

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.)

Editorial Notes

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.

the vulnerability assessments and security plans required by such regulations for railroad carriers assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) Vulnerability assessments

(1) Requirements

The Secretary shall provide technical assistance and guidance to railroad carriers in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of a railroad carrier assigned to a high-risk tier under this section, include, as applicable—

(A) identification and evaluation of critical railroad carrier assets and infrastructure, including platforms, stations, intermodal terminals, tunnels, bridges, switching and storage areas, and information systems as appropriate;

(B) identification of the vulnerabilities to those assets and infrastructure;

(C) identification of strengths and weaknesses in—

- (i) physical security;
- (ii) passenger and cargo security, including the security of security-sensitive materials being transported by railroad or stored on railroad property;
- (iii) programmable electronic devices, computers, or other automated systems which are used in providing the transportation;
- (iv) alarms, cameras, and other protection systems;
- (v) communications systems and utilities needed for railroad security purposes, including dispatching and notification systems;
- (vi) emergency response planning;
- (vii) employee training; and
- (viii) such other matters as the Secretary determines appropriate; and

(D) identification of redundant and backup systems required to ensure the continued operation of critical elements of a railroad carrier's system in the event of an attack or other incident, including disruption of commercial electric power or communications network.

(2) Threat information

The Secretary shall provide in a timely manner to the appropriate employees of a railroad carrier, as designated by the railroad carrier, threat information that is relevant to the carrier when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in railroad security.

(e) Security plans

(1) Requirements

The Secretary shall provide technical assistance and guidance to railroad carriers in preparing and implementing security plans under this section, and shall require that each security plan of a railroad carrier assigned to a high-risk tier under this section include, as applicable—

(A) identification of a security coordinator having authority—

- (i) to implement security actions under the plan;
- (ii) to coordinate security improvements; and
- (iii) to receive immediate communications from appropriate Federal officials regarding railroad security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the railroad carrier in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities as appropriate;

(D) identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1167 of this title;

(F) enhanced security measures to be taken by the railroad carrier when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the continued operation of critical elements of the railroad carrier's system in the event of a terrorist attack or other incident;

(H) a strategy for implementing enhanced security for shipments of security-sensitive materials, including plans for quickly locating and securing such shipments in the event of a terrorist attack or security incident; and

(I) such other actions or procedures as the Secretary determines are appropriate to address the security of railroad carriers.

(2) Security coordinator requirements

The Secretary shall require that the individual serving as the security coordinator identified in paragraph (1)(A) is a citizen of the United States. The Secretary may waive this requirement with respect to an individual if the Secretary determines that it is appropriate to do so based on a background check of the individual and a review of the consolidated terrorist watchlist.

(3) Consistency with other plans

The Secretary shall ensure that the security plans developed by railroad carriers under this section are consistent with the risk assessment and National Strategy for Railroad Transportation Security developed under section 1161 of this title.

(f) Deadline for review process

Not later than 6 months after receiving the assessments and plans required under this section, the Secretary shall—

(1) review each vulnerability assessment and security plan submitted to the Secretary in accordance with subsection (c);

(2) require amendments to any security plan that does not meet the requirements of this section; and

(3) approve any vulnerability assessment or security plan that meets the requirements of this section.

(g) Interim security measures

The Secretary may require railroad carriers, during the period before the deadline established under subsection (c), to submit a security plan under subsection (e) to implement any necessary interim security measures essential to providing adequate security of the railroad carrier's system. An interim plan required under this subsection will be superseded by a plan required under subsection (e).

(h) Tier assignment

Utilizing the risk assessment and National Strategy for Railroad Transportation Security required under section 1161 of this title, the Secretary shall assign each railroad carrier to a risk-based tier established by the Secretary:

(1) Provision of information

The Secretary may request, and a railroad carrier shall provide, information necessary for the Secretary to assign a railroad carrier to the appropriate tier under this subsection.

(2) Notification

Not later than 60 days after the date a railroad carrier is assigned to a tier under this subsection, the Secretary shall notify the railroad carrier of the tier to which it is assigned and the reasons for such assignment.

(3) High-risk tiers

At least one of the tiers established by the Secretary under this subsection shall be designated a tier for high-risk railroad carriers.

(4) Reassignment

The Secretary may reassign a railroad carrier to another tier, as appropriate, in response to changes in risk. The Secretary shall notify the railroad carrier not later than 60 days after such reassignment and provide the railroad carrier with the reasons for such reassignment.

(i) Nondisclosure of information**(1) Submission of information to Congress**

Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) Disclosure of independently furnished information

Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a railroad carrier under any other Federal law.

(j) Existing procedures, protocols and standards**(1) Determination**

In response to a petition by a railroad carrier or at the discretion of the Secretary, the Secretary may determine that existing procedures, protocols, and standards meet all or part of the requirements of this section, including regulations issued under subsection (a), regarding vulnerability assessments and security plans.

(2) Election

Upon review and written determination by the Secretary that existing procedures, proto-

cols, or standards of a railroad carrier satisfy the requirements of this section, the railroad carrier may elect to comply with those procedures, protocols, or standards instead of the requirements of this section.

(3) Partial approval

If the Secretary determines that the existing procedures, protocols, or standards of a railroad carrier satisfy only part of the requirements of this section, the Secretary may accept such submission, but shall require submission by the railroad carrier of any additional information relevant to the vulnerability assessment and security plan of the railroad carrier to ensure that the remaining requirements of this section are fulfilled.

(4) Notification

If the Secretary determines that particular existing procedures, protocols, or standards of a railroad carrier under this subsection do not satisfy the requirements of this section, the Secretary shall provide to the railroad carrier a written notification that includes an explanation of the determination.

(5) Review

Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment and security plan submitted by a railroad carrier under this section; and

(B) to approve or disapprove each submission on an individual basis.

(k) Periodic evaluation by railroad carriers required**(1) Submission of evaluation**

Not later than 3 years after the date on which a vulnerability assessment or security plan required to be submitted to the Secretary under subsection (c) is approved, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), a railroad carrier who submitted a vulnerability assessment and security plan and who is still assigned to the high-risk tier must also submit to the Secretary an evaluation of the adequacy of the vulnerability assessment and security plan that includes a description of any material changes made to the vulnerability assessment or security plan.

(2) Review of evaluation

Not later than 180 days after the date on which an evaluation is submitted, the Secretary shall review the evaluation and notify the railroad carrier submitting the evaluation of the Secretary's approval or disapproval of the evaluation.

(l) Shared facilities

The Secretary may permit under this section the development and implementation of coordinated vulnerability assessments and security plans to the extent that a railroad carrier shares facilities with, or is colocated with, other transportation entities or providers that are required to develop vulnerability assessments and security plans under Federal law.

(m) Consultation

In carrying out this section, the Secretary shall consult with railroad carriers, nonprofit

employee labor organizations representation railroad employees, and public safety and law enforcement officials.

(Pub. L. 110-53, title XV, §1512, Aug. 3, 2007, 121 Stat. 429.)

§ 1163. Railroad security assistance

(a) Security improvement grants

(1) The Secretary, in consultation with the Administrator of the Transportation Security Administration and other appropriate agencies or officials, is authorized to make grants to railroad carriers, the Alaska Railroad, security-sensitive materials offerors who ship by railroad, owners of railroad cars used in the transportation of security-sensitive materials, State and local governments (for railroad passenger facilities and infrastructure not owned by Amtrak), and Amtrak for intercity passenger railroad and freight railroad security improvements described in subsection (b) as approved by the Secretary.

(2) A railroad carrier is eligible for a grant under this section if the carrier has completed a vulnerability assessment and developed a security plan that the Secretary has approved in accordance with section 1162 of this title.

(3) A recipient of a grant under this section may use grant funds only for permissible uses under subsection (b) to further a railroad security plan that meets the requirements of paragraph (2).

(4) Notwithstanding the requirement for eligibility and uses of funds in paragraphs (2) and (3), a railroad carrier is eligible for a grant under this section if the applicant uses the funds solely for the development of assessments or security plans under section 1162 of this title.

(5) Notwithstanding the requirements for eligibility and uses of funds in paragraphs (2) and (3), prior to the earlier of 1 year after the date of issuance of final regulations requiring vulnerability assessments and security plans under section 1162 of this title or 3 years after August 3, 2007, the Secretary may award grants under this section for rail security improvements listed under subsection (b) based upon railroad carrier vulnerability assessments and security plans that the Secretary determines are sufficient for the purposes of this section but have not been approved by the Secretary in accordance with section 1162 of this title.

(b) Uses of funds

A recipient of a grant under this section shall use the grant funds for one or more of the following:

(1) Security and redundancy for critical communications, computer, and train control systems essential for secure railroad operations, including communications interoperability where appropriate with relevant outside agencies and entities.

(2) Accommodation of railroad cargo or passenger security inspection facilities, related infrastructure, and operations at or near United States international borders or other ports of entry.

(3) The security of security-sensitive materials transportation by railroad.

(4) Chemical, biological, radiological, or explosive detection, including canine patrols for such detection.

(5) The security and preparedness of intercity passenger railroad stations, trains, and infrastructure, including security capital improvement projects that the Secretary determines enhance railroad station security.

(6) Technologies to reduce the vulnerabilities of railroad cars, including structural modification of railroad cars transporting security-sensitive materials to improve their resistance to acts of terrorism.

(7) The sharing of intelligence and information about security threats and preparedness, including connectivity to the National Terrorist Screening Center.

(8) To obtain train tracking and communications equipment, including equipment that is interoperable with Federal, State, and local agencies and tribal governments.

(9) To hire, train, and employ police, security, and preparedness officers, including canine units, assigned to full-time security or counterterrorism duties related to railroad transportation.

(10) Overtime reimbursement, including reimbursement of State, local, and tribal governments for costs, for enhanced security personnel assigned to duties related to railroad security during periods of high or severe threat levels and National Special Security Events or other periods of heightened security as determined by the Secretary.

(11) Perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades at railroad facilities.

(12) Tunnel protection systems.

(13) Passenger evacuation and evacuation-related capital improvements.

(14) Railroad security inspection technologies, including verified visual inspection technologies using hand-held readers.

(15) Surveillance equipment.

(16) Cargo or passenger screening equipment.

(17) Emergency response equipment, including fire suppression and decontamination equipment, personal protective equipment, and defibrillators.

(18) Operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1167 of this title, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including front-line employees.

(19) Live or simulated exercises, including exercises described in section 1166 of this title.

(20) Public awareness campaigns for enhanced railroad security.

(21) Development of assessments or security plans under section 1162 of this title.

(22) Other security improvements—

(A) identified, required, or recommended under sections 1161 and 1162 of this title, including infrastructure, facilities, and equipment upgrades; or

(B) that the Secretary considers appropriate.

(c) Department of Homeland Security responsibilities

In carrying out the responsibilities under subsection (a), the Secretary shall—

- (1) determine the requirements for recipients of grants;
- (2) establish priorities for uses of funds for grant recipients;
- (3) award the funds authorized by this section based on risk, as identified by the plans required under sections 1161 and 1162 of this title, or assessment or plan described in subsection (a)(5);
- (4) take into account whether stations or facilities are used by commuter railroad passengers as well as intercity railroad passengers in reviewing grant applications;
- (5) encourage non-Federal financial participation in projects funded by grants; and
- (6) not later than 5 business days after awarding a grant to Amtrak under this section, transfer grant funds to the Secretary of Transportation to be disbursed to Amtrak.

(d) Multiyear awards

Grant funds awarded under this section may be awarded for projects that span multiple years.

(e) Limitation on uses of funds

A grant made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(f) Annual reports

Each recipient of a grant under this section shall report annually to the Secretary on the use of grant funds.

(g) Non-Federal match study

Not later than 240 days after August 3, 2007, the Secretary shall provide a report to the appropriate congressional committees on the feasibility and appropriateness of requiring a non-Federal match for grants awarded to freight railroad carriers and other private entities under this section.

(h) Subject to certain standards

A recipient of a grant under this section and sections 1164 and 1165 of this title shall be required to comply with the standards of section 24312 of title 49, as in effect on January 1, 2007, with respect to the project in the same manner as Amtrak is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title.

(i) Authorization of appropriations

(1) In general

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—

- (A) \$300,000,000 for fiscal year 2008;
- (B) \$300,000,000 for fiscal year 2009;
- (C) \$300,000,000 for fiscal year 2010; and
- (D) \$300,000,000 for fiscal year 2011.

¹ See References in Text note below.

(2) Period of availability

Sums appropriated to carry out this section shall remain available until expended.

(Pub. L. 110-53, title XV, §1513, Aug. 3, 2007, 121 Stat. 433; Pub. L. 115-254, div. K, title I, §1973(a), Oct. 5, 2018, 132 Stat. 3614.)

Editorial Notes

REFERENCES IN TEXT

Section 114(w) of title 49, referred to in subsec. (i)(1), 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.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-254, §1973(a)(1), substituted “, including communications interoperability where appropriate with relevant outside agencies and entities.” for period at end.

Subsec. (b)(5). Pub. L. 115-254, §1973(a)(2), substituted “security and preparedness of” for “security of”.

Subsec. (b)(7). Pub. L. 115-254, §1973(a)(3), substituted “security threats and preparedness, including connectivity to the National Terrorist Screening Center” for “security threats”.

Subsec. (b)(9). Pub. L. 115-254, §1973(a)(4), substituted “, security, and preparedness officers” for “and security officers”.

§ 1164. Systemwide Amtrak security upgrades

(a) In general

(1) Grants

Subject to subsection (b), the Secretary, in consultation with the Administrator of the Transportation Security Administration, is authorized to make grants to Amtrak in accordance with the provisions of this section.

(2) General purposes

The Secretary may make such grants for the purposes of—

- (A) protecting underwater and underground assets and systems;
- (B) protecting high-risk and high-consequence assets identified through system-wide risk assessments;
- (C) providing counterterrorism or security training;
- (D) providing both visible and unpredictable deterrence; and
- (E) conducting emergency preparedness drills and exercises.

(3) Specific projects

The Secretary shall make such grants—

- (A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;
- (B) to secure Amtrak trains;
- (C) to secure Amtrak stations;
- (D) to obtain a watchlist identification system approved by the Secretary, or to connect to the National Terrorism Screening Center watchlist;
- (E) to obtain train tracking and interoperable communications systems that are coordinated with Federal, State, and local agencies and tribal governments to the maximum extent possible;
- (F) to hire, train, and employ police and security officers, including canine units, assigned to full-time security or

counterterrorism duties related to railroad transportation;

(G) for operating and capital costs associated with security awareness, preparedness, and response training, including training under section 1167 of this title, and training developed by universities, institutions of higher education, and nonprofit employee labor organizations, for railroad employees, including frontline employees;

(H) for live or simulated exercises, including exercises described in section 1166 of this title;

(I) for improvements to passenger verification systems;

(J) for improvements to employee and contractor verification systems, including identity verification technology; or

(K) for improvements to the security of Amtrak computer systems, including cybersecurity assessments and programs.

(b) Conditions

The Secretary shall award grants to Amtrak under this section for projects contained in a systemwide security plan approved by the Secretary developed pursuant to section 1162 of this title. Not later than 5 business days after awarding a grant to Amtrak under this section, the Secretary shall transfer the grant funds to the Secretary of Transportation to be disbursed to Amtrak.

(c) Equitable geographic allocation

The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 1161 of this title and Amtrak's vulnerability assessment and security plan developed under section 1162 of this title, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of funds

(1) In general

Out of funds appropriated pursuant to section 114(w)¹ of title 49, there shall be made available to the Secretary and the Administrator of the Transportation Security Administration to carry out this section—

- (A) \$150,000,000 for fiscal year 2008;
- (B) \$150,000,000 for fiscal year 2009;
- (C) \$175,000,000 for fiscal year 2010; and
- (D) \$175,000,000 for fiscal year 2011.

(2) Availability of appropriated funds

Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(Pub. L. 110-53, title XV, §1514, Aug. 3, 2007, 121 Stat. 435; Pub. L. 115-254, div. K, title I, §1973(b), Oct. 5, 2018, 132 Stat. 3614.)

Editorial Notes

REFERENCES IN TEXT

Section 114(w) of title 49, referred to in subsec. (d)(1), 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.

¹ See References in Text note below.

AMENDMENTS

2018—Subsec. (a)(3)(D). Pub. L. 115-254, §1973(b)(1), inserted “, or to connect to the National Terrorism Screening Center watchlist” after “Secretary”.

Subsec. (a)(3)(I) to (K). Pub. L. 115-254, §1973(b)(2)–(4), added subpars. (I) to (K).

Statutory Notes and Related Subsidiaries

PASSENGER RAIL VETTING

Pub. L. 115-254, div. K, title I, §1974, Oct. 5, 2018, 132 Stat. 3615, provided that:

“(a) IN GENERAL.—Not later than 180 days after the date on which the Amtrak Board of Directors submits a request to the Administrator [of the Transportation Security Administration], the Administrator shall issue a decision on the use by Amtrak of the Transportation Security Administration's Secure Flight Program or a similar passenger vetting system to enhance passenger rail security.

“(b) CONSIDERATIONS.—In making a decision under subsection (a), the Administrator shall—

“(1) consider the technological, privacy, operational, and security impacts of such a decision; and

“(2) describe such impacts in any strategic plan developed under subsection (c).

“(c) STRATEGIC PLAN.—If the Administrator decides to grant the request by Amtrak under subsection (a), the decision shall include a strategic plan for working with rail stakeholders to enhance passenger rail security by—

“(1) vetting passengers using terrorist watch lists maintained by the Federal Government or a similar passenger vetting system maintained by the Transportation Security Administration; and

“(2) where applicable and in consultation with the Commissioner of U.S. Customs and Border Protection, assessing whether the vetting process should be integrated into preclearance operations established under section 813 of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4432).

“(d) NOTICES.—The Administrator shall notify the appropriate committees of Congress [Committees on Commerce, Science and Transportation and Homeland Security and Governmental Affairs of the Senate and Committee on Homeland Security of the House of Representatives] of any decision made under subsection (a) and the details of the strategic plan under subsection (c).

“(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the Administrator's authority to set the access to, or terms and conditions of using, the Secure Flight Program or a similar passenger vetting system.”

§ 1165. Fire and life safety improvements

(a) Life-safety needs

There are authorized to be appropriated to the Secretary of Transportation for making grants to Amtrak for the purpose of carrying out projects to make fire and life safety improvements to Amtrak tunnels on the Northeast Corridor the following amounts:

(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology improvements, emergency communication and lighting systems, and emergency access and egress for passengers—

- (A) \$25,000,000 for fiscal year 2008;
- (B) \$30,000,000 for fiscal year 2009;
- (C) \$45,000,000 for fiscal year 2010; and
- (D) \$60,000,000 for fiscal year 2011.

(2) For the Baltimore Potomac Tunnel and the Union Tunnel, together, to provide adequate drainage and ventilation, communica-

tion, lighting, standpipe, and passenger egress improvements—

- (A) \$5,000,000 for fiscal year 2008;
- (B) \$5,000,000 for fiscal year 2009;
- (C) \$5,000,000 for fiscal year 2010; and
- (D) \$5,000,000 for fiscal year 2011.

(3) For the Union Station tunnels in the District of Columbia to improve ventilation, communication, lighting, and passenger egress improvements—

- (A) \$5,000,000 for fiscal year 2008;
- (B) \$5,000,000 for fiscal year 2009;
- (C) \$5,000,000 for fiscal year 2010; and
- (D) \$5,000,000 for fiscal year 2011.

(b) Infrastructure upgrades

Out of funds appropriated pursuant to section 1153 of this title, there shall be made available to the Secretary of Transportation for fiscal year 2008, \$3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(c) Availability of amounts

Amounts appropriated pursuant to this section shall remain available until expended.

(d) Plans required

The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

- (1) until Amtrak has submitted to the Secretary of Transportation, and the Secretary of Transportation has approved, an engineering and financial plan for such projects; and
- (2) unless, for each project funded pursuant to this section, the Secretary of Transportation has approved a project management plan prepared by Amtrak.

(e) Review of plans

(1) In general

The Secretary of Transportation shall complete the review of a plan required under subsection (d) and approve or disapprove the plan within 45 days after the date on which each such plan is submitted by Amtrak.

(2) Incomplete or deficient plan

If the Secretary of Transportation determines that a plan is incomplete or deficient, the Secretary of Transportation shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary of Transportation's notification, submit a modified plan for the Secretary of Transportation's review.

(3) Approval of plan

Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary of Transportation shall either approve the modified plan, or if the Secretary of Transportation finds the plan is still incomplete or deficient, the Secretary of Transportation shall—

- (A) identify in writing to the appropriate congressional committees the portions of the plan the Secretary finds incomplete or deficient;

- (B) approve all other portions of the plan;
- (C) obligate the funds associated with those portions; and

(D) execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(f) Financial contribution from other tunnel users

The Secretary of Transportation, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a), shall—

- (1) consider the extent to which railroad carriers other than Amtrak use or plan to use the tunnels;
- (2) consider the feasibility of seeking a financial contribution from those other railroad carriers toward the costs of the projects; and
- (3) obtain financial contributions or commitments from such other railroad carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

(Pub. L. 110-53, title XV, § 1515, Aug. 3, 2007, 121 Stat. 437.)

§ 1166. Railroad carrier exercises

(a) In general

The Secretary shall establish a program for conducting security exercises for railroad carriers for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate, respond to, and recover from acts of terrorism.

(b) Covered entities

Entities to be assessed under the program shall include—

- (1) Federal, State, and local agencies and tribal governments;
- (2) railroad carriers;
- (3) governmental and nongovernmental emergency response providers, law enforcement agencies, and railroad and transit police, as appropriate; and
- (4) any other organization or entity that the Secretary determines appropriate.

(c) Requirements

The Secretary shall ensure that the program—

- (1) consolidates existing security exercises for railroad carriers administered by the Department and the Department of Transportation, as jointly determined by the Secretary and the Secretary of Transportation, unless the Secretary waives this consolidation requirement as appropriate;
- (2) consists of exercises that are—
 - (A) scaled and tailored to the needs of the carrier, including addressing the needs of the elderly and individuals with disabilities;
 - (B) live, in the case of the most at-risk facilities to a terrorist attack;
 - (C) coordinated with appropriate officials;
 - (D) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;
 - (E) inclusive, as appropriate, of railroad frontline employees; and
 - (F) consistent with the National Incident Management System, the National Response

Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other such national initiatives;

(3) provides that exercises described in paragraph (2) will be—

(A) evaluated by the Secretary against clear and consistent performance measures;

(B) assessed by the Secretary to identify best practices, which shall be shared, as appropriate, with railroad carriers, nonprofit employee organizations that represent railroad carrier employees, Federal, State, local, and tribal officials, governmental and nongovernmental emergency response providers, law enforcement personnel, including railroad carrier and transit police, and other stakeholders; and

(C) used to develop recommendations, as appropriate, from the Secretary to railroad carriers on remedial action to be taken in response to lessons learned;

(4) allows for proper advanced notification of communities and local governments in which exercises are held, as appropriate; and

(5) assists State, local, and tribal governments and railroad carriers in designing, implementing, and evaluating additional exercises that conform to the requirements of paragraph (1)¹.

(d) National Exercise Program

The Secretary shall ensure that the exercise program developed under subsection (c) is a component of the National Exercise Program established under section 748 of this title.

(Pub. L. 110-53, title XV, §1516, Aug. 3, 2007, 121 Stat. 438.)

§ 1167. Railroad security training program

(a) In general

Not later than 6 months after August 3, 2007, the Secretary shall develop and issue regulations for a training program to prepare railroad frontline employees for potential security threats and conditions. The regulations shall take into consideration any current security training requirements or best practices.

(b) Consultation

The Secretary shall develop the regulations under subsection (a) in consultation with—

(1) appropriate law enforcement, fire service, emergency response, security, and terrorism experts;

(2) railroad carriers;

(3) railroad shippers; and

(4) nonprofit employee labor organizations representing railroad employees or emergency response personnel.

(c) Program elements

The regulations developed under subsection (a) shall require security training programs described in subsection (a) to include, at a minimum, elements to address the following, as applicable:

(1) Determination of the seriousness of any occurrence or threat.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of personal and other protective equipment.

(5) Evacuation procedures for passengers and railroad employees, including individuals with disabilities and the elderly.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Training related to psychological responses to terrorist incidents, including the ability to cope with hijacker behavior and passenger responses.

(8) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(9) Recognition and reporting of dangerous substances, suspicious packages, and situations.

(10) Understanding security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers and for on-scene interaction with such emergency response providers.

(11) Operation and maintenance of security equipment and systems.

(12) Other security training activities that the Secretary considers appropriate.

(d) Required programs

(1) Development and submission to Secretary

Not later than 90 days after the Secretary issues regulations under subsection (a), each railroad carrier shall develop a security training program in accordance with this section and submit the program to the Secretary for approval.

(2) Approval or disapproval

Not later than 60 days after receiving a security training program proposal under this subsection, the Secretary shall approve the program or require the railroad carrier that developed the program to make any revisions to the program that the Secretary considers necessary for the program to meet the requirements of this section. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.

(3) Training

Not later than 1 year after the Secretary approves a security training program in accordance with this subsection, the railroad carrier that developed the program shall complete the training of all railroad frontline employees who were hired by a carrier more than 30 days preceding such date. For such employees employed less than 30 days by a carrier preceding such date, training shall be completed within the first 60 days of employment.

(4) Updates of regulations and program revisions

The Secretary shall periodically review and update as appropriate the training regulations issued under subsection (a) to reflect new or changing security threats. Each railroad carrier shall revise its training program accord-

¹ So in original. Probably should be "(2)".

ingly and provide additional training as necessary to its frontline employees within a reasonable time after the regulations are updated.

(e) National Training Program

The Secretary shall ensure that the training program developed under subsection (a) is a component of the National Training Program established under section 748 of this title.

(f) Reporting requirements

Not later than 2 years after the date of regulation issuance, the Secretary shall review implementation of the training program of a representative sample of railroad carriers and railroad frontline employees, and report to the appropriate congressional committees on the number of reviews conducted and the results of such reviews. The Secretary may submit the report in both classified and redacted formats as necessary.

(g) Other employees

The Secretary shall issue guidance and best practices for a railroad shipper employee security program containing the elements listed under subsection (c).

(Pub. L. 110-53, title XV, § 1517, Aug. 3, 2007, 121 Stat. 439.)

§ 1168. Railroad security research and development

(a) Establishment of research and development program

The Secretary, acting through the Under Secretary for Science and Technology and the Administrator of the Transportation Security Administration, shall carry out a research and development program for the purpose of improving the security of railroad transportation systems.

(b) Eligible projects

The research and development program may include projects—

(1) to reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances, including the development of technology to screen passengers in large numbers at peak commuting times with minimal interference and disruption;

(2) to test new emergency response and recovery techniques and technologies, including those used at international borders;

(3) to develop improved railroad security technologies, including—

(A) technologies for sealing or modifying railroad tank cars;

(B) automatic inspection of railroad cars;

(C) communication-based train control systems;

(D) emergency response training, including training in a tunnel environment;

(E) security and redundancy for critical communications, electrical power, computer, and train control systems; and

(F) technologies for securing bridges and tunnels;

(4) to test wayside detectors that can detect tampering;

(5) to support enhanced security for the transportation of security-sensitive materials by railroad;

(6) to mitigate damages in the event of a cyber attack; and

(7) to address other vulnerabilities and risks identified by the Secretary.

(c) Coordination with other research initiatives

The Secretary—

(1) shall ensure that the research and development program is consistent with the National Strategy for Railroad Transportation Security developed under section 1161 of this title and any other transportation security research and development programs required by this Act;

(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

(A) the Department of Transportation, including University Transportation Centers and other institutes, centers, and simulators funded by the Department of Transportation;

(B) the National Academy of Sciences;

(C) the Technical Support Working Group;

(D) other Federal departments and agencies; and

(E) other Federal and private research laboratories, research entities, and universities and institutions of higher education, including Historically Black Colleges and Universities, Hispanic Serving Institutions, or Indian Tribally Controlled Colleges and Universities;

(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

(A) is currently sponsoring a research and development project in a similar area; or

(B) has a unique facility or capability that would be useful in carrying out the project;

(4) may award grants, or enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2) and the eligible grant recipients under section 1163 of this title; and

(5) shall make reasonable efforts to enter into memoranda of understanding, contracts, grants, cooperative agreements, or other transactions with railroad carriers willing to contribute both physical space and other resources.

(d) Privacy and civil rights and civil liberties issues

(1) Consultation

In carrying out research and development projects under this section, the Secretary shall consult with the Chief Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department as appropriate and in accordance with section 142 of this title.

(2) Privacy impact assessments

In accordance with sections 142 and 345 of this title, the Chief Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

(e) Authorization of appropriations**(1) In general**

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—

- (A) \$33,000,000 for fiscal year 2008;
- (B) \$33,000,000 for fiscal year 2009;
- (C) \$33,000,000 for fiscal year 2010; and
- (D) \$33,000,000 for fiscal year 2011.

(2) Period of availability

Such sums shall remain available until expended.

(Pub. L. 110–53, title XV, § 1518, Aug. 3, 2007, 121 Stat. 441.)

Editorial Notes**REFERENCES IN TEXT**

This Act, referred to in subsec. (c)(1), is Pub. L. 110–53, Aug. 3, 2007, 121 Stat. 266, known as the Implementing Recommendations of the 9/11 Commission Act of 2007, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 101 of this title and Tables.

Section 114(w) of title 49, referred to in subsec. (e)(1), 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.

§ 1169. Railroad tank car security testing**(a) Railroad tank car vulnerability assessment****(1) Assessment**

The Secretary shall assess the likely methods of a deliberate terrorist attack against a railroad tank car used to transport toxic-inhalation-hazard materials, and for each method assessed, the degree to which it may be successful in causing death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, or public welfare.

(2) Threats

In carrying out paragraph (1), the Secretary shall consider the most current threat information as to likely methods of a successful terrorist attack on a railroad tank car transporting toxic-inhalation-hazard materials, and may consider the following:

- (A) Explosive devices placed along the tracks or attached to a railroad tank car.
- (B) The use of missiles, grenades, rockets, mortars, or other high-caliber weapons against a railroad tank car.

(3) Physical testing

In developing the assessment required under paragraph (1), the Secretary shall conduct

physical testing of the vulnerability of railroad tank cars used to transport toxic-inhalation-hazard materials to different methods of a deliberate attack, using technical information and criteria to evaluate the structural integrity of railroad tank cars.

(4) Report

Not later than 30 days after the completion of the assessment under paragraph (1), the Secretary shall provide to the appropriate congressional committees a report, in the appropriate format, on such assessment.

(b) Railroad tank car dispersion modeling**(1) In general**

The Secretary, acting through the National Infrastructure Simulation and Analysis Center, shall conduct an air dispersion modeling analysis of release scenarios of toxic-inhalation-hazard materials resulting from a terrorist attack on a loaded railroad tank car carrying such materials in urban and rural environments.

(2) Considerations

The analysis under this subsection shall take into account the following considerations:

(A) The most likely means of attack and the resulting dispersal rate.

(B) Different times of day, to account for differences in cloud coverage and other atmospheric conditions in the environment being modeled.

(C) Differences in population size and density.

(D) Historically accurate wind speeds, temperatures, and wind directions.

(E) Differences in dispersal rates or other relevant factors related to whether a railroad tank car is in motion or stationary.

(F) Emergency response procedures by local officials.

(G) Any other considerations the Secretary believes would develop an accurate, plausible dispersion model for toxic-inhalation-hazard materials released from a railroad tank car as a result of a terrorist act.

(3) Consultation

In conducting the dispersion modeling under paragraph (1), the Secretary shall consult with the Secretary of Transportation, hazardous materials experts, railroad carriers, nonprofit employee labor organizations representing railroad employees, appropriate State, local, and tribal officials, and other Federal agencies, as appropriate.

(4) Information sharing

Upon completion of the analysis required under paragraph (1), the Secretary shall share the information developed with the appropriate stakeholders, given appropriate information protection provisions as may be required by the Secretary.

(5) Report

Not later than 30 days after completion of all dispersion analyses under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report detailing

¹ See References in Text note below.

the Secretary's conclusions and findings in an appropriate format.

(Pub. L. 110-53, title XV, § 1519, Aug. 3, 2007, 121 Stat. 443.)

§ 1170. Security background checks of covered individuals

(a) Definitions

In this section, the following definitions apply:

(1) Security background check

The term “security background check” means reviewing, for the purpose of identifying individuals who may pose a threat to transportation security or national security, or of terrorism—

(A) relevant criminal history databases;

(B) in the case of an alien (as defined in the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)),¹ the relevant databases to determine the status of the alien under the immigration laws of the United States; and

(C) other relevant information or databases, as determined by the Secretary.

(2) Covered individual

The term “covered individual” means an employee of a railroad carrier or a contractor or subcontractor of a railroad carrier.

(b) Guidance

(1) Any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action items issued by the Secretary to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall contain recommendations on the appropriate scope and application of such a security background check, including the time period covered, the types of disqualifying offenses, and a redress process for adversely impacted covered individuals consistent with subsections (c) and (d) of this section.

(2) Within 60 days after August 3, 2007, any guidance, recommendations, suggested action items, or any other widely disseminated voluntary action item issued by the Secretary prior to August 3, 2007, to a railroad carrier or a contractor or subcontractor of a railroad carrier relating to performing a security background check of a covered individual shall be updated in compliance with paragraph (1).

(3) If a railroad carrier or a contractor or subcontractor of a railroad carrier performs a security background check on a covered individual to fulfill guidance issued by the Secretary under paragraph (1) or (2), the Secretary shall not consider such guidance fulfilled unless an adequate redress process as described in subsection (d) is provided to covered individuals.

(c) Requirements

If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a cov-

ered individual, then the Secretary shall prohibit the railroad carrier or contractor or subcontractor of a railroad carrier from making an adverse employment decision, including removal or suspension of the covered individual, due to such rule, regulation, or directive with respect to a covered individual unless the railroad carrier or contractor or subcontractor of a railroad carrier determines that the covered individual—

(1) has been convicted of, has been found not guilty by reason of insanity, or is under want, warrant, or indictment for a permanent disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations;

(2) was convicted of or found not guilty by reason of insanity of an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, within 7 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check; or

(3) was incarcerated for an interim disqualifying criminal offense listed in part 1572 of title 49, Code of Federal Regulations, and released from incarceration within 5 years of the date that the railroad carrier or contractor or subcontractor of a railroad carrier performs the security background check.

(d) Redress process

If the Secretary issues a rule, regulation, or directive requiring a railroad carrier or contractor or subcontractor of a railroad carrier to perform a security background check of a covered individual, the Secretary shall—

(1) provide an adequate redress process for a covered individual subjected to an adverse employment decision, including removal or suspension of the employee, due to such rule, regulation, or directive that is consistent with the appeals and waiver process established for applicants for commercial motor vehicle hazardous materials endorsements and transportation employees at ports, as required by section 70105(c) of title 46; and

(2) have the authority to order an appropriate remedy, including reinstatement of the covered individual, should the Secretary determine that a railroad carrier or contractor or subcontractor of a railroad carrier wrongfully made an adverse employment decision regarding a covered individual pursuant to such rule, regulation, or directive.

(e) False statements

A railroad carrier or a contractor or subcontractor of a railroad carrier may not knowingly misrepresent to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, directives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check. Not later than 1 year after August 3, 2007, the Secretary shall issue a regulation that prohibits a railroad carrier or a contractor or subcontractor of a railroad carrier from knowingly misrepresenting to an employee or other relevant person, including an arbiter involved in a labor arbitration, the scope, application, or meaning of any rules, regulations, di-

¹ So in original. Another closing parenthesis probably should precede the comma.

rectives, or guidance issued by the Secretary related to security background check requirements for covered individuals when conducting a security background check.

(f) Rights and responsibilities

Nothing in this section shall be construed to abridge a railroad carrier's or a contractor or subcontractor of a railroad carrier's rights or responsibilities to make adverse employment decisions permitted by other Federal, State, or local laws. Nothing in the section shall be construed to abridge rights and responsibilities of covered individuals, a railroad carrier, or a contractor or subcontractor of a railroad carrier, under any other Federal, State, or local laws or under any collective bargaining agreement.

(g) No preemption of Federal or State law

Nothing in this section shall be construed to preempt a Federal, State, or local law that requires criminal history background checks, immigration status checks, or other background checks, of covered individuals.

(h) Statutory construction

Nothing in this section shall be construed to affect the process for review established under section 70105(c) of title 46, including regulations issued pursuant to such section.

(Pub. L. 110-53, title XV, §1522, Aug. 3, 2007, 121 Stat. 448.)

Editorial Notes

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (a)(1)(B), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. The term “alien” is defined in section 101(a)(3) of the Act which is classified to section 1101(a)(3) of Title 8. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

§ 1171. International railroad security program

(a) In general

(1) The Secretary shall develop a system to detect both undeclared passengers and contraband, with a primary focus on the detection of nuclear and radiological materials entering the United States by railroad.

(2) **SYSTEM REQUIREMENTS.**—In developing the system under paragraph (1), the Secretary may, in consultation with the Domestic Nuclear Detection Office,¹ Customs and Border Protection, and the Transportation Security Administration—

(A) deploy radiation detection equipment and nonintrusive imaging equipment at locations where railroad shipments cross an international border to enter the United States;

(B) consider the integration of radiation detection technologies with other nonintrusive inspection technologies where feasible;

(C) ensure appropriate training, operations, and response protocols are established for Federal, State, and local personnel;

(D) implement alternative procedures to check railroad shipments at locations where the deployment of nonintrusive inspection imaging equipment is determined to not be practicable;

(E) ensure, to the extent practicable, that such technologies deployed can detect terrorists or weapons, including weapons of mass destruction; and

(F) take other actions, as appropriate, to develop the system.

(b) Additional information

The Secretary shall—

(1) identify and seek the submission of additional data elements for improved high-risk targeting related to the movement of cargo through the international supply chain utilizing a railroad prior to importation into the United States;

(2) utilize data collected and maintained by the Secretary of Transportation in the targeting of high-risk cargo identified under paragraph (1); and

(3) analyze the data provided in this subsection to identify high-risk cargo for inspection.

(c) Report to Congress

Not later than September 30, 2008, the Secretary shall transmit to the appropriate congressional committees a report that describes the progress of the system being developed under subsection (a).

(d) Definitions

In this section:

(1) International supply chain

The term “international supply chain” means the end-to-end process for shipping goods to or from the United States, beginning at the point of origin (including manufacturer, supplier, or vendor) through a point of distribution to the destination.

(2) Radiation detection equipment

The term “radiation detection equipment” means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(3) Inspection

The term “inspection” means the comprehensive process used by Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws.

(Pub. L. 110-53, title XV, §1524, Aug. 3, 2007, 121 Stat. 451.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Reference to the Domestic Nuclear Detection Office deemed to be a reference to the Countering Weapons of Mass Destruction Office, see section 2(b)(1)(A) of Pub. L. 115-387, set out as a note under section 591 of this title.

¹ See Change of Name note below.

§ 1172. Railroad security enhancements; Model State legislation

Not later than November 2, 2007, the Secretary of Transportation shall develop and make available to States model legislation to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation. In developing the model State legislation the Secretary shall solicit the input of the States, railroads carriers, and railroad carrier employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.

(Pub. L. 110–53, title XV, § 1526(b), Aug. 3, 2007, 121 Stat. 452.)

PART C—OVER-THE-ROAD BUS AND TRUCKING SECURITY

§ 1181. Over-the-road bus security assessments and plans

(a) In general

Not later than 18 months after August 3, 2007, the Secretary shall issue regulations that—

(1) require each over-the-road bus operator assigned to a high-risk tier under this section—

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

(B) to prepare, submit to the Secretary for approval, and implement a security plan in accordance with subsection (e); and

(2) establish standards and guidelines for developing and implementing the vulnerability assessments and security plans for carriers assigned to high-risk tiers consistent with this section.

(b) Non high-risk programs

The Secretary may establish a security program for over-the-road bus operators not assigned to a high-risk tier, including—

(1) guidance for such operators 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), the vulnerability assessments and security plans required by such regulations for over-the-road bus operators assigned to a high-risk tier shall be completed and submitted to the Secretary for review and approval.

(d) Vulnerability assessments

(1) Requirements

The Secretary shall provide technical assistance and guidance to over-the-road bus operators in conducting vulnerability assessments under this section and shall require that each vulnerability assessment of an operator assigned to a high-risk tier under this section includes, as appropriate—

(A) identification and evaluation of critical assets and infrastructure, including

platforms, stations, terminals, and information systems;

(B) identification of the vulnerabilities to those assets and infrastructure; and

(C) identification of weaknesses in—

(i) physical security;

(ii) passenger and cargo security;

(iii) the security of programmable electronic devices, computers, or other automated systems which are used in providing over-the-road bus transportation;

(iv) alarms, cameras, and other protection systems;

(v) communications systems and utilities needed for over-the-road bus security purposes, including dispatching systems;

(vi) emergency response planning;

(vii) employee training; and

(viii) such other matters as the Secretary determines appropriate.

(2) Threat information

The Secretary shall provide in a timely manner to the appropriate employees of an over-the-road bus operator, as designated by the over-the-road bus operator, threat information that is relevant to the operator when preparing and submitting a vulnerability assessment and security plan, including an assessment of the most likely methods that could be used by terrorists to exploit weaknesses in over-the-road bus security.

(e) Security plans

(1) Requirements

The Secretary shall provide technical assistance and guidance to over-the-road bus operators in preparing and implementing security plans under this section and shall require that each security plan of an over-the-road bus operator assigned to a high-risk tier under this section includes, as appropriate—

(A) the identification of a security coordinator having authority—

(i) to implement security actions under the plan;

(ii) to coordinate security improvements; and

(iii) to receive communications from appropriate Federal officials regarding over-the-road bus security;

(B) a list of needed capital and operational improvements;

(C) procedures to be implemented or used by the over-the-road bus operator in response to a terrorist attack, including evacuation and passenger communication plans that include individuals with disabilities, as appropriate;

(D) the identification of steps taken with State and local law enforcement agencies, emergency responders, and Federal officials to coordinate security measures and plans for response to a terrorist attack;

(E) a strategy and timeline for conducting training under section 1184 of this title;

(F) enhanced security measures to be taken by the over-the-road bus operator when the Secretary declares a period of heightened security risk;

(G) plans for providing redundant and backup systems required to ensure the con-