

§ 122.181

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(c) *Notice of decision.* The Assistant Commissioner, Office of Field Operations, shall notify the participating carrier in writing of the decision concerning continued participation in the program.

(d) *Use of uniform criteria.* When making any determination regarding a carrier's participation or continuation in the ACSPP, the Assistant Commissioner, Office of Field Operations, shall employ a uniform standard of performance and evaluation.

[T.D. 91-25, 56 FR 12347, Mar. 25, 1991, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

Subpart S—Access to Customs Security Areas

SOURCE: T.D. 90-82, 55 FR 42557, Oct. 22, 1990, unless otherwise noted.

§ 122.181 Definition of Customs security area.

For purposes of this section, the term "Customs security area" means the Federal inspection services area at any airport accommodating international air commerce designated for processing passengers, crew, their baggage and effects arriving from foreign countries, as well as the aircraft deplaning and ramp area and other restricted areas designated by the port director. These areas will be posted as restricted to the extent possible and are established for the purpose of prohibiting unauthorized entries or contact with persons or objects.

§ 122.182 Security provisions.

(a) *Identification cards required.* With the exception of all Federal and uniformed State and local law enforcement personnel, all persons located at, operating out of, or employed by any airport accommodating international air commerce or its tenants or contractors, including air carriers, who have unescorted access to the Customs security area, must openly display or produce upon demand an approved identification card, strip, or seal issued by Customs. The approved identification card, strip, or seal shall be in the possession of the person in whose name it is issued whenever the person is in

the Customs security area. The identification card, strip or seal remains the property of Customs, and any bearer must immediately surrender it upon demand by any authorized Customs officer.

(b) *Employers responsibility and liability.* Employers operating in Customs airport security areas shall advise all employees of the provisions of the Customs regulations relative to those areas, require employees to familiarize themselves with those provisions and insure employee compliance. The employer shall also advise the port director of any changes of employment pursuant to § 122.182(g). The failure to comply with these regulations shall be considered a default of the conditions of the employer's bond, as hereafter specified, and shall make the employer liable for liquidated damages as specified in its bond.

(c) *Application and bond.* An application for an approved identification card, strip, or seal, as required by this section, shall be filed by the applicant with the port director on Customs Form 3078. The application requirement applies to all employees required to display an approved identification card by this section, regardless of the length of their employment. The application shall be supported by the bond of the applicant's employer or principal on Customs Form 301 containing the bond conditions set forth in §§ 113.62, 113.63, or 113.64 of this chapter, relating to importers or brokers, custodians of bonded merchandise, or international carriers. If the applicant's employer is not the principal on a Customs bond on Customs Form 301 for one or more of the activities stated above, the application shall be supported by an Airport Customs Security Area Bond, as set forth in appendix A of part 113 of this chapter. This bond may be waived, however, for State or local government-related agencies in the discretion of the port director. Waiver of this bond does not relieve any such agency or its employees from compliance with all other provisions of this subpart.

(d) *Background check.* For employees hired on or after November 1, 1985, an authorized official of the employer

shall attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check shall include, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For employees hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that, to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The port director may require the applicant to submit fingerprints on form FD-258 either at the time of, or following, the filing of the application. If required, the port director shall inform the applicant of the current Federal Bureau of Investigation user fee for conducting fingerprint checks and the Customs administrative processing fee, the total of which must be tendered with the application. Proof of citizenship or authorized residency and a photograph may also be required. Additionally, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained for a period of one year following cessation of employment and made available upon request of the port director.

(e) *Law Enforcement officers and other governmental officials.* Law enforcement officers and other Federal, State, or local officials whose official duties require access to the Customs security area may request from the port director the issuance of an approved identification card, strip, or seal. They need not make application nor submit to background checks for security area access. An Airport Customs Security Area Bond is not required.

(f) *Replacement identification.* A new identification card, strip or seal may be obtained from the port director in the following circumstances, without the completion of an additional appli-

cation, except as determined by the port director in his discretion:

(1) A change in employee name or address;

(2) A change in the name or ownership of the employing company;

(3) A change in employer or airport authority identification card format; or

(4) Loss or theft of the identification card, strip, or seal (see §122.185 of this part).

(g) *Surrender of cards.* Where the employee no longer requires access to the Customs security area for an extended period of time at the airport of issuance due to a change in duties, termination of employment, or other reason, the employer shall notify the port director in writing, at the time of such change, and shall return the identification card, strip, or seal to Customs. The notification shall include information regarding the disposition of the approved identification card, strip, or seal of the employee who no longer requires access. A summary of such information shall be filed quarterly or at such shorter intervals as established by the port director. If the employee returns to duties in the Customs security area at the airport for the same employer within 1 year, a Customs Form 3078, as required in §122.182(c), need not be submitted.

[T.D. 90-82, 55 FR 42557, Oct. 22, 1990, as amended by T.D. 93-18, 58 FR 15773, Mar. 24, 1993]

§ 122.183 Denial of access.

(a) *Grounds for denial.* An approved identification card, strip, or seal shall not be issued to any person whose employment necessitates access to the Customs security area and whose access will, in the judgment of the port director, endanger the revenue or the security of the area. Grounds for denial of access shall include but are not limited to:

(1) Any cause which would justify suspension or revocation of the identification card, strip, or seal under the provisions of §122.187 of this Part; or

(2) Evidence of a pending or past investigation which establishes criminal, or dishonest conduct, or a verified record of such conduct.