions that could indicate a threat to transportation.

(d) Assessment

(1) In general

The Administrator shall conduct an assessment of current training programs for surface transportation operators and frontline employees.

(2) Contents

The assessment shall identify—

(A) whether other training is being provided, either voluntarily or in response to other Federal requirements; and

(B) whether there are any gaps in existing training.

(e) Updates

The Administrator shall ensure the program established under subsection (a) is updated as necessary to address changes in risk and terrorist methods and to close any gaps identified in the assessment under subsection (d).

(f) Suspicious activity reporting

(1) In general

The Secretary shall maintain a national telephone number for an individual to use to report suspicious activity under this section to the Administration.

(2) Procedures

The Administrator shall establish procedures for the Administration—

(A) to review and follow-up, as necessary, on each report received under paragraph (1); and

(B) to share, as necessary and in accordance with law, the report with appropriate Federal, State, local, and tribal entities.

(3) Rule of construction

Nothing in this section may be construed to—

(A) replace or affect in any way the use of 9-1-1 services in an emergency; or

(B) replace or affect in any way the security training program requirements specified in sections 1137, 1167, and 1184 of this title.

(g) Definition of frontline employee

In this section, the term “frontline employee” includes—

(1) an employee of a public transportation agency who is a transit vehicle driver or operator, dispatcher, maintenance and maintenance support employee, station attendant, customer service employee, security employee, or transit police, or any other employee who has direct contact with riders on a regular basis, and any other employee of a public transportation agency that the Administrator determines should receive security training under this section or that is receiving security training under other law;

(2) over-the-road bus drivers, security personnel, dispatchers, maintenance and maintenance support personnel, ticket agents, other terminal employees, and other employees of an over-the-road bus operator or terminal owner or operator that the Administrator determines should receive security training under this section or that is receiving security training under other law; or

(3) security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, and any other employees of railroad carriers that the Administrator determines should receive security training under this section or that is receiving security training under other law.

(Pub. L. 115-254, div. K, title I, § 1976, Oct. 5, 2018, 132 Stat. 3616.)

Editorial Notes

CODIFICATION

Section was enacted as part of the TSA Modernization Act and also as part of the FAA Reauthorization Act of 2018, and not as part of the Implementing Recommendations of the 9/11 Commission Act of 2007 which comprises this chapter.

Statutory Notes and Related Subsidiaries

DEFINITIONS

For definitions of “Administrator” and “Secretary” as used in this section, see section 1902 of Pub. L. 115-254, set out as a note under section 101 of Title 49, Transportation.

§ 1156. Nuclear material and explosive detection technology

The Secretary, in coordination with the Director of the National Institute of Standards and Technology and the head of each relevant Federal department or agency researching nuclear material detection systems or explosive detection systems, shall research, facilitate, and, to the extent practicable, deploy next generation technologies, including active neutron interrogation, to detect nuclear material and explosives in transportation systems and transportation facilities.

(Pub. L. 115-254, div. K, title I, § 1984, Oct. 5, 2018, 132 Stat. 3621.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the TSA Modernization Act and also as part of the FAA Reauthorization Act of 2018, and not as part of the Implementing Recommendations of the 9/11 Commission Act of 2007 which comprises this chapter.

Statutory Notes and Related Subsidiaries**DEFINITION**

For definition of “Secretary” as used in this section, see section 1902 of Pub. L. 115-254, set out as a note under section 101 of Title 49, Transportation.

PART B—RAILROAD SECURITY**§ 1161. Railroad transportation security risk assessment and National Strategy****(a) Risk assessment**

The Secretary shall establish a Federal task force, including the Transportation Security Administration and other agencies within the Department, the Department of Transportation, and other appropriate Federal agencies, to complete, within 6 months of August 3, 2007, a nationwide risk assessment of a terrorist attack on railroad carriers. The assessment shall include—

(1) a methodology for conducting the risk assessment, including timelines, that addresses how the Department will work with the entities described in subsection (c) and make use of existing Federal expertise within the Department, the Department of Transportation, and other appropriate agencies;

(2) identification and evaluation of critical assets and infrastructure, including tunnels used by railroad carriers in high-threat urban areas;

(3) identification of risks to those assets and infrastructure;

(4) identification of risks that are specific to the transportation of hazardous materials via railroad;

(5) identification of risks to passenger and cargo security, transportation infrastructure protection systems, operations, communications systems, and any other area identified by the assessment;

(6) an assessment of employee training and emergency response planning;

(7) an assessment of public and private operational recovery plans, taking into account the plans for the maritime sector required under section 70103 of title 46, to expedite, to the maximum extent practicable, the return of an adversely affected railroad transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and

(8) an account of actions taken or planned by both public and private entities to address identified railroad security issues and an assessment of the effective integration of such actions.

(b) National Strategy**(1) Requirement**

Not later than 9 months after August 3, 2007, and based upon the assessment conducted

under subsection (a), the Secretary, consistent with and as required by section 114(t)¹ of title 49, shall develop and implement the modal plan for railroad transportation, entitled the “National Strategy for Railroad Transportation Security”.

(2) Contents

The modal plan shall include prioritized goals, actions, objectives, policies, mechanisms, and schedules for, at a minimum—

(A) improving the security of railroad tunnels, railroad bridges, railroad switching and car storage areas, other railroad infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant railroad-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of railroad service or on operations served or otherwise affected by railroad service;

(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) consistent with section 1167 of this title, training railroad employees in terrorism prevention, preparedness, passenger evacuation, and response activities;

(D) conducting public outreach campaigns for railroads regarding security, including educational initiatives designed to inform the public on how to prevent, prepare for, respond to, and recover from a terrorist attack on railroad transportation;

(E) providing additional railroad security support for railroads at high or severe threat levels of alert;

(F) ensuring, in coordination with freight and intercity and commuter passenger railroads, the continued movement of freight and passengers in the event of an attack affecting the railroad system, including the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station;

(G) coordinating existing and planned railroad security initiatives undertaken by the public and private sectors;

(H) assessing—

(i) the usefulness of covert testing of railroad security systems;

(ii) the ability to integrate security into infrastructure design; and

(iii) the implementation of random searches of passengers and baggage; and

(I) identifying the immediate and long-term costs of measures that may be required to address those risks and public and private sector sources to fund such measures.

(3) Responsibilities

The Secretary shall include in the modal plan a description of the roles, responsibilities, and authorities of Federal, State, and local agencies, government-sponsored entities,

¹ See References in Text note below.