

“(c) REQUIREMENTS.—In carrying out the pilot program required by subsection (a)(1), the Secretary shall—

“(1) ensure that—

“(A) not more than 10 entities described in paragraph (1) of subsection (b) participate in the pilot program; and

“(B) not more than 10 entities described in paragraph (2) of that subsection participate in the program;

“(2) provide for the participation of those entities on a voluntary basis;

“(3) continue the program for a period of not less than one year after the date on which the Secretary publishes the Federal Register notice required by subsection (a)(2); and

“(4) terminate the pilot program not more than 5 years after that date.

“(d) REPORT REQUIRED.—Not later than 180 days after the termination of the pilot program under subsection (c)(4), the Secretary shall submit to the appropriate congressional committees a report on the findings of, and any recommendations arising from, the pilot program concerning the participation in CTPAT of entities described in subsection (b), including an assessment of participation by those entities.

“SEC. 4. REPORT ON EFFECTIVENESS OF CTPAT.

“(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Oct. 1, 2024], the Comptroller General of the United States shall submit to the appropriate congressional committees a report assessing the effectiveness of CTPAT.

“(b) ELEMENTS.—The report required by subsection (a) shall include the following:

“(1) An analysis of—

“(A) security incidents in the cargo supply chain during the 5-year period preceding submission of the report that involved criminal activity, including drug trafficking, human smuggling, commercial fraud, or terrorist activity; and

“(B) whether those incidents involved participants in CTPAT or entities not participating in CTPAT.

“(2) An analysis of causes for the suspension or removal of entities from participating in CTPAT as a result of security incidents during that 5-year period.

“(3) An analysis of the number of active CTPAT participants involved in one or more security incidents while maintaining their status as participants.

“(4) Recommendations to the Commissioner of U.S. Customs and Border Protection for improvements to CTPAT to improve prevention of security incidents in the cargo supply chain involving participants in CTPAT.

“SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.

“No additional funds are authorized to be appropriated for the purpose of carrying out this Act.”

### § 962. Eligible entities

Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C-TPAT.

(Pub. L. 109-347, title II, §212, Oct. 13, 2006, 120 Stat. 1909.)

### § 963. Minimum requirements

An applicant seeking to participate in C-TPAT shall—

(1) demonstrate a history of moving cargo in the international supply chain;

(2) conduct an assessment of its supply chain based upon security criteria established by the

Secretary, acting through the Commissioner, including—

(A) business partner requirements;

(B) container security;

(C) physical security and access controls;

(D) personnel security;

(E) procedural security;

(F) security training and threat awareness; and

(G) information technology security;

(3) implement and maintain security measures and supply chain security practices meeting security criteria established by the Commissioner; and

(4) meet all other requirements established by the Commissioner, in consultation with the Commercial Operations Advisory Committee.

(Pub. L. 109-347, title II, §213, Oct. 13, 2006, 120 Stat. 1909.)

### § 964. Tier 1 participants in C-TPAT

#### (a) Benefits

The Secretary, acting through the Commissioner, shall offer limited benefits to a Tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high-risk threshold established by the Secretary.

#### (b) Guidelines

Not later than 180 days after October 13, 2006, the Secretary, acting through the Commissioner, shall update the guidelines for certifying a C-TPAT participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and extensive documentation review.

#### (c) Timeframe

To the extent practicable, the Secretary, acting through the Commissioner, shall complete the Tier 1 certification process within 90 days of receipt of an application for participation in C-TPAT.

(Pub. L. 109-347, title II, §214, Oct. 13, 2006, 120 Stat. 1910.)

### § 965. Tier 2 participants in C-TPAT

#### (a) Validation

The Secretary, acting through the Commissioner, shall validate the security measures and supply chain security practices of a Tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-site assessments at appropriate foreign locations utilized by the Tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a Tier 1 participant.

#### (b) Benefits

The Secretary, acting through the Commissioner, shall extend benefits to each C-TPAT participant that has been validated as a Tier 2 participant under this section, which may include—

- (1) reduced scores in the Automated Targeting System;
- (2) reduced examinations of cargo; and
- (3) priority searches of cargo.

**(c) Guidelines**

Not later than 180 days after October 13, 2006, the Secretary, acting through the Commissioner, shall develop a schedule and update the guidelines for validating a participant's security measures and supply chain security practices under this section.

(Pub. L. 109-347, title II, §215, Oct. 13, 2006, 120 Stat. 1910.)

**§ 966. Tier 3 participants in C-TPAT**

**(a) In general**

The Secretary, acting through the Commissioner, shall establish a third tier of C-TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a Tier 2 participant in C-TPAT under section 965 of this title.

**(b) Criteria**

The Secretary, acting through the Commissioner, shall designate criteria for validating a C-TPAT participant as a Tier 3 participant under this section. Such criteria may include—

- (1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 965 of this title for validating a C-TPAT participant as a Tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;
- (2) submission of additional information regarding cargo prior to loading, as determined by the Secretary;
- (3) utilization of container security devices, technologies, policies, or practices that meet standards and criteria established by the Secretary; and
- (4) compliance with any other cargo requirements established by the Secretary.

**(c) Benefits**

The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C-TPAT participant that has been validated as a Tier 3 participant under this section, which may include—

- (1) the expedited release of a Tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;
- (2) further reduction in examinations of cargo;
- (3) priority for examinations of cargo; and
- (4) further reduction in the risk score assigned pursuant to the Automated Targeting System; and
- (5) inclusion in joint incident management exercises, as appropriate.

**(d) Deadline**

Not later than 2 years after October 13, 2006, the Secretary, acting through the Commis-

sioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated Tier 3 participants pursuant to subsection (c).

(Pub. L. 109-347, title II, §216, Oct. 13, 2006, 120 Stat. 1910.)

**§ 967. Consequences for lack of compliance**

**(a) In general**

If at any time a C-TPAT participant's security measures and supply chain security practices fail to meet any of the requirements under this part, the Commissioner may deny the participant benefits otherwise available under this part, in whole or in part. The Commissioner shall develop procedures that provide appropriate protections to C-TPAT participants before benefits are revoked. Such procedures may not limit the ability of the Commissioner to take actions to protect the national security of the United States.

**(b) False or misleading information**

If a C-TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this part, the Commissioner shall suspend or expel the participant from C-TPAT for an appropriate period of time. The Commissioner, after the completion of the process under subsection (c), may publish in the Federal Register a list of participants who have been suspended or expelled from C-TPAT pursuant to this subsection, and may make such list available to C-TPAT participants.

**(c) Right of appeal**

**(1) In general**

A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

**(2) Appeals of other decisions**

A C-TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

(Pub. L. 109-347, title II, §217, Oct. 13, 2006, 120 Stat. 1911.)

**§ 968. Third party validations**

**(a) Plan**

The Secretary, acting through the Commissioner, shall develop a plan to implement a 1-year voluntary pilot program to test and assess the feasibility, costs, and benefits of using third party entities to conduct validations of C-TPAT participants.

**(b) Consultations**

Not later than 120 days after October 13, 2006, after consulting with private sector stakeholders, including the Commercial Operations