

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 par-

ticipant 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 Commissioner, 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.