roads, 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, 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) 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 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.

§ 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[1] prepare, submit to the Secretary for approval, and implement a security plan

[1] So in original. The word ''to'' probably should not appear.

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—

(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 identi-

fied 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, protocols, 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.

(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 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.

(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 and security 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.