

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.

tribal governments, and appropriate stakeholders described in subsection (c). The plan shall also include—

(A) the identification of, and a plan to address, gaps and unnecessary overlaps in the roles, responsibilities, and authorities described in this paragraph;

(B) a methodology for 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;

(C) a process for facilitating security clearances for the purpose of intelligence and information sharing with the entities described in subsection (c), as appropriate;

(D) a strategy and timeline, coordinated with the research and development program established under section 1168 of this title, for the Department, the Department of Transportation, other appropriate Federal agencies and private entities to research and develop new technologies for securing railroad systems; and

(E) a process for coordinating existing or future security strategies and plans for railroad transportation, including the National Infrastructure Protection Plan required by Homeland Security Presidential Directive-7; Executive Order No. 13416: “Strengthening Surface Transportation Security” dated December 5, 2006; the Memorandum of Understanding between the Department and the Department of Transportation on Roles and Responsibilities dated September 28, 2004, and any and all subsequent annexes to this Memorandum of Understanding, and any other relevant agreements between the two Departments.

(c) Consultation with stakeholders

In developing the National Strategy required under this section, the Secretary shall consult with railroad management, nonprofit employee organizations representing railroad employees, owners or lessors of railroad cars used to transport hazardous materials, emergency responders, offerors of security-sensitive materials, public safety officials, and other relevant parties.

(d) Adequacy of existing plans and strategies

In developing the risk assessment and National Strategy required under this section, the Secretary shall utilize relevant existing plans, strategies, and risk assessments developed by the Department or other Federal agencies, including those developed or implemented pursuant to section 114(t)¹ of title 49 or Homeland Security Presidential Directive-7, and, as appropriate, assessments developed by other public and private stakeholders.

(e) Report

(1) Contents

Not later than 1 year after August 3, 2007, the Secretary shall transmit to the appropriate congressional committees a report containing—

(A) the assessment and the National Strategy required by this section; and

(B) an estimate of the cost to implement the National Strategy.

(2) Format

The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(f) Annual updates

Consistent with the requirements of section 114(t)¹ of title 49, the Secretary shall update the assessment and National Strategy each year and transmit a report, which may be submitted in both classified and redacted formats, to the appropriate congressional committees containing the updated assessment and recommendations.

(g) Funding

Out of funds appropriated pursuant to section 114(w)¹ of title 49, there shall be made available to the Secretary to carry out this section \$5,000,000 for fiscal year 2008.

(Pub. L. 110-53, title XV, §1511, Aug. 3, 2007, 121 Stat. 426.)

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REFERENCES IN TEXT

Section 114(t) of title 49, referred to in subsecs. (b)(1), (d), and (f), was redesignated section 114(s) of title 49 by Pub. L. 110-161, div. E, title V, §568(a), Dec. 26, 2007, 121 Stat. 2092.

Executive Order No. 13416, referred to in subsec. (b)(3)(E), is set out as a note under section 1101 of this title.

Section 114(w) of title 49, referred to in subsec. (g), was redesignated section 114(v) of title 49 by Pub. L. 115-254, div. K, §1904(b)(1)(I), Oct. 5, 2018, 132 Stat. 3545.

§ 1162. Railroad carrier assessments and plans

(a) In general

Not later than 12 months after August 3, 2007, the Secretary shall issue regulations that—

(1) require each railroad carrier assigned to a high-risk tier under this section to—

(A) conduct a vulnerability assessment in accordance with subsections (c) and (d); and

(B) to¹ prepare, submit to the Secretary for approval, and implement a security plan in accordance with this section that addresses security performance requirements; and

(2) establish standards and guidelines, based on and consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1161 of this title, for developing and implementing the vulnerability assessments and security plans for railroad carriers assigned to high-risk tiers.

(b) Non high-risk programs

The Secretary may establish a security program for railroad carriers not assigned to a high-risk tier, including—

(1) guidance for such carriers in conducting vulnerability assessments and preparing and implementing security plans, as determined appropriate by the Secretary; and

(2) a process to review and approve such assessments and plans, as appropriate.

(c) Deadline for submission

Not later than 9 months after the date of issuance of the regulations under subsection (a),

¹ So in original. The word “to” probably should not appear.