

**IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007**  
**Public Law 110-53**

- President Bush signed the “Implementing Recommendations of the 9/11 Commission Act of 2007” on August 3, 2007.
- This comprehensive legislation consists of 24 Titles addressing a broad range of matters intended to enhance homeland security and counter the terrorist threat.
  - The Act is a consolidation of three former House and Senate bills – H.R. 1, which bore the title “Implementing the 9-11 Commission Recommendations Act of 2007”; S. 4, “Improving America’s Security Act of 2007”; and H.R. 1401, “Rail and Public Transportation Security Act of 2007.”
  - The text of the Act runs to 285 pages. The accompanying Conference Report (House Report 110-259), which includes the text of the legislation and discussion of the resolution of differences between the House and Senate bills, covers 410 pages.
- Subject areas covered in the Act include homeland security and emergency management performance grants; communications interoperability; strengthening use of the incident command system; improving intelligence and information sharing and Congressional oversight of intelligence; preventing terrorist travel; privacy and civil liberties; private sector preparedness; improving critical infrastructure security; enhanced defenses against weapons of mass destruction; enhancing transportation security; preventing weapons of mass destruction proliferation and terrorism; international cooperation on security technologies; 9/11 Commission international implementation; and advancing democratic values.
- Of most relevance to the mass transit and passenger rail community are the transportation security provisions at Titles XII through XV. These Titles cover the following areas:
  - Title XII – Transportation Security Planning and Information Sharing
  - Title XIII – Transportation Security Enhancements
  - Title XIV – Public Transportation Security
  - Title XV – Surface Transportation Security
- Set out below is a summary of the provisions in these Titles that pertain mass transit and passenger rail security or are of interest to security and operating officials in these modes.
  - Throughout its provisions, the Act directs the Secretary of Homeland Security to take numerous actions, including issuance of regulations, development of specific programs, and reporting to Congress. The summary uses the short-hand “DHS” for these references, in recognition that Department of Homeland Security (DHS) entities will execute these actions. For matters pertaining to transportation security generally and mass transit and passenger rail security in particular, TSA generally will execute the mandated activities.

**PUBLIC LAW 110-53 – IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007**

<b>Title/Section Number and Caption</b>	<b>Summary of Provision</b>
<b>TITLE XII—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING</b>	
<b>Sec. 1202. Transportation Security Strategic Planning</b>	<p>Requires DHS to undertake several actions to enhance the utility and viability of the National Strategy for Transportation Security.</p> <ul style="list-style-type: none"> <li>- Tie the risk-based priorities identified in the Strategy to the risk assessments conducted by DHS</li> <li>- Coordinate the development of the Strategy with Federal, State, regional, local and tribal authorities and transportation system employees</li> <li>- Tie the budget and research and development to the priorities in the Strategy</li> <li>- Build into the Strategy a more intermodal perspective for transportation security</li> <li>- Provide periodic progress reports that include recommendations for improving and implementing the Strategy, an accounting for all transportation security grants, and other personnel-related matters</li> </ul>
<b>Sec. 1203. Transportation Security Information Sharing</b>	<p>Requires DHS, in consultation with the program manager of the information-sharing environment, DOT, and public and private stakeholders, to develop a Transportation Security Information Sharing Plan. Required components of the plan include:</p> <ul style="list-style-type: none"> <li>- Describe how intelligence analysts coordinate their activities with Federal, State, and locals</li> <li>- Establish points of contact within DHS for distributing transportation security related information to public and private stakeholders</li> <li>- Expedite security clearances needed for designated public and private stakeholders to receive and obtain access to classified information</li> </ul> <p>DHS must submit the plan within 150 days of enactment, report to Congress on the implementation of the plan within one year of enactment, and provide semiannually a report to Congress on the number of public and private stakeholders provided with</p>

<p><b>Sec. 1206. Civil Immunity for Reporting Suspicious Activity</b></p>	<p>information under the plan.</p> <p>Grants civil immunity to those who, in good faith and based on objectively reasonable suspicion, report “covered activity” to an “authorized official.”</p> <ul style="list-style-type: none"> <li>- “covered activity” is defined as suspicious activity indicating that a person is preparing to or may be violating the law in a way that threatens a passenger transportation system, passenger safety, or passenger security or that involves an act of terrorism</li> <li>- The suspicious activity must involve or be directed against a passenger transportation system</li> <li>- An authorized official is defined as any employee or agent of a passenger transportation system or other persons with responsibilities relating to the security of such systems, which includes anyone working for or on behalf of the Departments of Homeland Security, Transportation or Justice who have responsibilities relating to the security of passenger transportation systems as well as any federal, state, or local law enforcement officer</li> </ul> <p>Grants qualified civil immunity to any authorized official who takes reasonable action to respond to a report of covered activity. Nothing in the section affects the ability of any authorized official to assert any defense, privilege, or immunity that would otherwise be available.</p> <p>Allows any person or authorized official who is found to be immune from civil liability under this section to recover reasonable costs and attorneys fees should they be named as a defendant in a civil suit.</p> <p>Defines a “passenger transportation system” as public transportation, over-the-road bus transportation, including school bus transportation, intercity rail transportation, passenger vessels, including passenger and automobile ferries, and air transportation (defined as interstate and foreign air transportation).</p>
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	Retroactively effective as of October 1, 2006, and applies to all activities and claims arising on or after that date.
<b>TITLE XIII – TRANSPORTATION SECURITY ENHANCEMENTS</b>	
<b>Sec. 1302. Enforcement Authority</b>	<p>Extends TSA’s administrative civil enforcement authority to surface modes of transportation, authority accorded to TSA in the aviation mode under the Aviation and Transportation Security Act (Public Law 107-71).</p> <ul style="list-style-type: none"> <li>– Beginning December 31, 2008 and annually thereafter, requires public summary on enforcement actions taken by TSA under this provision (excludes aviation)</li> <li>– Within 180 days of enactment the Secretary must provide a public report on the enforcement process that will be followed</li> </ul> <p>NOTE: Per Sections 1304 and 1415, summarized below, surface transportation inspectors are prohibited from issuing fines without first seeking correction in writing and then giving the public transportation entity a reasonable opportunity to correct or propose an alternative means of compliance. Furthermore, DHS and TSA shall not initiate enforcement for any violation of administrative and procedural requirements in transportation security grant programs.</p>
<b>Sec. 1303. Authorization of Visible Intermodal Prevention and Response Teams</b>	<p>Provides broad authority for TSA and DHS to deploy VIPR teams in “any mode of transportation.”</p> <ul style="list-style-type: none"> <li>– Authorizes use of any DHS asset, including FAMS, surface transportation security inspectors, canine teams, and “advanced screening technology.”</li> <li>– Expressly requires consultation, prior to and during deployment, and agreement on operational protocols with local security and law enforcement officials and transportation providers</li> </ul>

<p><b>Sec. 1304. Surface Transportation Security Inspectors</b></p>	<p>Authorizes the Surface Transportation Security Inspection (STSI) program, providing for surface inspectors to assist surface transportation providers in enhancing their security against terrorist attacks and to enforce surface transportation security regulations and directives.</p> <p>Surface transportation inspectors are prohibited from issuing fines without first seeking correction in writing and then giving the public transportation entity a reasonable opportunity to correct or propose an alternative means of compliance. Furthermore, DHS and TSA shall not initiate enforcement for noncompliance with administrative or procedural requirements of security grant programs.</p> <p>Authorizes a maximum number of STSI as follows:</p> <ul style="list-style-type: none"> <li>• 100 in FY 2007</li> <li>• 150 in FY 2008</li> <li>• 175 in FY 2009</li> <li>• 200 in FY 2010 and 2011</li> </ul> <p>DHS IG must send a report to Congress by September 30, 2008 addressing the “performance and effectiveness of surface transportation security inspectors, whether there is a need for additional inspectors, and other recommendations.”</p>
<p><b>Sec. 1305. Surface Transportation Security Technology Information Sharing</b></p>	<p>Requires DHS, in consultation with DOT, to provide information on technologies that can be used to enhance rail, public transit, and highway transportation security by transportation providers.</p> <ul style="list-style-type: none"> <li>– The information must include whether the technology is certified as a qualified antiterrorism technology under the SAFETY Act</li> <li>– The objective is to assist transportation entities in application for security grants and procurements by providing information on available security technologies</li> <li>– Consistency with other DHS programs on technology testing, information sharing, and standards-setting is required</li> </ul>

<p><b>Sec. 1307. National Explosives Detection Canine Team Training Program</b></p>	<p>Directs a broad expansion of the explosives detection canine program.</p> <ul style="list-style-type: none"> <li>- Envisions an increase in explosives canine teams of 200 additional teams by the end of FY10 and authorizes an expansion of TSA training facilities together with partnering with Federal, State, and local governments, universities, non-profits, and private organizations to train additional canine teams</li> <li>- Authorizes the use of canine explosives teams throughout all transportation modes, for high-risk areas, and to respond to specific threats</li> <li>- Permits their use on a limited basis for other DHS missions</li> <li>- Encourages domestic breeding and procurement of quality canines efficiently and at the best price</li> </ul> <p>Within 180 days of enactment, DHS/TSA must begin increasing capacity to expand deployment of explosives detection canines by 200 additional teams by end of FY10.</p> <p>GAO must report within 1 year of enactment on the program/capacity to increase teams.</p> <p>Authorizes “such sums as may be necessary” during FY07-11 to achieve the directed and encouraged actions.</p>
<p><b>Sec. 1308. Maritime and Surface Transportation Security User Fee Study.</b></p>	<p>Requires DHS to study and report to Congress on the feasibility of imposing temporary or permanent user fees in maritime and surface transportation to fund security improvements.</p> <ul style="list-style-type: none"> <li>- Requires consultation with the transportation industry and Federal security partners</li> <li>- The report and recommendations must be submitted within 1 year of enactment</li> </ul>
<p><b>Sec. 1310. Roles of the Department of Homeland Security and the Department of Transportation</b></p>	<p>Establishes the Secretary of DHS as the “principal Federal official responsible for transportation security.”</p> <p>Indicates that the relative roles of DHS and DOT in carrying out Titles XII, XIV, and XV of this Act are set forth in various other public laws (Aviation and Transportation Security Act, Homeland Security Act, Intelligence Reform and Terrorism Prevention Act of 2004) and Executive Branch documents (HSPD 7, National Response Plan, EO 13416, and MOUs between DHS and DOT).</p>

<p><b>TITLE XIV – PUBLIC TRANSPORTATION SECURITY</b></p>	
<p><b>Sec. 1404. National Strategy for Public Transportation Security</b></p>	<p>Requires development and implementation a modal plan for public transportation entitled the “National Strategy for Public Transportation Security.”</p> <p>Required components:</p> <ul style="list-style-type: none"> <li>- Guidelines for public transportation systems that minimize threats and maximize the ability to mitigate damage after an attack</li> <li>- Use already existing assessments as a basis for plan development</li> <li>- Describe goals and priorities and identify and address gaps and overlaps in Federal roles and responsibilities</li> </ul>
<p><b>Sec. 1405. Security Assessments and Plans</b></p>	<p>Within 30 days of enactment, DOT must provide all public transportation security assessments and related materials it retains to DHS. Not later than 60 days after receiving these submissions, DHS shall review and augment the findings and ensure, at a minimum, that all high risk public transportation agencies will have a completed security assessment.</p> <p>This security assessment must:</p> <ul style="list-style-type: none"> <li>- identify critical assets, infrastructure, systems and their vulnerabilities</li> <li>- identify any security weaknesses including those in emergency response planning and employee training</li> </ul> <p>Within 180 days of enactment, DHS must conduct an assessment specific to the local bus-only public transportation systems and rural bus systems as defined by 49 USC 5311.</p> <p>DHS must issue regulations requiring public transportation agencies determined to be at “high risk” of terrorism to maintain and implement a comprehensive security plan. DHS must provide technical assistance and guidance to public transportation agencies on preparing and implementing security plans.</p> <p>No public transportation system is required to develop a security plan if it does not receive</p>

	<p>security grants authorized under section 1406 (summarized immediately below), unless the DHS determines otherwise and informs the Congress in writing.</p> <p>DHS must ensure the required security plan contains the following elements:</p> <ul style="list-style-type: none"> <li>- prioritized list of all items in the public transportation agency’s security assessment that have not been addressed</li> <li>- detailed list of any capital and operational improvements identified either by DHS or the public transportation agency and certification of the agency’s capacity for operating and maintaining security equipment included on this list</li> <li>- specific procedures for responding to attacks or emergencies</li> <li>- coordinated response plan with procedures for interacting with State and local agencies</li> <li>- strategy and timeline for conducting security training</li> <li>- plans for redundant operations capabilities and for providing service in the event of a terrorist attack or other major incident</li> <li>- methods to mitigate damage incase of an attack, including plans for communication and coordination with first responders</li> </ul> <p>DHS must complete review of a covered public transportation agency’s security plans within 6 months of its being submitted to ensure the requirements of this section are met.</p> <p>DHS/TSA shall encourage coordinated planning by agencies using shared facilities.</p> <p>Beginning in FY08, DHS must consult with management and labor organizations to establish security improvement priorities and must allocate risk-based grant funds based on these priorities.</p> <p>DHS/TSA may recognize existing procedures, protocol, and standards that meet the requirements of this section.</p>
<b>Sec. 1406. Public Transportation</b>	DHS must establish a grant program for public transportation security assistance.

<p><b>Security Assistance</b></p>	<p>Eligibility for grants under this program is restricted to those agencies for which DHS has performed a security assessment or those that have developed a security plan per section 1405 above.</p> <p>Funds may be used for either capital or operating security enhancements, with lengthy list of possible actions.</p> <p>DHS must determine grant recipients “based solely on risk” and establish the priorities for use of the grants.</p> <p>Each grant recipient must report annually to DHS on use of funds.</p> <p>Authorized grant funding levels:</p> <ul style="list-style-type: none"> <li>- FY08: \$650 million</li> <li>- FY09: \$750 million</li> <li>- FY10: \$900 million</li> <li>- FY11: \$1.1 billion</li> </ul>
<p><b>Sec. 1407. Security Exercises</b></p>	<p>DHS must establish a program for conducting security exercises for public transportation agencies.</p> <p>Exercises must be:</p> <ul style="list-style-type: none"> <li>- tailored to the needs of specific systems</li> <li>- live</li> <li>- coordinated with appropriate officials</li> <li>- as realistic as practicable based on credible threats, risk assessments, vulnerabilities, and consequences</li> <li>- inclusive of front-line employees and managers</li> <li>- consistent with various national plans and NIMS</li> </ul>

<p><b>Sec. 1408. Public Transportation Security Training Program</b></p>	<p>DHS must develop and issue regulations for a public transportation security training program to prepare public transportation employees, including front-line employees, for potential security threats and conditions.</p> <ul style="list-style-type: none"> <li>- detailed interim final regulations – within 90 days of enactment</li> <li>- detailed final regulations – within 1 year of enactment</li> </ul> <p>In developing these regulations, DHS must consult with public transportation agencies, law enforcement, and nonprofit labor organizations.</p> <p>The regulations must include “at a minimum” the following elements:</p> <ul style="list-style-type: none"> <li>- determination of seriousness of occurrence or threat</li> <li>- crew and passenger coordination and communication</li> <li>- appropriate self-defense, including use of “non-lethal defense devices”</li> <li>- use of personal protection devices and equipment</li> <li>- evacuation procedures</li> <li>- behavioral and psychological understanding of terrorist incidents, including coping with hijacker behavior and passenger response</li> <li>- live situational training exercises</li> <li>- recognition and reporting of dangerous substances and suspicious activities and items</li> <li>- understanding security incident procedures, including communicating and interacting with governmental entities and first responders</li> <li>- operation and maintenance of security equipment</li> <li>- other matters deemed appropriate by DHS</li> </ul> <p>Not later than 90 days after a public transportation agency has developed and implemented a security training program, it must submit it to DHS for approval.</p> <p>Not later than 60 days after receiving the proposal, DHS must approve the program or require revisions necessary to meet the regulatory requirements. In the latter event, the</p>
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	<p>public transportation agency must respond to the DHS comments within 30 days.</p> <p>Not later than one year after approval by DHS, the public transportation agency must complete training of all employees covered under the program.</p> <p>Not later than 2 years after the date of issuance of the final regulation, the GAO shall perform an audit of and report on its implementation.</p>
<p><b>Sec. 1409. Public Transportation Research and Development</b></p>	<p>DHS is directed to “carry out” an R&amp;D program through the Homeland Security Advanced Research Projects Agency (HSARPA) in the S&amp;T directorate and in consultation with TSA and FTA.</p> <p>The Secretary shall direct grants and contracts to public and private entities to conduct research into reducing terrorist threats and recovering from them.</p> <p>Each R&amp;D initiative shall be approved after the issuance of a privacy impact assessment by the Chief Privacy Officer of DHS.</p> <p>Each grant recipient would be required to report annually to the Department on the privacy aspect of their work. \$25 million is authorized for each FY, starting with 2008 and running through 2011, for this program.</p>
<p><b>Sec. 1410. Information Sharing</b></p>	<p>DHS must ensure that DOT receives “appropriate and timely notification of all credible terrorist threats” against domestic transportation.</p> <p>Directs DHS to “provide for the reasonable costs” of the ISAC for Public Transportation with \$600,000 authorized each year for FY08 through FY10 and “such sums as are necessary” for FY11.</p> <p>Directs DHS to require public transportation agencies determined by DHS to be at high-risk of terrorism to participate in the ISAC and to encourage all other agencies and all labor unions to participate.</p>

<b>Sec. 1411. Threat Assessments</b>	Not later than 1 year after enactment, DHS must complete a name-based security background check against the terrorist watch list and immigration status of all public transportation frontline employees.
<b>Sec. 1412. Reporting Requirements</b>	<p>Not later than March 31<sup>st</sup> of each year, DHS must report to Congress as follows:</p> <ul style="list-style-type: none"> <li>- a description of the implementation of the provisions of title 14</li> <li>- appropriated funds for these purposes that were not expended or obligated</li> <li>- implementation of the National Strategy for Public Transportation Security (NSPTS) required under section 1404</li> <li>- costs of implementing the NSPTS, broken down by capital and operating expenses for FY08 through FY18</li> <li>- “the state of public transportation security,” which is to include numerous data points on progress being made by public transportation agencies and differences among them</li> </ul> <p>Not later than March 31<sup>st</sup> of each year, DHS must submit a report to the Governors of each state the public transportation agencies receiving grants in the state, the amount of the grant awards, and their use.</p>
<b>Sec. 1413. Public Transportation Employee Protections</b>	<p>This provision prohibits public transportation agencies (or contractors or subcontractors) from discharging, demoting, suspending, reprimanding, or in any other way discriminating against an employee for furnishing information or cooperating in investigations, including for:</p> <ul style="list-style-type: none"> <li>- Providing information or assisting in an investigation into conduct which may be a violation of Federal public transportation safety or security law or regulation or gross fraud, waste, or abuse of Federal grants or public funds for public transportation safety or security; investigation must be one conducted by a Federal, state, or local regulatory or law enforcement agency; a Member or committee of Congress or the GAO; or a person with supervisory authority over the employee or authority to terminate the misconduct.</li> <li>- Refusing to violate or assist in the violation of a railroad safety or security law or regulation;</li> <li>- Filing a complaint to enforce certain laws and regulations;</li> <li>- Cooperating in a safety or security investigation by DHS, DOT, or the NTSB</li> </ul>

	<ul style="list-style-type: none"> <li>- Furnishing information to DHS, DOT, or other Federal, State, or local regulatory or law enforcement agency on an accident or incident resulting in death or injury or damage to property in connection with public transportation</li> <li>- Reporting a hazardous safety or security condition</li> <li>- Refusing to work when confronted by a hazardous safety or security condition</li> </ul> <p>Much of this provision specifies the details on how an aggrieved employee files a complaint with the Department of Labor and the procedures that follow.</p> <p>The name of the employee providing information may not be disclosed, except to the Attorney General if the matter is referred for enforcement.</p> <p>DHS must establish through notice and comment rulemaking a process by which any person may report railroad security problems, deficiencies, or vulnerabilities to DHS, and if the person making the report is identified, DHS must respond promptly and acknowledge receipt, as well as take appropriate steps to address problems identified.</p>
<p><b>Sec. 1414. Security Background Checks of Covered Individuals for Public Transportation</b></p>	<p>Requires that any guidance DHS provides to a public transportation agency calling for conduct of employee background checks must contain recommendations on the scope and application of such checks, including disqualifying offenses and redress processes</p> <p>Not later than 60 days after enactment, all such guidance previously provided must be updated to conform to this section.</p> <p>If DHS issues a rule requiring such checks, the regulation must prohibit public transportation agencies from making an adverse personnel decision unless the agency determines that the individual has been convicted of or incarcerated for specified disqualifying offenses.</p> <p>If such a regulation is issued, DHS must “provide an adequate redress process”; in this event, DHS will have the authority to “order an appropriate remedy, including reinstatement” should it be determined that a public transportation agency’s adverse</p>

	<p>decision was wrongful.</p> <p>Within 1 year of enactment, DHS must issue a regulation that prohibits a public transportation agency from knowingly misrepresenting the meaning or scope of any rule, regulation, directive, or guidance concerning employee background checks.</p>
<b>Sec. 1415. Limitations on Fines and Civil Penalties</b>	<p>DHS/TSA, through the surface inspectors, is prohibited from issuing fines for violations of security requirements without first seeking correction in writing and then giving the subject public transportation agency a reasonable opportunity to correct or propose an alternative means of compliance.</p> <p>Enforcement action may not be initiated for failure to comply with administrative or procedural requirements of transportation security grant programs.</p>
<b>TITLE XV—SURFACE TRANSPORTATION SECURITY</b>	
<b>Sec. 1502. Oversight and Grant Procedures</b>	<p>Within 180 days of enactment, DHS (in coordination with DOT for Amtrak grants) must establish procedures to ensure security grants are expended in accordance with the purposes of this title and priorities and criteria set by DHS.</p> <p>DHS may issue nonbinding letters of intent to grant recipients to commit funding for a capital improvement project.</p> <p>DHS must ensure grant recipients who use contractors or subcontractors use small, minority, women-owned, or disadvantaged business concerns when appropriate.</p>
<b>Sec. 1503. Authorization of Appropriations</b>	<p>For implementation of this Title, appropriations to DHS for railroad security are authorized in the following amounts:</p> <ul style="list-style-type: none"> <li>- FY08: \$488 million</li> <li>- FY09: \$483 million</li> <li>- FY10: \$508 million</li> <li>- FY11: \$508 million</li> </ul>

<p><b>Sec. 1504. Public Awareness</b></p>	<p>DHS must develop and implement a national plan for public outreach and awareness for railroad security.</p> <p>Plan must focus on measures the general public, passengers, and employees can take and available technologies, R&amp;D, and Federal funding sources.</p> <p>Plan must be developed in 180 days and implemented within 9 months from enactment.</p>
<p><b>Sec. 1511. Railroad Transportation Security Risk Assessment and National Strategy</b></p>	<p>DHS directed to establish a Federal Task Force (including TSA and other DHS agencies, DOT, and other appropriate Federal agencies) to complete a nationwide risk assessment of terrorist attack on railroad carriers within 6 months of enactment.</p> <p>Based on this assessment, DHS must develop and implement the modal plan for railroad transportation entitled “National Strategy for Railroad Transportation Security.”</p> <p>In developing the National Strategy, consultation with stakeholders is required, including railroad management, nonprofit employee organizations representing railroad employees, owners/lessors of HAZMAT tank cars, emergency responders, and public safety officials.</p> <p>Relevant existing plans, strategies, and risk assessments are to be utilized.</p> <p>A report to Congress containing the assessment and National Strategy and an estimate of the cost to implement the Strategy is required 1 year from enactment. Annual updates of the assessment and Strategy are required.</p> <p>Authorizes \$5 M for FY08 for the assessment and development of the Strategy.</p>
<p><b>Sec. 1512. Railroad Carrier Assessments and Plans.</b></p>	<p>DHS must assign each railroad carrier to a risk-based tier and notify the railroad carrier within 60 days of the tier assignment and supporting reasons. One tier must be a high-risk tier.</p> <p>DHS must issue regulations within 12 months of enactment requiring railroad carriers</p>

(freight and passenger) assigned to a high-risk tier to:

- conduct a vulnerability assessment
- submit a security plan to DHS for approval and implement that plan once approved

The regulations must also establish standards and guidelines for the vulnerability assessments and security plans railroad carriers assigned to the high risk tier must develop and implement.

Railroads must submit assessments and security plans to DHS within 9 months of issuance of the regulations.

DHS must review and approve (or require amendments) to the assessments and plans within 6 months of receipt.

Detailed requirements are prescribed for the content of vulnerability assessments and security plans, including the following elements:

- identification of a security coordinator with authority to implement security actions, coordinate security improvements, and receive immediate communications regarding rail security from Federal officials – security coordinator must be a US citizen unless DHS waives this requirement and conducts a background check on the individual, including review of the terrorist watch list
- a list of needed capital and operational improvements
- prescribed procedures for response to a terrorist attack
- identification of steps taken to coordinate security measures with Federal officials, State and local authorities, and emergency responders
- strategy and timeline for conducting security training of front-line employees
- enhanced security measures to be taken when DHS declares a period of heightened security risk
- provision for redundant and backup systems to ensure continued operation of critical rail system elements in event of a terrorist attack or other incident

	<ul style="list-style-type: none"> <li>- strategy for transport of security sensitive materials</li> <li>- other matters determined by DHS as appropriate for security of railroad carriers</li> </ul> <p>A railroad may petition or DHS may determine that existing procedures, protocols, and standards meet all or part of the prescribed requirements.</p> <p>Approved assessments and plans must be reevaluated within 3 years after approval and at least every 5 years thereafter and submitted to DHS, which must review and notify the railroad carrier within 180 days of approval or disapproval.</p> <p>DHS may require interim security measures prior to the deadline for receiving railroad assessments and plans.</p> <p>DHS also is given discretion to establish a security program for non-high-risk-tier railroad carriers, including guidance for vulnerability assessments and security plans and a process for review and approval.</p>
<p><b>Sec. 1513. Railroad Security Assistance</b></p>	<p>The Secretary is authorized (in consultation with TSA) to provide grants to railroad carriers, the Alaska Railroad, shippers of security sensitive materials by rail, owners of rail cars used to transport security sensitive materials, State and local governments, and Amtrak for security improvements.</p> <p>Of funds appropriated as authorized under section 1503 above, \$300 million is to be made available in each of FYs 2008-2011 for grants.</p> <p>Grants may be used for wide ranging security purposes, including security for critical communications, computer, and train control systems; railroad cargo or passenger inspection facilities; sharing of intelligence; hiring and training police and security officers; surveillance equipment; operating and capital costs for training; and many more eligible uses.</p>

	<p>Funds are to be awarded based on risk and in accordance with plans required by sections 1511 and 1512 or other assessments or plans deemed sufficient DHS.</p> <p>Funds awarded to Amtrak are to be transferred to DOT for disbursement.</p> <p>A report of the feasibility and appropriateness of requiring a non-Federal match for grants to freight railroad carriers and other private entities is required 240 days after enactment.</p>
<p><b>Sec. 1514. System wide Amtrak Security Upgrades</b></p>	<p>DHS (consulting with TSA) is authorized to make grants to Amtrak, with funds to be disbursed by DOT.</p> <p>General Purposes: Grants to Amtrak generally may cover protection of underwater and underground assets, high-risk-and high-consequence assets, training, deterrence, and emergency preparedness exercises.</p> <p>Specific Projects: Grants must be made to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, D.C.; to secure Amtrak trains and stations; to obtain a watchlist identification system; to obtain train tracking and interoperable communications systems; to hire, train, and employ police and security officers; for operating and capital costs associated with security awareness, preparedness, and response training; and for live or simulated exercises.</p> <p>Subject to meeting the highest security needs, stations and facilities outside the Northeast Corridor are to receive an equitable share of funds.</p> <p>Of funds appropriated as authorized under section 1503, \$150 million is to be provided in each of FY08 and FY09, and \$175 million is to be provided in each of FY10 and FY11.</p>
<p><b>Sec. 1515. Fire and Life Safety Improvements</b></p>	<p>Authorizes funds to DOT for fire and life safety improvements to Amtrak tunnels in the Northeast Corridor.</p> <p>Authorizations for 6 tunnels in the NY/NJ area are: \$25 million for FY08; \$30 million for FY09; \$45 million for FY10; and \$60 million for FY11.</p>

	<p>Authorizations for 2 tunnels in the Baltimore area are: \$5 million for each year, FY08-FY11.</p> <p>Authorizations for Union Station tunnels in Washington, DC, are: \$5 million for each year, FY08-FY11.</p> <p>DOT may not award grants under this provision unless:</p> <ul style="list-style-type: none"> <li>- Amtrak has submitted to DHS and DOT an engineering and financial plan for proposed projects</li> <li>- For each project approved for funding, DOT has approved the project management plan</li> </ul>
<p><b>Sec. 1516. Railroad Carrier Exercises</b></p>	<p>Requires DHS to establish a program of security exercises for railroad carriers to assess and improve capabilities to mitigate, respond to, and recover from acts of terrorism. Covers railroad carriers; Federal, state, local, and tribal governments; emergency response providers; and law enforcement.</p> <p>Exercises must be:</p> <ul style="list-style-type: none"> <li>- tailored to the needs of specific systems</li> <li>- live</li> <li>- coordinated with appropriate officials</li> <li>- as realistic as practicable based on credible threats, risk assessments, vulnerabilities, and consequences</li> <li>- inclusive of front-line employees and managers</li> </ul> <p>consistent with various national plans and NIMS</p>
<p><b>Sec. 1517. Railroad Security Training Program</b></p>	<p>DHS must issue regulations 6 months from enactment requiring rail carriers to develop and implement a security training program for railroad frontline employees for potential security threats and conditions.</p> <p>Consultation with specific entities is required, including “appropriate” law enforcement,</p>

fire service, emergency responders, security and terrorism experts, rail carriers, rail shippers, and nonprofit labor organizations representing rail employees.

The regulations must include “at a minimum” the following elements:

- determination of seriousness of occurrence or threat
- crew and passenger coordination and communication
- appropriate self-defense, including use of “non-lethal defense devices”
- use of personal protection devices and equipment
- evacuation procedures
- psychology, behavior, and methods of terrorists
- psychological responses to terrorist incidents
- live situational training exercises
- recognition and reporting of dangerous substances and suspicious activities and items
- understanding security incident procedures, including communicating and interacting with governmental entities and first responders
- operation and maintenance of security equipment
- other matters deemed appropriate by DHS

Within 90 days after regulations are issued, railroad carriers must develop a security training program and submit the program to DHS for approval. DHS must approve or revise the program within 60 days, and railroad carriers must respond to DHS comments within 30 days.

One year after DHS approval of a security training program, railroad carriers must complete training of frontline employees.

The security training regulations must be periodically reviewed and updated.

<b>Sec. 1518. Railroad Security Research and Development</b>	<p>DHS, through Office of Science and Technology and TSA, must carry out a research and development program to improve the security of railroad transportation, including projects to reduce vulnerabilities of passenger trains, stations, and equipment; technology to screen passengers during peak commuting times; and other security technologies.</p> <p>\$33 million is authorized for each year, FY08 through FY11.</p>
<b>Sec. 1519. Railroad Tank Car Security Testing</b>	<p>Using current threat information, DHS must assess methods of terrorist attack against railroad tank cars transporting TIH materials and their potential success in causing harm.</p> <ul style="list-style-type: none"> <li>- The assessment requires physical testing of vulnerability of railroad tank cars and evaluation of their structural integrity.</li> <li>- A report to Congress is required 30 days after the assessment is completed.</li> </ul> <p>DHS, acting through the National Infrastructure Simulation and Analysis Center, must conduct an air dispersion modeling analysis of release scenarios of TIH materials resulting from a terrorist attack on a railroad tank car in urban and rural environments.</p> <ul style="list-style-type: none"> <li>- Report to Congress is required 30 days after completion of analyses.</li> </ul>
<b>Sec. 1520. Railroad Threat Assessments</b>	<p>Within 1 year of enactment, DHS must complete name-based security background checks against the consolidated terrorist watchlist and immigration status check for railroad frontline employees.</p>
<b>Sec. 1521. Railroad Employee Protections</b>	<p>This provision prohibits railroad carriers (or contractors or subcontractors) from discharging, demoting, suspending, reprimanding, or in any other way discriminating against an employee for furnishing information or cooperating in investigations, including for:</p> <ul style="list-style-type: none"> <li>- Providing information or assisting in an investigation into conduct which may be a violation of Federal railroad safety or security law or regulation or gross fraud, waste, or abuse of Federal grants or public funds for railroad safety or security; investigation must be one conducted by a Federal, state, or local regulatory or law enforcement agency; a Member or committee of Congress or the GAO; or a person with supervisory authority over the employee or authority to terminate the misconduct.</li> </ul>

	<ul style="list-style-type: none"> <li>- Refusing to violate or assist in the violation of a railroad safety or security law or regulation;</li> <li>- Filing a complaint to enforce certain laws and regulations;</li> <li>- Reporting in good faith, refusing to work, or refusing to authorize use of certain equipment, track, or structures when confronted with a hazardous safety or security condition.</li> </ul> <p>Much of this provision specifies the details on how an aggrieved employee files a complaint with the Department of Labor and the procedures that follow.</p> <p>The name of the employee providing information may not be disclosed except to the Attorney General if the matter is referred for enforcement.</p> <p>DHS must establish through notice and comment rulemaking a process by which any person may report railroad security problems, deficiencies, or vulnerabilities to DHS, and if the person making the report is identified, DHS must respond promptly and acknowledge receipt, as well as take appropriate steps to address problems identified.</p>
<p><b>Sec. 1522. Security Background Checks of Covered Individuals</b></p>	<p>Any guidance issued by DHS to railroad carriers or their contractors or subcontractors related to performing security background checks for their employees must include recommendations on their appropriate scope and application, including time period covered, disqualifying offenses, and a redress process for adversely impacted individuals.</p> <p>If DHS issues a regulation requiring a railroad carrier (or contractor or subcontractor) to perform security background checks on employees, they must be prohibited from making an adverse employment decision unless the individual committed specifically designated categories of offenses.</p> <p>Any regulation requiring background checks must include a redress process operated by DHS. Authority is provided to DHS to order an appropriate remedy, including reinstatement, if an adverse employment decision is wrongfully made.</p>

	<p>Within 1 year of enactment, DHS must issue a regulation prohibiting a railroad carrier from knowingly misrepresenting regulations or guidance on security background checks issued by DHS.</p>
<p><b>Sec. 1523. Northern Border Railroad Passenger Report</b></p>	<p>Within 1 year of enactment, DHS must report to Congress on screening passengers and baggage on passenger railroad service, preclearance of airline passengers, preclearance of freight railroad traffic, and certain other matters related to travel and traffic between the U.S. and Canada.</p> <p>Requirement pertains largely to DHS Customs and Border Protection, with consultation with TSA required.</p>
<p><b>Sec. 1524. International Railroad Security Program</b></p>	<p>Secretary must develop a system to detect undeclared passengers and contraband entering the U.S. by railroad, with primary focus on nuclear and radiological materials.</p>
<p><b>Sec. 1526. Railroad Security Enhancements</b></p>	<p>When assisting railroad carriers other than their employers, railroad police officers are authorized to enforce laws in states where the other railroad carriers own property.</p>
<p><b>Sec. 1527. Applicability of District of Columbia Law to Certain Amtrak Contracts</b></p>	<p>District of Columbia law governs future contracts between Amtrak and the State of Maryland.</p>
<p><b>Sec. 1528. Railroad Preemption Clarification</b></p>	<p>Railroad safety laws, regulations, and orders are to be nationally uniform to the extent practicable.</p> <p>However, a State may adopt or continue a safety or security law, regulation, or order until DHS (for security) or DOT (for safety) regulates the subject matter of the State requirement.</p> <p>States may adopt or continue additional or more stringent laws, regulations, or orders when (a) necessary to reduce a local safety or security hazard; (b) not incompatible with Federal law, regulation, or order; and (c) do not unreasonably burden commerce.</p> <p>This does not preempt an action for damages for personal injury, death, or property damage alleging that a party has failed to comply with a Federal standard of care</p>

	established by a regulation or order; failed to comply with its own plan required by Federal regulation or order; or failed to comply with a State law, regulation, or order that is not incompatible.
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