

route for such a shipment analyzed under subsection (c); and

(B) perform a safety and security risk assessment of the alternative route for comparison to the route analysis specified in subsection (c);

(2) ensure that the analysis under paragraph (1) includes—

(A) identification of safety and security risks for an alternative route;

(B) comparison of those risks identified under subparagraph (A) to the primary railroad transportation route, including the risk of a catastrophic release from a shipment traveling along the alternate route compared to the primary route;

(C) any remediation or mitigation measures implemented on the primary or alternative route; and

(D) potential economic effects of using an alternative route; and

(3) consider when determining the practicable alternative routes under paragraph (1)(A) the use of interchange agreements with other railroad carriers.

**(e) Alternative route selection for security-sensitive materials**

The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to use the analysis required by subsections (c) and (d) to select the safest and most secure route to be used in transporting security-sensitive materials.

**(f) Review**

The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to annually review and select the practicable route posing the least overall safety and security risk in accordance with this section. The railroad carrier must retain in writing all route review and selection decision documentation and restrict the distribution, disclosure, and availability of information contained in the route analysis to appropriate persons. This documentation should include, but is not limited to, comparative analyses, charts, graphics, or railroad system maps.

**(g) Retrospective analysis**

The Secretary of Transportation shall ensure that the final rule requires each railroad carrier transporting security-sensitive materials in commerce to, not less than once every 3 years, analyze the route selection determinations required under this section. Such an analysis shall include a comprehensive, systemwide review of all operational changes, infrastructure modifications, traffic adjustments, changes in the nature of high-consequence targets located along or in proximity to the route, or other changes affecting the safety and security of the movements of security-sensitive materials that were implemented since the previous analysis was completed.

**(h) Consultation**

In carrying out subsection (c), railroad carriers transporting security-sensitive materials

in commerce shall seek relevant information from State, local, and tribal officials, as appropriate, regarding security risks to high-consequence targets along or in proximity to a route used by a railroad carrier to transport security-sensitive materials.

**(i) Definitions**

In this section:

(1) The term “route” includes storage facilities and trackage used by railroad cars in transportation in commerce.

(2) The term “high-consequence target” means a property, natural resource, location, area, or other target designated by the Secretary that is a viable terrorist target of national significance, which may include a facility or specific critical infrastructure, the attack of which by railroad could result in—

(A) catastrophic loss of life;

(B) significant damage to national security or defense capabilities; or

(C) national economic harm.

(Pub. L. 110-53, title XV, §1551, Aug. 3, 2007, 121 Stat. 469.)

**§ 1202. Railroad security-sensitive material tracking**

**(a) Communications**

**(1) In general**

In conjunction with the research and development program established under section 1168 of this title and consistent with the results of research relating to wireless and other tracking technologies, the Secretary, in consultation with the Administrator of the Transportation Security Administration, shall develop a program that will encourage the equipping of railroad cars transporting security-sensitive materials, as defined in section 1151 of this title, with technology that provides—

(A) car position location and tracking capabilities; and

(B) notification of railroad car depressurization, breach, unsafe temperature, or release of hazardous materials, as appropriate.

**(2) Coordination**

In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for railroad car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security’s hazardous material railroad tank car tracking pilot programs.

**(b) Funding**

From the amounts appropriated pursuant to 114(w) of title 49, there shall be made available to the Secretary to carry out this section—

(1) \$3,000,000 for fiscal year 2008;

(2) \$3,000,000 for fiscal year 2009; and

(3) \$3,000,000 for fiscal year 2010.

(Pub. L. 110-53, title XV, §1552, Aug. 3, 2007, 121 Stat. 471.)

**§ 1203. Hazardous materials highway routing****(a) Route plan guidance**

Not later than 1 year after August 3, 2007, the Secretary of Transportation, in consultation with the Secretary, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a geographic information system-based approach to characterize routes in the national hazardous materials route registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and nonradioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the safety and security concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials consistent with the 13 safety-based nonradioactive materials routing criteria and radioactive materials routing criteria in subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous materials, assess specific security risks associated with each route, and explore alternative mitigation measures; and

(7) transmit to the appropriate congressional committees a report on the actions taken to fulfill paragraphs (1) through (6) and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

**(b) Route plans****(1) Assessment**

Not later than 1 year after August 3, 2007, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each

motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403, taking into account the various segments of the motor carrier industry, including tank truck, truckload and less than truckload carriers.

**(2) Report**

Not later than 1 year after August 3, 2007, the Secretary of Transportation shall submit a report to the appropriate congressional committees containing the findings and conclusions of the assessment.

**(c) Requirement**

The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance security and safety without imposing unreasonable costs or burdens upon motor carriers.

(Pub. L. 110-53, title XV, §1553, Aug. 3, 2007, 121 Stat. 472.)

**§ 1204. Motor carrier security-sensitive material tracking****(a) Communications****(1) In general**

Not later than 6 months after August 3, 2007, consistent with the findings of the Transportation Security Administration's hazardous materials truck security pilot program, the Secretary, through the Administrator of the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to facilitate the tracking of motor carrier shipments of security-sensitive materials and to equip vehicles used in such shipments with technology that provides—

(A) frequent or continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency distress signal.

**(2) Considerations**

In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or security-sensitive materials tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on