

## § 122.174

the understanding and expectation that the carrier will continue to act with the highest degree of care and diligence required under law and that it will abide by and perform all elements of its approved SOP.

[T.D. 91-25, 56 FR 12347, Mar. 25, 1991, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

### § 122.174 Operational procedures.

(a) *Participating carriers.* Participating carriers are required to develop and adhere to procedures whereby they will:

(1) Provide security personnel for every international arrival participating in the ACSPP to conduct the following procedures:

(i) Perform a thorough internal and external search of the arriving aircraft;

(ii) Maintain total control of all passengers and cargo being discharged from the aircraft to either the Customs passenger hall or to the carrier's cargo facility;

(iii) Verify that all cargo on aircraft is properly manifested, marked and weighed and that piece counts are properly performed; and

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being offloaded.

(2) Provide security personnel at the foreign point of departure for every international departure which is participating in ACSPP to conduct the following procedures:

(i) Perform a thorough internal and external search of the departing aircraft;

(ii) Maintain total control of all passengers and cargo being loaded on the aircraft from either the passenger terminal or the carrier's cargo facility;

(iii) Verify that all cargo placed on the aircraft is properly manifested, marked and weighed and that piece counts are properly performed;

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being loaded; and

(v) Maintain similar positive security measures at all foreign intermediate airports prior to the arrival of the aircraft at an ACSPP designated airport.

(b) *U.S. Customs.* U.S. Customs will:

(1) Retain all current options available regarding the search and inspec-

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tion of any and all passengers, cargo and conveyances; and

(2) Provide training to carrier personnel to assist the development of proper operational procedures.

### § 122.175 Exemption from penalties.

Should a controlled substance be introduced into the United States or discovered aboard an aircraft owned or operated by a participating carrier, or in cargo carried by a participating carrier, on a route identified by the carrier as one participating in the ACSPP and which has been approved by Customs, the participating air carrier shall be considered to have met the test of highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of the Tariff Act of 1930, as amended, if the carrier establishes at an oral presentation before the port director or his designee, that the carrier was not grossly negligent nor engaged in willful misconduct, and that it had complied with all the provisions of these regulations.

### § 122.176 Removal from ACSPP.

(a) *Grounds for removal from ACSPP.* The Assistant Commissioner, Office of Field Operations, may revoke or suspend the privilege of operating as a member of the ACSPP if:

(1) Acceptance into the program was gained through fraud or the misstatement of a material fact;

(2) The carrier refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to its cooperation within the program;

(3) An officer of the carrier or corporation which has been accepted into the program is convicted of a felony or misdemeanor involving theft, smuggling, or other theft-connected crime which was committed in his or her official capacity as an officer of the carrier, or is convicted of any Customs-related crime;

(4) The carrier fails to retain merchandise which has been designated for examination;

(5) The carrier does not provide secure facilities or properly safeguard merchandise within its area of control; or