

## § 112.42

the port director, endanger the revenue.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 99-64, 64 FR 43266, Aug. 10, 1999]

### § 112.42 Application for identification card.

An application for an identification card required pursuant to § 112.41 of this part, shall be filed personally by the applicant with the port director on Customs Form 3078 together with two 1¼" × 1¼" color photographs of the applicant. The fingerprints of the applicant shall also be required on form FD 258 or electronically at the time of filing the application. 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. The application may be referred for investigation and report concerning the character of the applicant.

[T.D. 93-18, 58 FR 15772, Mar. 24, 1993, as amended by T.D. 01-14, 66 FR 8767, Feb. 2, 2001]

### § 112.43 Form of identification card.

The identification card shall be issued on Customs Form 3873 and shall not be valid unless signed by the employee and a Customs officer and the U.S. Customs seal is impressed thereon. The holder shall encase the card in protective transparent plastic so that both sides are clearly visible.

### § 112.44 Changes in information on identification cards.

Where there has been a change in the name, address, or employer of the holder, the card shall be promptly submitted by the cardholder to the port director, supported by application in proper form indicating the change so that it may be officially changed on the Customs records. New cards shall be issued when necessary.

### § 112.45 Surrender of identification cards.

The identification card shall be surrendered by the holder or licensee to the port director when:

## 19 CFR Ch. I (4-1-02 Edition)

(a) The employee holder leaves the employment of the licensed cartman or lighterman;

(b) The cartman or lighterman bond or license is terminated; or

(c) The card is revoked or suspended pursuant to § 112.48.

### § 112.46 Report of loss or theft.

The loss or theft of an identification card shall be promptly reported by the cardholder to the port director.

### § 112.47 Wrongful presentation.

If an identification card is presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated.

### § 112.48 Revocation or suspension of identification cards.

(a) *Grounds for revocation or suspension of identification cards.* An identification card issued pursuant to this part may be revoked or suspended by the port director for any of the following grounds:

(1) Such card was obtained through fraud or the misstatement of a material fact;

(2) The holder of such card is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(3) The holder permits the card to be used by any other person, or refuses to produce it upon the proper demand of a Customs officer; or

(4) The holder fails to abide by the rules and regulations prescribed in § 112.45 and part 125 of this chapter.

(b) *Notice of revocation or suspension.* The port director shall suspend or revoke an identification card by serving notice of the proposed action in writing upon the holder of the card. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the card and shall be final and conclusive upon the holder unless he shall file with the port director a written notice of appeal in accordance with paragraph (c) of this section.

(c) *Notice of appeal.* The holder may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of

appeal shall be filed, in duplicate, and shall set forth the response of the holder to the statement of the port director. The holder in his notice of appeal may request a hearing.

(d) *Hearing on appeal*—(1) *Notification of and time of hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The holder shall be notified of the time and place of hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the card may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy thereof shall be delivered to the cardholder. At the conclusion of such proceedings or review of a written appeal, the hearing officer or the port director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action.

(3) *Additional arguments.* Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the holder of the card may submit to the Commissioner of Customs in writing additional views and arguments on the basis of such record.

(4) *Failure to appear.* If neither the cardholder nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs.

(e) *Decision on the appeal.* The Commissioner shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the port director. Such decision shall be transmitted to the port director and served by him on the cardholder.

#### § 112.49 Temporary identification cards.

(a) *Issuance.* When an identification card is required by the port director under § 112.41, and the port director determines that the application for the identification card cannot be administratively processed in a reasonable period of time, any licensed cartman or lighterman may upon written request have a temporary identification card issued by the port director to his employee if he can show to the satisfaction of the port director that a hardship to his business would result pending issuance of an identification card.

(b) *Validity and renewal.* The temporary identification card shall be valid for a period of 60 days. The port director may renew the temporary identification card for additional 30-day periods if he feels that the circumstances under which the temporary identification card was originally issued continue to exist. The temporary identification card shall be returned by the holder or licensee to the port director when the identification card is issued or the privileges granted thereby are withdrawn.

(c) *Withdrawal of temporary card.* The temporary identification card may be withdrawn at any time if in the judgment of the port director continuation of the privileges granted thereby would endanger the revenue or if the holder of the temporary identification card refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation.

(d) *Bond.* The licensed cartman or lighterman shall as a condition precedent to the issuance of a temporary identification card to his employee be required to post a bond in a penal sum, the amount to be determined by the port director, to guarantee return of the temporary identification card by the holder upon its withdrawal or upon issuance of a permanent identification card and to cover any loss or damage caused to the United States by the holder of the temporary identification card. The bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.63 of this chapter