

**(3) Notice to Secretary**

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

**(4) Notice to Congress**

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

**(5) Limitations**

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

**(e) Return of misspent grant funds**

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

**(f) Congressional notification**

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

**(g) Guidelines**

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

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

## REFERENCES IN TEXT

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

**§ 1153. Authorization of appropriations**

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

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

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

**§ 1154. Public awareness**

Not later than 180 days after August 3, 2007, the Secretary shall develop a national plan for

railroad and over-the-road bus security public outreach and awareness. Such a plan shall be designed to increase awareness of measures that the general public, passengers, and employees of railroad carriers and over-the-road bus operators can take to increase the security of the national railroad and over-the-road bus transportation systems. Such a plan shall also provide outreach to railroad carriers and over-the-road bus operators and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve security. Not later than 9 months after August 3, 2007, the Secretary shall implement the plan developed under this section.

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

## 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)<sup>1</sup> 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;

(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, responsibil-

ities, and authorities of Federal, State, and local agencies, government-sponsored entities, 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)<sup>1</sup> 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

<sup>1</sup> See References in Text note below.

(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)<sup>1</sup> 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) 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.)

REFERENCES IN TEXT

Section 114(t) of title 49, referred to in subssecs. (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.

**§ 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) to<sup>1</sup> 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), 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—

<sup>1</sup> So in original. The word “to” probably should not appear.