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§ 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 Advisory Committee, the Secretary shall submit a report to the appropriate congressional committees on the plan described in subsection (a).

(c) Pilot program

(1) In general

Not later than 1 year after the consultations described in subsection (b), the Secretary shall carry out the 1-year pilot program to conduct validations of C–TPAT participants using third party entities described in subsection (a).

(2) Authority of the Secretary

The decision to validate a C–TPAT participant is solely within the discretion of the Secretary, or the Secretary's designee.

(d) Certification of third party entities

The Secretary shall certify a third party entity to conduct validations under subsection (c) if the entity—

(1) demonstrates to the satisfaction of the Secretary that the entity has the ability to perform validations in accordance with standard operating procedures and requirements designated by the Secretary; and

(2) agrees—

(A) to perform validations in accordance with such standard operating procedures and requirements (and updates to such procedures and requirements); and

(B) to maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary; and

(3) signs an agreement to protect all proprietary information of C–TPAT participants with respect to which the entity will conduct validations.

(e) Information for establishing limits of liability insurance

A third party entity seeking a certificate under subsection (d) shall submit to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under this Act.

(f) Additional requirements

The Secretary shall ensure that—

(1) any third party entity certified under this section does not have—

(A) any beneficial interest in or any direct or indirect control over the C–TPAT participant for which the validation services are performed; or

(B) any other conflict of interest with respect to the C–TPAT participant; and

(2) the C–TPAT participant has entered into a contract with the third party entity under which the C–TPAT participant agrees to pay all costs associated with the validation.

(g) Monitoring

(1) In general

The Secretary shall regularly monitor and inspect the operations of a third party entity conducting validations under subsection (c) to ensure that the entity is meeting the minimum standard operating procedures and requirements for the validation of C–TPAT participants established by the Secretary and all other applicable requirements for validation services.

(2) Revocation

If the Secretary determines that a third party entity is not meeting the minimum standard operating procedures and require-