



April 2022

# SURFACE TRANSPORTATION

## TSA Implementation of Security Training Requirement

# GAO Highlights

Highlights of [GAO-22-105315](#), a report to congressional committees

## Why GAO Did This Study

Surface transportation operations such as freight and passenger rail can be difficult to secure. Their open architectures are designed to move people and goods quickly and passengers are generally not subject to vetting. To address this risk, the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Act) required that TSA develop regulations requiring security training for certain surface transportation employees.

The 9/11 Commission Act also includes a provision for GAO to review implementation of these regulations after issuance of TSA's final rule. This report describes (1) the key regulatory requirements for the security training programs; (2) TSA's process for and results from reviewing the training programs; (3) industry associations' and selected owner/operators' perspectives on the training programs; and (4) the status of training program implementation and TSA's monitoring plans.

To conduct this review, GAO analyzed TSA program guidance and other documents, and interviewed TSA officials. GAO also interviewed representatives from three surface transportation industry associations and a nongeneralizable sample of six owner/operators selected to capture variation in transportation mode, operation size, and training program status. This sample allowed GAO to learn about important aspects of the implementation of TSA's final rule, but it was not designed to provide findings representative of all the owner/operators that are required to implement this training program.

View [GAO-22-105315](#). For more information, contact Tina Won Sherman at (202) 512-8461 or [ShermanT@gao.gov](mailto:ShermanT@gao.gov).

April 2022

## SURFACE TRANSPORTATION

### TSA Implementation of Security Training Requirement

## What GAO Found

In March 2020, the Transportation Security Administration (TSA) issued its final rule implementing a new requirement that security-sensitive surface transportation employees receive security training. TSA identified 127 surface transportation owner/operators that it determined to be at higher risk of being targeted or used by terrorists because, for example, they ship hazardous materials or operate in high-density urban areas. The final rule required these owner/operators to submit security training programs for TSA review by June 2021. The programs are to include information on how security-sensitive employees should prepare for, observe, assess, and respond to terrorist-related threats and other security incidents. Examples of employees who are to receive this training include those who operate vehicles, inspect or maintain vehicles, or load cargo and baggage.

#### Surface Transportation Modes Covered by the Transportation Security Administration's Security Training Requirement



Sources: GAO analysis of Transportation Security Administration documents; photos (l to r) serjob74/Stock.Adobe.com, vacant/Stock.Adobe.com, Svetlaya/Stock.Adobe.com. | GAO-22-105315

As of December 2021, TSA had reviewed each of the 121 submitted training programs and had approved about three-fourths (88 of 121). TSA reported that it returned 84 percent of the submitted programs to owner/operators at least once for revision. The primary reason for TSA-requested revisions was that programs did not cover all the required training topics.

Surface transportation industry associations and selected owner/operators said that TSA resources—including training videos, checklists, and webinars—were generally helpful to the development of their training programs.

Some owner/operators are now training employees, and they generally have one year from the date of TSA's approval of their program to complete such training. TSA plans to begin inspections of each of the 127 operations once these deadlines occur. These inspections will focus on the extent to which the programs meet requirements, according to TSA officials.

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### Abbreviations

DHS	Department of Homeland Security
TSA	Transportation Security Administration

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April 20, 2022

### Congressional Committees

Surface transportation operations—including freight and passenger rail, mass transit, and over-the-road buses<sup>1</sup>—are vulnerable to terrorism and other security threats.<sup>2</sup> These operations can be difficult to secure, in part, because their open architectures are designed to move people and goods quickly and passengers are generally not subject to vetting. In response to the attacks on September 11, 2001, the 9/11 Commission in 2004 stated that while commercial aviation remained a possible target, opportunities to do harm were as great, or greater, in surface transportation.<sup>3</sup>

To help address the risk of terrorism and other security threats to surface transportation, the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Commission Act) mandated the Secretary of Homeland Security to develop regulations for security training to prepare surface transportation employees for potential security incidents.<sup>4</sup> This provision outlines security training program requirements regarding who must be trained, topics the trainings must cover, and how transportation owner/operators are to submit to and obtain approval from the Transportation Security Administration (TSA) for their training programs.<sup>5</sup> Within the Department of Homeland Security (DHS), TSA has primary responsibility for ensuring the security of surface transportation

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<sup>1</sup>“Over-the-road” buses, also called motorcoaches, are customarily used for intercity, tour, and commuter bus services. An over-the-road bus is defined in 49 C.F.R. § 1500.3 as a bus characterized by an elevated passenger deck located over a baggage compartment.

<sup>2</sup>There have been multiple thwarted attacks against mass transit, including undetonated explosives that were found in a trash receptacle near a mass transit station in Elizabeth, New Jersey on September 18, 2016. Vehicle attacks occurred in London, England in the United Kingdom on March 22 and June 3, 2017.

<sup>3</sup>The 9/11 Commission, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (Washington, D.C.: July 2004).

<sup>4</sup>Pub. L. No. 110-53, §§ 1408, 1517, 1534, 121 Stat. 266, 409, 439, 461 (codified at 6 U.S.C. §§ 1137, 1167, 1184).

<sup>5</sup>Owner/operator refers to any person that owns, or maintains operational control over, any covered transportation infrastructure asset, facility, or system. 49 C.F.R. § 1500.3. The 9/11 Commission Act and TSA’s final rule use the term “training program” to refer to an operation’s proposal or plan for their security trainings.

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operations.<sup>6</sup> Accordingly, TSA led the development of the regulations required by the 9/11 Commission Act, and issued its final rule on March 23, 2020.<sup>7</sup>

The 9/11 Commission Act includes a provision for us to review implementation of the security training program described in TSA's final rule within 2 years of the date that it is issued.<sup>8</sup> This report describes: (1) the key regulatory requirements for the security training programs; (2) TSA's process for reviewing the security training programs and the results of those reviews; (3) the perspectives of surface transportation industry associations and selected owner/operators on the process of developing their training programs; and (4) the status of security training program implementation and TSA's plans for monitoring this implementation.

To conduct this review, we analyzed TSA guidance and other documents, including TSA's final rule on *Security Training for Surface Transportation Employees*, and a spreadsheet TSA uses to track the dates of training program submissions, reviews, and approvals.<sup>9</sup> We also interviewed TSA officials responsible for the development and implementation of the final rule, representatives from three surface transportation industry associations—one each for freight railroads, public transportation and passenger railroads, and over-the-road buses—and a non-generalizable sample of six surface transportation owner/operators subject to the training requirement. We selected these owner/operators to capture variation in transportation mode, operation size, and training program status. While this sample allowed us to learn about many important aspects of the implementation of TSA's final rule, it was designed to provide illustrative examples, not findings that would be representative of all the owner/operators that are required to implement this training program. A more detailed description of our scope and methodology is included in appendix I.

We conducted this performance audit from July 2021 to April 2022 in accordance with generally accepted government auditing standards.

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<sup>6</sup>See 49 U.S.C. § 114.

<sup>7</sup>*Security Training for Surface Transportation Employees*, 85 Fed. Reg. 16,456 (Mar. 23, 2020).

<sup>8</sup>6 U.S.C. § 1137(i). The provision is specific to TSA's public transportation security training program. Our report evaluates TSA's security training program as a whole, which applies to freight rail, public transportation and passenger rail, and over-the-road buses.

<sup>9</sup>85 Fed. Reg. 16,456 (Mar. 23, 2020).

Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

TSA's final rule establishes that the security training program requirements apply to owner/operators of certain freight railroads, public transportation agencies (including rail mass transit and bus systems), passenger railroads, and over-the-road bus companies that TSA designated to be at higher-risk of potential terrorist-related threats or security incidents. (See fig. 1.)

**Figure 1: Surface Transportation Modes Covered by the Transportation Security Administration's Security Training Requirement**



Sources: GAO analysis of Transportation Security Administration documents; photos (l to r) serjib74/Stock.Adobe.com, vacant/Stock.Adobe.com, Svetlaya/Stock.Adobe.com. | GAO-22-105315

Note: A single mode may include multiple transportation entities. For example, public transportation/passenger rail includes commuter rail, heavy and light rail, intercity rail, and mass transit buses. An over-the-road bus is a motor vehicle with an elevated passenger deck located over a separate baggage area, as customarily used for intercity, commuter, and tour bus operations.

TSA's final rule also establishes the specific security training program requirements and deadlines by which covered transportation owner/operators are to submit and revise their training programs (see table 1).

**Table 1: Key Dates and Time Frames Set Forth in the Transportation Security Administration’s (TSA) March 2020 Final Rule on Security Training for Surface Transportation Employees**

March 23, 2020	TSA issued its final rule regarding security training for surface transportation employees.
June 21, 2021	Deadline by which surface transportation owner/operators were to submit their security training programs to TSA for approval. <sup>a</sup>
Within 60 days of receiving a security training program	TSA must approve the security training program or notify the surface transportation owner/operator of required revision(s).
Within 30 days of receiving TSA’s request for revision	Surface transportation owner/operator must submit a revised security training program (if applicable).
Within 1 year of TSA’s approval of security training programs	Surface transportation owner/operators must provide initial security training to security-sensitive employees. <sup>b</sup> Recurrent training must be provided every 3 years after this initial training.

Source: GAO analysis of TSA’s Final Rule, *Security Training for Surface Transportation Employees*, and related amendments. | GAO-22-105315

<sup>a</sup>The original training program submission deadline was September 20, 2020. In response to requests from industry representatives, TSA extended this deadline to provide relief to covered parties due to the COVID-19 pandemic.

<sup>b</sup>Owner/operators have 15 months to provide initial training to employees in security-sensitive position if their security training program was submitted to TSA on or before March 22, 2021.

## Security Training Program Regulatory Requirements

Which owner/operators are required to submit security training programs to TSA?

TSA’s rule identifies the criteria it used to identify operations at higher risk of being targeted or used by terrorists.<sup>10</sup> These criteria include, for example, the shipment of hazardous materials, operation within high-density urban areas, and the extent to which schedules are publicly available. For more information on which transportation owner/operators are required to develop and implement security training programs, see appendix II.

Using these criteria, TSA identified 127 surface transportation operations as higher-risk and therefore required to develop, submit, and implement security training programs.<sup>11</sup> This includes 27 freight railroads, 47 public

<sup>10</sup>See 49 C.F.R. §§ 1580.1, 1582.1, 1584.1.

<sup>11</sup>Some of the covered operations are already providing aspects of the required security training in response to other programs and requirements. For example, federal regulations require that certain employees involved in rail transport of hazardous materials complete security awareness training, which must include how to recognize and respond to possible security threats. See 49 C.F.R. § 172.704(a)(4).

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transportation and passenger railroads, and 53 over-the-road bus operations.<sup>12</sup>

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What types of employees are required to take these security trainings?

TSA's final rule requires all security-sensitive employees, including contracted employees, within certain surface transportation operations to complete security training.<sup>13</sup> The rule defines security-sensitive employees as those who perform one or more security-sensitive job functions listed in the rule—for example, those who operate vehicles, inspect or maintain vehicles or transportation infrastructure, load or unload cargo or baggage, or provide security.<sup>14</sup> For freight rail, the rule also identifies job titles applicable to the security-sensitive job functions, such as train conductor, dispatcher, maintenance employee, or security guard.

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What topics are the security training programs required to cover?

TSA's final rule requires that training programs include information on how security-sensitive employees should prepare for, observe, assess, and respond to terrorist-related threats and other security incidents.<sup>15</sup> For example, the security trainings must teach employees to identify suspicious or dangerous items such as improvised explosive devices; appropriately report a security threat; and interact with the public and first responders at the scene of a security threat or incident. Figure 2 describes selected topics the training programs are required to address.

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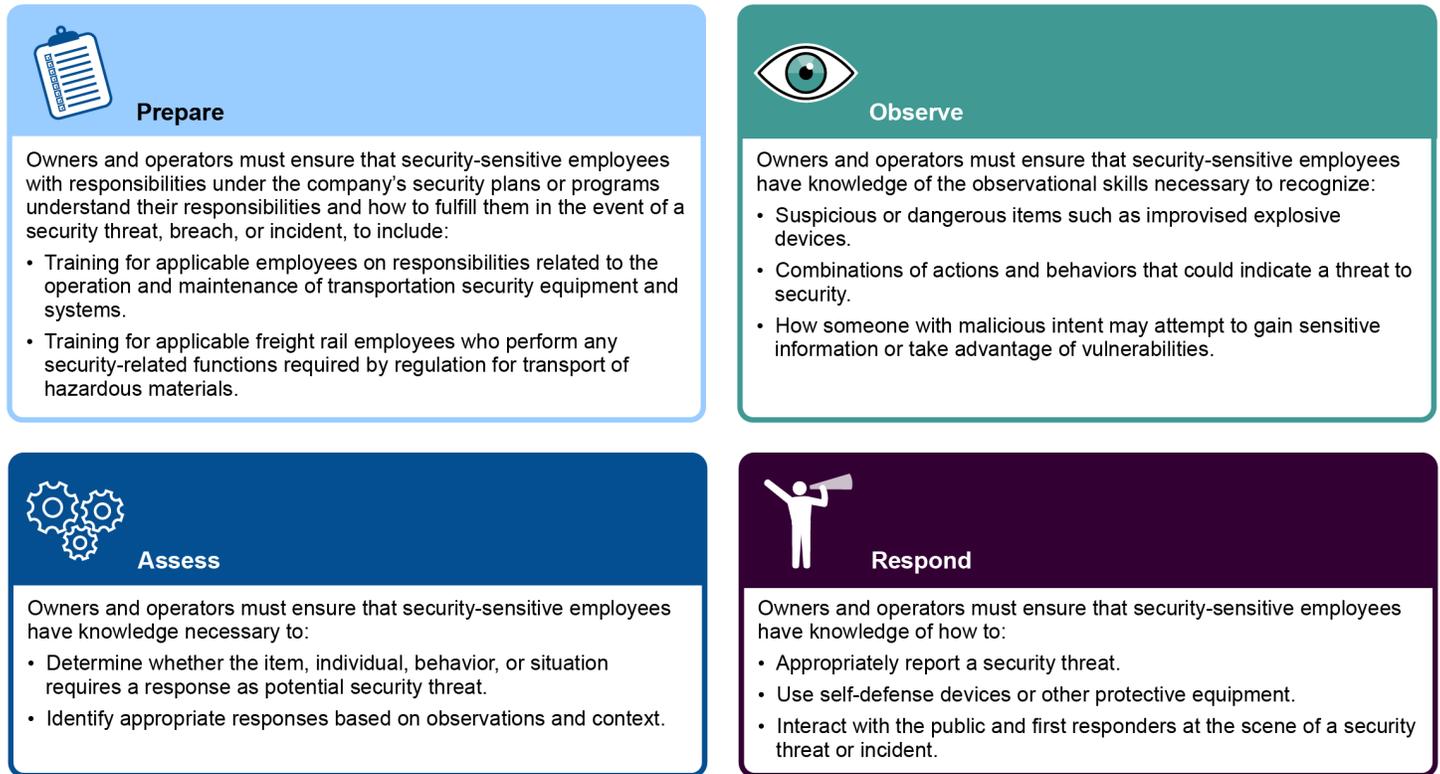
<sup>12</sup>In its final rule, TSA estimated that around 300 transportation owner/operators would be required to develop security training programs. This includes over 200 over-the-road bus owner/operators, which is more than the 53 that they subsequently identified. TSA officials said that several factors may have contributed to this overestimate, including a lack of definitive data sources identifying bus operations that meet the final rule's applicability criteria, and a reduction in the number of bus companies in operation due to business mergers and acquisitions and the COVID-19 pandemic. TSA officials said that they actively monitor the bus industry—for example, by conducting outreach with relevant industry associations—to maintain awareness of and communicate with bus operations that meet the final rule's applicability criteria.

<sup>13</sup>49 C.F.R. §§ 1580.115, 1582.115, 1584.115.

<sup>14</sup>49 C.F.R. §§ 1580.3, 1582.3, 1584.3. See also 49 C.F.R. part 1580, app. B, part 1582, app. B, part 1584, app. B.

<sup>15</sup>49 C.F.R. §§ 1580.115, 1582.115, 1584.115.

**Figure 2: Selected Topics Required for Surface Transportation Security Training Programs**



Source: GAO analysis of Final Rule, *Security Training for Surface Transportation Employees*. | GAO-22-105315

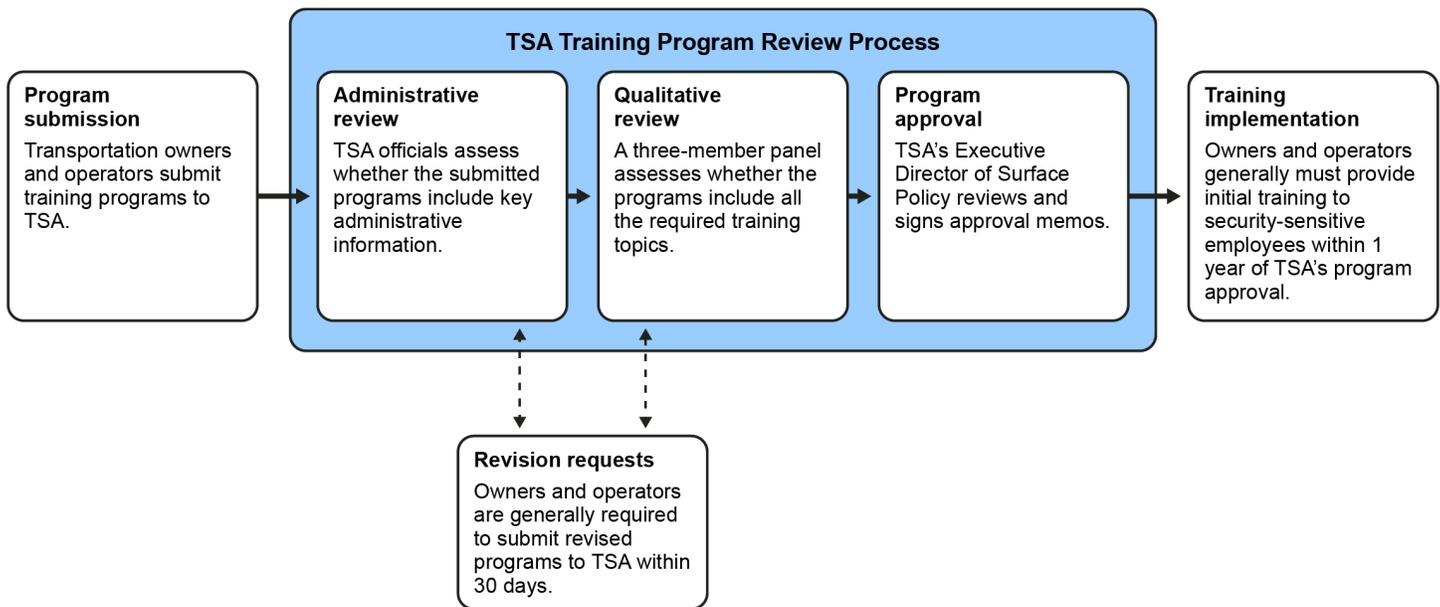
TSA officials told us that they intentionally did not prescribe a specific training program length or format so that owner/operators could determine what was most appropriate for their employees. As a result, the length and format of the training programs TSA received varied, according to TSA officials. These officials said that the submitted training programs were generally around 40 pages, though some programs were up to 200 pages. The officials further noted that several larger operations submitted training programs that included multi-media, computer-based trainings, while many smaller operations submitted programs incorporating PowerPoint slide presentations for delivery at in-person trainings.

# TSA Security Training Program Reviews and Results

What is TSA’s process for reviewing the security training programs?

According to TSA documentation and officials, TSA has a three-step process for reviewing and approving transportation operations’ security training programs. (See fig. 3.)

**Figure 3: Transportation Security Administration (TSA) Security Training Program Review Process**



Source: GAO summary of TSA information. | GAO-22-105315

**Administrative review.** TSA officials are to monitor incoming submissions and assess whether the submitted programs include key administrative information. For example, officials are to confirm that the training program includes:

- name, title, and contact information of the primary contact for the security training program;

- 
- numbers and job categories of security-sensitive employees to be trained;<sup>16</sup>
  - training implementation schedule; and
  - location where training program records will be maintained.<sup>17</sup>

If a security training program is missing any of the required administrative information, TSA officials request that the submitting owner/operator resubmit a revised program. Owner/operators generally must resubmit revised programs within 30 days of TSA's request.<sup>18</sup>

**Qualitative review.** After a security training program passes the initial administrative review, a three-member TSA panel reviews the training program to assess whether the curriculum includes all the required training topics.<sup>19</sup> TSA officials explained that panel members are to rely on their professional expertise when reviewing the training programs. TSA also developed a standardized 22-item checklist for each of the three transportation modes to assist panel members to complete their review and document findings. If a training program is missing any of the required topics, TSA officials request that the submitting owner/operator resubmit a revised program. For example, the panel asked at least one operator to revise their program to include required information on the types of security concerns that employees should report to TSA and procedures for evacuating individuals with disabilities and the elderly at the scene of a security incident. Owner/operators generally must resubmit revised programs within 30 days of TSA's request.

**Program approval.** Once a training program passes both the administrative and qualitative reviews with no further need for revision,

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<sup>16</sup>The final rule includes lists of security-sensitive job categories and corresponding job functions for each of the three transportation modes. 49 C.F.R. part 1580, app. B, part 1582, app. B, part 1584, app. B.

<sup>17</sup>49 C.F.R. §§ 1580.113, 1582.113, 1584.113.

<sup>18</sup>Although referred to as "requests," these revisions are, in effect, requirements that the owner/operator must address to obtain program approval. TSA officials told us they have generally requested owner/operators to resubmit their programs in 30 days, but in some instances TSA has provided more or less time, depending on the extent of the changes needed.

<sup>19</sup>Panelists include an official from TSA's Office of Policy, Plans, and Engagement and two officials from TSA's Surface Operations office with expertise in the mode of transportation under review. Surface Operations is the unit tasked with overseeing surface transportation operations to ensure compliance with TSA's security regulations.

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the Executive Director of TSA's Office of Policy, Plans, and Engagement, Surface Division reviews and signs a memo indicating a formal approval of the program. Following this approval, TSA sends a letter to the applicable owner/operator notifying them of TSA's approval of their training program. The owner/operator generally must provide initial training to security-sensitive employees within one year of the date of program approval.<sup>20</sup>

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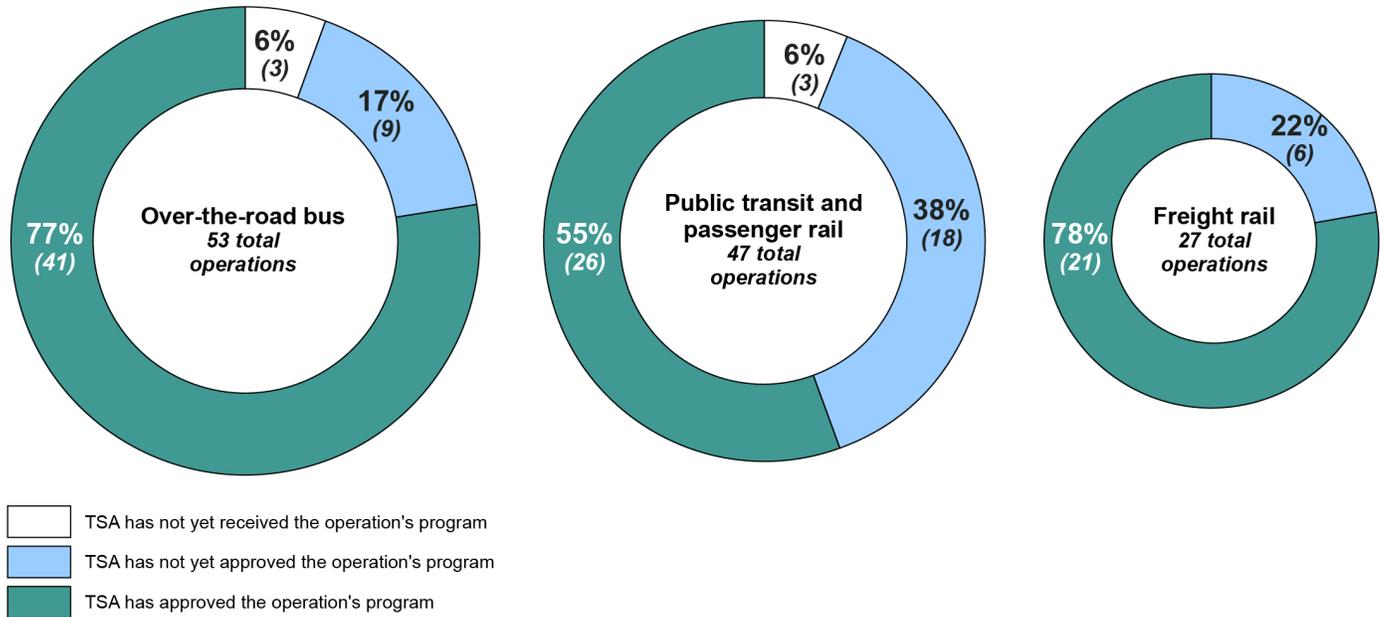
How many owner/operators have submitted programs and how many has TSA approved?

As of December 31, 2021, 95 percent of covered transportation owner/operators had submitted security training programs to TSA (121 of 127), including 27 freight railroads, 44 public transit and passenger railroads, and 50 over-the-road bus operations. TSA had approved 73 percent of these programs (88 of 121). (See fig. 4.)

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<sup>20</sup>For security training programs submitted to TSA for approval on or before March 22, 2021, if the employee is to perform a security-sensitive function on the date TSA approves the program, then initial training must be provided no later than fifteen months after the date that TSA approves the owner/operator's security training program. For security training programs submitted to TSA for approval after March 22, 2021, if the employee is to perform a security-sensitive function on the date TSA approves the program, then initial training must be provided no later than twelve months after the date that TSA approves the owner/operator's security training program. If performance of a security-sensitive job function is initiated after TSA approves the owner/operator's security training program, then initial training must be provided no later than 60 calendar days after the employee first performs the security-sensitive job function. If the security-sensitive job function is performed intermittently, then initial training must be provided no later than the 60th calendar day of employment performing a security-sensitive function, aggregated over a consecutive 12-month period. 49 C.F.R. § 1570.111.

**Figure 4: Status of Transportation Security Administration (TSA) Approval of Training Programs by Transportation Mode, as of December 2021**



Source: GAO analysis of TSA data. | GAO-22-105315

As of December 31, 2021, six of 127 owner/operators had not yet submitted security training programs to TSA. We reviewed documentation of TSA's ongoing contacts with representatives from each of these operations, which include a combination of warning notices, inspections conducted, and one-on-one meetings to clarify training program submission requirements. According to officials, TSA has opened investigations into each of these operations and established records of agreed-upon extension deadlines. They stated that these records will facilitate any enforcement actions TSA may decide to take if officials determine that these owner/operators do not intend to comply with the final rule.

TSA returned 84 percent of the training programs it received to the owner/operator for revision (102 of 121); TSA returned 57 percent of these programs more than once (58 of 102). Among the 102 programs that TSA returned for revisions, 57 were missing required administrative information and 92 did not cover all the required training topics.<sup>21</sup>

<sup>21</sup>Forty-five of these programs were missing both types of content.

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According to TSA officials, this rate of required revision aligns with the 90 percent estimate they included in the Final Regulatory Impact Analysis for this rulemaking.<sup>22</sup> Officials said that the nature of the required revisions varied, but that in general, smaller operations often did not include enough information in their programs, while several larger operations submitted ample materials from their existing security training initiatives but did not indicate how these materials fulfilled TSA's requirements. TSA officials also said they think some smaller operations did not submit enough information because they were not accustomed to preparing materials that a federal agency would review for compliance.

In most cases, TSA met the requirement to either approve the training program or notify the owner/operator of required revision(s) within 60 days of receiving the training program. Specifically, TSA completed 93 percent of its reviews within 60 days (270 of 289).<sup>23</sup> TSA officials said that some programs took longer than 60 days to review due, in part, to competing priorities for the staff involved in reviewing training programs, such as developing new cybersecurity requirements for surface transportation owner/operators.<sup>24</sup>

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To what extent have surface transportation owner/operators met required deadlines?

The majority of surface transportation owner/operators met the required deadlines for program submission and revisions, but many did not. Specifically, 41 percent (50 of 121) of owner/operators submitted their security training programs to TSA after the June 21, 2021 deadline. (See fig. 5.)

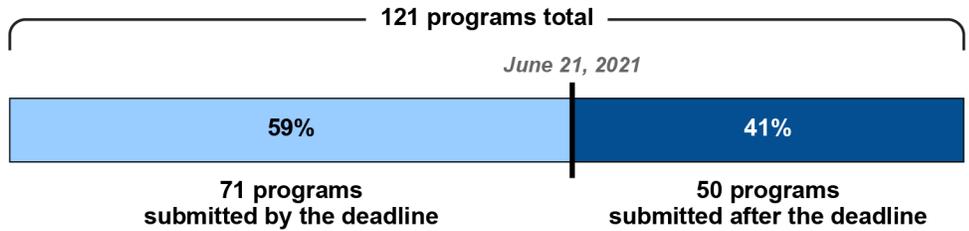
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<sup>22</sup>*Security Training Programs for Surface Transportation Employees*, Final Rulemaking: Final Regulatory Impact Analysis and Final Regulatory Flexibility Analysis, Docket No. TSA-2015-0001 (Feb. 5, 2020).

<sup>23</sup>TSA is to review each newly submitted training program within 60 days of receiving it. 49 C.F.R. § 1570.109(c)(1)). In addition to this initial review, TSA must also complete their reviews of revised programs within 60 days. § 1570.109(c)(3). Because TSA sent the majority of training programs back to owner/operators for revisions—some, more than once—the total number of TSA review periods exceeds the number of submitted training programs.

<sup>24</sup>In December 2021, TSA issued new security directives to strengthen cybersecurity in response to the ongoing threats to surface transportation systems and associated infrastructure. These directives include requirements for higher-risk freight railroads, passenger rail, and rail transit. TSA also released guidance recommending that all other lower-risk surface transportation owner/operators implement the same measures on a voluntary basis.

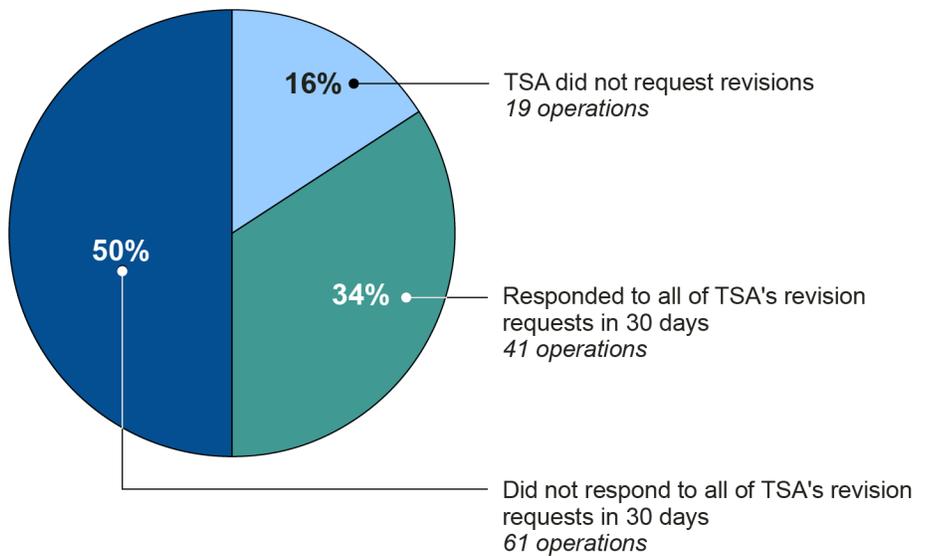
**Figure 5: Training Programs Submitted to Transportation Security Administration (TSA) Before and After Deadline, as of December 2021**



Source: GAO analysis of TSA data. | GAO-22-105315

In addition, approximately half of the owner/operators from whom TSA requested revisions (61 of 121) did not submit a revised program within the required 30-day time frame. (See fig. 6.)

**Figure 6: Security Training Programs Surface Transportation Owner/Operators Submitted to Transportation Security Administration (TSA) by Revision Time Frame, as of December 2021**



Source: GAO analysis of TSA data. | GAO-22-105315

TSA officials said that they did not immediately pursue enforcement actions or penalties when owner/operators missed the June 21, 2021 deadline or the 30-day revision time frame because they recognized that many operations experienced significant challenges relating to the COVID-19 pandemic. For example, TSA officials noted that many operations had to reduce their service schedules, which in turn reduced

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their revenue and their staff. Some bus operations, for example, had to lay off many of their staff during the pandemic, according to TSA officials. In some cases, the remaining staff had limited capacity to create a security training program because they were also responsible for implementing COVID-19 safety measures—such as preparing a pandemic safety plan and ensuring the proper use of personal protective equipment—on top of their normal job duties, according to TSA officials. In addition, TSA officials noted that staff of some smaller operations had limited experience developing training programs or interpreting federal regulations. TSA officials said they communicated with the owner/operators who did not meet these deadlines and determined that they were making satisfactory progress toward completing their security training programs within a reasonable time frame.

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## Surface Transportation Industry Association and Owner/Operator Perspectives

What are industry associations' and select owner/operators' perspectives on TSA's assistance with developing their programs?

Two surface transportation industry association representatives and six owner/operators we met with said that TSA resources—including training videos, checklists, and webinars—were generally helpful in developing the security training programs.

**Videos.** TSA developed five mode-specific videos that address many of the security training program requirements, according to TSA officials. For example, these videos provide instruction regarding how surface transportation employees should observe, assess, and respond to potential security threats. (See fig. 7.) Representatives from two of the three industry associations we met with mentioned that TSA had involved them in the process of making these videos, and one owner/operator said that this industry involvement was important to ensure the security training program was successful.<sup>25</sup> All six of the transportation owner/operators we met with said they planned to use TSA's video as part of their training program. Two owner/operators mentioned that they found these videos very helpful during their program development

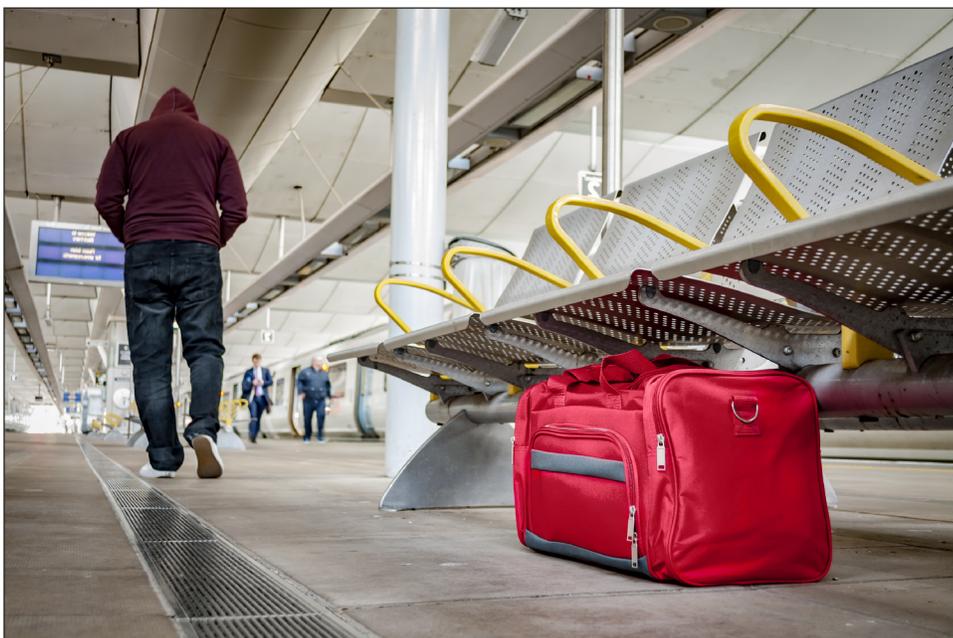
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<sup>25</sup>The third industry association we met with did not share a perspective on this issue.

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process, and a third operator said that the video was a cost-effective way to help ensure that their training program met all of TSA's requirements. One industry association representative said that smaller operations that do not already have a formalized process for security training might find the video particularly helpful.

**Figure 7: Screenshot from a Security Training Video Transportation Security Administration (TSA) Developed for Surface Transportation Owner/Operators**



Sources: TSA; Victor Moussa/stock.adobe.com. | GAO-22-105315

**Checklists.** TSA also developed checklists that outline key security training program requirements for each of the three transportation modes. TSA officials said they posted these checklists on the Homeland Security Information Network in December 2020.<sup>26</sup> TSA officials said they also routinely provided the checklists during direct communications with regulated owner/operators. One industry association representative and two of the six owner/operators we met with told us that the checklist was a helpful resource when developing their training programs. However, the industry association representative said that TSA could have provided this checklist in a more timely manner, and one owner/operator said that

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<sup>26</sup>The Homeland Security Information Network is DHS's official system for sharing Controlled Unclassified Information between federal, state, local, territorial, tribal, international, and private sector partners.

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some of the program requirements remained somewhat unclear despite the checklist. A second industry association representative said that the checklist contained more requirements than were in the final rule and that TSA revised the checklist when the association raised this concern. Representatives from the other three operations we met with did not comment specifically on TSA's checklist.<sup>27</sup>

**Webinars.** TSA officials conducted a series of webinars from June 2020 through May 2021 to help owner/operators create their training programs. According to TSA officials, they coordinated with mode-specific industry associations to organize these webinars, holding two webinars for freight rail operations, four for public transportation operations, and three for over-the-road bus operations. In addition to outlining key program requirements, some of these webinars also included information about common errors that TSA officials observed in the security training programs they received ahead of the June 21, 2021 deadline. One owner/operator said these webinars were helpful.<sup>28</sup> An industry association representative also noted that one webinar included specific and useful information regarding details of approved training programs, which provided more value than the general webinars conducted earlier.<sup>29</sup>

In addition to the training videos, checklist, and webinars, three of the owner/operators we met with stated that it would have also been helpful if TSA had provided a model training program that owner/operators could use as a reference as they developed their programs. According to TSA officials, they did not develop a model training program because they wanted to ensure that owner/operators retained maximum flexibility to develop a training program customized to the unique needs of their operations. Further, TSA officials noted that they expected many owner/operators already had security training programs in place that substantially complied with the final rule's requirements.

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<sup>27</sup>One of these owner/operators said that although the checklist was helpful, they were not aware of its availability until after they had already completed their training program.

<sup>28</sup>The remaining five owner/operators did not comment on TSA's webinars.

<sup>29</sup>The industry association representative noted that the earlier webinars for their particular industry provided more of an overview of the rule whereas a May 2021 webinar provided additional technical assistance on how to develop a training plan. The representative noted that it would have been helpful to have that type of webinar further in advance of the final June 2021 submission deadline.

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What challenges with developing the programs did associations and owner/operators report?

Industry association representatives and owner/operators we met with cited competing priorities caused by the COVID-19 pandemic as the most common challenge with developing the security training programs. According to representatives from two industry associations and one owner/operator we met with, some owner/operators found it difficult to implement new COVID-19-related measures—such as cleaning protocols and other safety procedures—while also developing a new training program. Representatives from the industry associations also noted that beyond COVID-19, other concurrent events such as natural disasters and public protests added to the challenge. In addition, two owner/operators said that over half of their staff were laid off due to the pandemic, and the remaining employees had limited time to develop a new training program. Representatives from two industry associations said that TSA was generally responsive in granting requests for extensions to the program deadlines and one owner/operator said they wished that TSA had postponed these deadlines further.

Some industry association representatives and owner/operators also cited challenges submitting their training programs to TSA through the Homeland Security Information Network—one of the mechanisms for submitting training programs.<sup>30</sup> Specifically, one industry association representative and one transportation owner/operator said that owner/operators lost access to the Homeland Security Information Network just prior to the program submission deadline. TSA officials said that the network's unavailability occurred due to a system upgrade outside of their control, and that they have not experienced similar issues since that temporary outage. TSA officials also noted that transportation owner/operators had other options for submitting their training programs, such as email and mail.

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What are associations' and owner/operators' perspectives on the benefits and costs of the programs?

One industry association representative and all six transportation owner/operators we spoke with said that security training, in general, is beneficial and important, and four of the six owner/operators said TSA's security training program will directly benefit their operation. The other two said that while security training is important, they felt that they already conducted sufficient security training prior to TSA's new requirements. One industry association representative and four owner/operators also

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<sup>30</sup>TSA officials said they provided owner/operators with the option to submit their training programs through the network because many of the training materials contained sensitive information and because it would permit the transmittal of large files. TSA officials told us they have received the majority of owner/operator submissions by email, not through the network.

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said that security training is important because it can help prevent attacks, and two mentioned specific prior attacks that surface transportation employees prevented in part because of related security training they had received. For example, according to an industry association representative, in 2013, a rail conductor in Toronto observed and reported suspicious persons in a rail yard. This observation and reporting led to the disruption of a planned attack.<sup>31</sup>

All six owner/operators we spoke with said that their operations would not incur any significant costs relating to implementing TSA's security training requirements. Two said their operations would incur some costs for backfilling the employees when they participate in the training; one said they might also need to provide overtime pay for these employees. However, these owner/operators did not describe these costs as significant.

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## Security Training Program Implementation and TSA's Monitoring Plans

To what extent have owner/operators begun providing the required security training?

With regard to all 127 covered owner/operators that were required to implement this training, TSA officials and the industry association representatives we met with told us they did not know how many of the owner/operators had started to implement the security training. They noted that owner/operators had one year from TSA's approval date to train employees, and it had not yet been a year since TSA began approving the programs. Representatives from one industry association expected that many owner/operators—particularly, bus owner/operators—would wait until close to the one-year deadline to complete the training because they are focused on addressing other priorities such as employee shortages and low morale due to the COVID-19 pandemic.

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<sup>31</sup>This incident is briefly referenced in one of our prior reports. See GAO, *Transportation Security Information Sharing: Stakeholder Satisfaction Varies; TSA Could Take Additional Actions to Strengthen Efforts*, [GAO-14-506](#) (Washington, D.C.: June 24, 2014).

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Among the six owner/operators that we interviewed, two said that all of their security-sensitive employees had completed the operation's TSA-approved security training program, as of January 2022. Another owner/operator had started providing security training to some of their employees, and the remaining three had not yet begun implementing their TSA-approved security training program. Two of these owner/operators told us they modified their training programs after receiving TSA's approval so they could provide training via computers rather than in person, to minimize the risk of COVID-19 transmission. None of the six owner/operators expressed concerns about meeting the one-year training implementation deadline. In addition, all six of the owner/operators we met with said they were already providing aspects of the required security training as part of other federal programs and requirements.

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How does TSA plan to monitor implementation of the security training programs?

Officials from TSA's Surface Operations office told us that surface transportation security inspectors plan to inspect all of the operations that must comply with TSA's final rule. In accordance with the rule, TSA officials said that inspections will begin approximately one year from the date that TSA approved each operation's training program. TSA officials noted that the staggered timing of the TSA program approvals should help reduce any potential inspector staffing constraints.<sup>32</sup> TSA officials also noted that they might be able to combine inspections of this security training program with inspections relating to other TSA regulations. TSA officials said they will provide written notice to surface transportation owner/operators prior to conducting inspections so that owner/operators have time to prepare the appropriate documentation and can avoid scheduling conflicts.

According to these officials, the purpose of these inspections will be to assess whether owner/operators implemented all the requirements of the security training programs, including training all security-sensitive employees within one year of TSA's approval of the operation's training program. According to TSA's documented inspection plans, inspectors are to verify this by reviewing operations' training records, interviewing relevant personnel such as security coordinators and security-sensitive

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<sup>32</sup>TSA officials told us they did not anticipate needing to hire additional inspectors to complete the security training inspections. As of January 2022, TSA officials told us they employed 194 transportation security inspectors.

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employees, and observing whether security equipment is operating and properly maintained.<sup>33</sup>

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## Agency Comments

We provided a draft of this report to DHS for review and comment. DHS did not provide formal written comments, but did provide technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, and other interested parties. In addition, the report will be available at no charge on the GAO website at <https://www.gao.gov/>.

If you or your staff have any questions about this report, please contact me at (202) 512-8461 or [ShermanT@gao.gov](mailto:ShermanT@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Tina Won Sherman  
Director, Homeland Security and Justice

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<sup>33</sup>According to TSA officials, applicable training records include lesson plans, training logs, and results of any post-training knowledge tests, among other documentation.

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United States Senate

The Honorable Gary C. Peters  
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# Appendix I: Objectives, Scope, and Methodology

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This report addresses the following objectives:

1. What are the key regulatory requirements relating to the security training programs?
2. What is the Transportation Security Administration's (TSA) process for reviewing the security training programs and the results of those reviews?
3. What are the perspectives of surface transportation industry associations and selected owner/operators on the process of developing their security training programs?
4. What is the status of security training program implementation and TSA's plans for monitoring this implementation?

To describe the regulatory requirements relating to the security training programs, we reviewed the Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Commission Act) and TSA's final rule on *Security Training for Surface Transportation Employees*.<sup>1</sup> To address this and other researchable questions, we interviewed officials from TSA's Office of Policy, Plans, and Engagement who are responsible for policy development and training program reviews.

To describe TSA's process for reviewing the security training programs and the results of those reviews, we analyzed TSA documents including program review procedures; correspondence with owner/operators; examples of findings from the TSA program review panel; three examples of approved training programs—one for each of the transportation modes—and a spreadsheet that TSA uses to track the dates of training program submissions, reviews, and approvals. We analyzed the data in the spreadsheet and compared key dates to required time frames for program submissions, reviews, and applicable revisions identified in TSA's final rule and the 9/11 Commission Act. We also analyzed the data in the spreadsheet to determine the extent that submitted programs required revisions and reviewed examples of specific revisions TSA requested. To assess the reliability of these data, we conducted testing to identify any missing data, validated a selection of the data with supporting documentation, and interviewed knowledgeable agency officials. We found the data to be sufficiently reliable for describing the status and timeline of surface transportation owner/operators' security training

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<sup>1</sup>Pub. L. No. 110-53, §§ 1408, 1517, 1534, 121 Stat. 266, 409, 439, 461 (codified at 6 U.S.C. §§ 1137, 1167, 1184). 85 Fed. Reg. 16,456 (Mar. 23, 2020).

program submissions to TSA and TSA's review and approval of those programs.

To obtain owner/operators' perspectives on the process of developing their security training programs and the status of training program implementation, we interviewed representatives from three industry associations representing each of the three modes of transportation covered by the final rule—one each for freight railroads, public transportation and passenger railroads, and over-the-road buses.<sup>2</sup> We also interviewed a non-generalizable sample of six surface transportation owner/operators. These interviews included two owner/operators in each of three modes covered by the rule—freight railroads, public transportation and passenger railroads, and over-the-road buses. We selected owner/operators to interview to capture variation in operation size and status of training program revisions and approval, among other characteristics. While this sample allowed us to learn about many important aspects of the implementation of TSA's final rule, it was designed to provide illustrative examples, not findings that would be representative of all the owner/operators that are required to implement this training program.

We obtained information from these owner/operators regarding their perspectives on the costs and benefits of their training programs; any assistance—e.g., templates, checklists, and guidance—that TSA provided to help them develop their programs; the value of this assistance; and any challenges encountered when developing or implementing their training programs. We also reviewed a selection of the materials that TSA developed, including the training videos, checklists, and a fact sheet summarizing the main requirements from the final rule.

To describe TSA's plans for monitoring the implementation of the security training programs, we reviewed documentation of TSA's plans and interviewed officials from TSA's Security Operations office who are responsible for compliance inspections of security training programs administered by transportation owner/operators. We also reviewed documentation of TSA's efforts to monitor the progress of owner/operators that had not yet submitted training programs and any

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<sup>2</sup>Specifically, we interviewed the American Public Transportation Association, the Association of American Railroads, and the United Motorcoach Association.

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**Appendix I: Objectives, Scope, and  
Methodology**

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related TSA inspection activities, including the issuance of warning notices to owner/operators for noncompliance.

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# Appendix II: Surface Transportation Operations Required to Implement Security Training

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This appendix outlines the Transportation Security Administration's (TSA) applicability criteria for designation of higher-risk surface transportation operations that are required to develop security training programs. These criteria are set forth in TSA's March 23, 2020 Final Rule:<sup>1</sup>

- **Freight Railroads.** A freight railroad owner/operator must provide security training if it is (a) designated as Class I;<sup>2</sup> (b) transports one or more Rail Security-Sensitive Materials in a High-Threat Urban Area;<sup>3</sup> or (c) hosts a higher-risk rail operation.<sup>4</sup>
- **Public Transportation and Passenger Railroads.** A public transportation agency or passenger railroad must provide security training if it is (a) one of the 46 identified public transportation and passenger railroad systems listed in 49 C.F.R. part 1582, Appendix A; (b) Amtrak; or (c) hosts a higher-risk rail operation.<sup>5</sup> DHS consistently identifies the eight regions where the 46 systems operate as having the highest transit-specific risk (see table 2).
- **Over-the-Road Buses.** An over-the-road bus owner/operator must provide security training if it provides fixed-route service to, through, or from any of 10 areas identified in 49 C.F.R. part 1584, Appendix A (see table 3).<sup>6</sup>

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<sup>1</sup>85 Fed. Reg. 16,456 (Mar. 23, 2020).

<sup>2</sup>The Surface Transportation Board defines a Class I railroad as one with annual operating revenue in excess of \$447,621,226 (adjusted for inflation). There are 7 class I railroads including: BNSF Railway Co., Canadian National Railway (Grand Trunk Corporation), Canadian Pacific (Soo Line Corporation), CSX Transportation, Kansas City Southern Railway Co., Northern Southern Combined Railroad Subsidiaries, and Union Pacific Railroad Company.

<sup>3</sup>Rail security-sensitive materials are defined as rail cars containing certain amounts of certain explosive materials, tank cars containing certain materials or gases poisonous by inhalation, and rail cars containing a certain quantity of a radioactive material. 49 C.F.R. § 1580.3. High-threat urban areas are listed in 49 C.F.R. part 1580, app. A.

<sup>4</sup>49 C.F.R. § 1580.101.

<sup>5</sup>§ 1582.101.

<sup>6</sup>§ 1584.101.

**Appendix II: Surface Transportation  
Operations Required to Implement Security  
Training**

**Table 2. List of Public Transportation and Passenger Railroads Systems Required to Implement the Transportation Security Administration’s (TSA) Surface Transportation Security Training Program**

<b>State</b>	<b>Urban area</b>	<b>Transportation system</b>
CA	Bay Area	Alameda-Contra Costa Transit District (AC Transit) Altamont-Corridor Express (ACE) City and County of San Francisco (San Francisco Bay Area Rapid Transit District - BART) Central Contra Costa Transit Authority Golden Gate Bridge, Highway and Transportation District Peninsula Corridor Joint Powers Board (Caltrain) San Francisco Municipal Railway (MUNI) (San Francisco Municipal Transportation Agency) San Mateo County Transit District (SamTrans) Santa Clara Valley Transportation Authority (VTA) Transbay Joint Powers Authority
	Greater Los Angeles Area (Los Angeles/Long Beach and Anaheim/ Santa Ana Urban Areas)	City of Los Angeles Department of Transportation (LADOT) Foothill Transit Long Beach Transit (LBT) Los Angeles County Metropolitan Transportation Authority City of Montebello (Montebello Bus Lines) Omnitrans (OMNI) Orange County Transportation Authority (OCTA) City of Santa Monica (Santa Monica’s Big Blue Bus) Southern California Regional Rail Authority (Metrolink)
DC/MD/VA	Greater National Capital Region (National Capital Region and Baltimore Urban Areas)	Arlington County, Virginia (Arlington Transit) City of Alexandria (Alexandria Transit Company) (Dash) Fairfax County Department of Transportation—Fairfax Connector Bus System Maryland Transit Administration (MTA) Montgomery County Department of Transportation (Ride-On) Potomac and Rappahannock Transportation Commission Prince George’s County Department of Public Works and Transportation (The Bus) Virginia Railway Express (VRE) Washington Metropolitan Area Transit Authority (WMATA)
GA	Atlanta Area	Metropolitan Atlanta Rapid Transit Authority (MARTA) Georgia Regional Transportation Authority (within State Road and Tollway Authority (SRTA)
IL/IN	Chicago Area	Chicago Transit Authority (CTA) Northeast Illinois Regional Commuter Railroad Corporation (Metra/NIRCRC) Northern Indiana Commuter Transportation District (NICTD) PACE Suburban Bus Company

**Appendix II: Surface Transportation  
Operations Required to Implement Security  
Training**

<b>State</b>	<b>Urban area</b>	<b>Transportation system</b>
MA	Boston Area	Massachusetts Bay Transportation Authority (MBTA)
NY/NJ/CT	New York City/Northern New Jersey Area  (New York City and Jersey City/Newark Urban Areas)	Connecticut Department of Transportation (CDOT) Connecticut Transit (Hartford Division and New Haven Divisions of CTtransit) Metropolitan Transportation Authority (All Agencies) New Jersey Transit Corp. (NJT) New York City Department of Transportation Port Authority Trans-Hudson Corporation (Port Authority of New York and New Jersey) Westchester County Department of Transportation Bee-Line System (The Bee-Line System)
PA/NJ	Philadelphia Area	Delaware River Port Authority (DRPA)-Port Authority Transit Corporation (PATCO) Delaware Transit Corporation (DTC) New Jersey Transit Corp. (NJT) (covered under NY) Pennsylvania Department of Transportation Southeastern Pennsylvania Transportation Authority (SEPTA)

Source: TSA's Final Rule, *Security Training for Surface Transportation Employees*. | GAO-22-105315

**Table 3. List of Urban Areas Where Certain Over-the-Road Bus Operations Are Required to Implement the Transportation Security Administration's (TSA) Surface Transportation Security Training Programs**

<b>State</b>	<b>Urban area</b>	<b>Geographic areas</b>
CA	Anaheim/ Los Angeles/ Long Beach/ Santa Ana Areas San Diego Area San Francisco Bay Area	Los Angeles and Orange Counties  San Diego County Alameda, Contra Costa, Marin, San Francisco, and San Mateo Counties
DC (VA, MD, and WV)	National Capital Region	District of Columbia; Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's, MD; Counties of Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, and Warren County, VA; Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park City, VA; Jefferson County, WV
IL/IN	Chicago Area	Counties of Cook, DeKalb, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will, IL; Counties of Jasper, Lake, Newton, and Porter, IN; Kenosha County, WI
MA	Boston Area	Counties of Essex, Norfolk, Plymouth, Suffolk, Middlesex, MA; Counties of Rockingham and Strafford, NH
NY (NJ and PA)	New York City/ Jersey City/ Newark Area	Counties of Bronx, Kings, Nassau, New York, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester, NY; Counties of Bergen, Essex, Hudson, Hunterdon, Ocean, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, and Union, NJ; Pike County, PA

**Appendix II: Surface Transportation  
Operations Required to Implement Security  
Training**

<b>State</b>	<b>Urban area</b>	<b>Geographic areas</b>
PA (DE and NJ)	Philadelphia Area/ Southern New Jersey Areas	Counties of Burlington, Camden, and Gloucester, NJ; Counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia, PA; New Castle County, DE; Cecil County, MD; Salem County, NJ
TX	Dallas Fort Worth/ Arlington Area	Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall, Johnson, Parker, Tarrant, and Wise Counties, TX
	Houston Area	Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, and Waller Counties, TX

Source: TSA's Final Rule, *Security Training for Surface Transportation Employees*. | GAO-22-105315

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

Tina Won Sherman, at (202) 512-8461 or [ShermanT@gao.gov](mailto:ShermanT@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Claudia Becker (Assistant Director), Ryan Lambert (Analyst-in-Charge), Eric Hauswirth, Tracey King, Amanda Miller, Liz Poulsen, and Adam Vogt made key contributions to this report.

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