

## § 112.41

## 19 CFR Ch. I (4-1-06 Edition)

persons no longer employed by him where identification cards are required pursuant to § 112.41;

(8) The holder of such license fails to furnish a current list of names and addresses of officers and members or employees when required by the port director pursuant to § 112.29;

(9) The holder is guilty of any negligence, dishonest or deceptive practices or carelessness in the conduct of his business; or

(10) The port director determines that the bond is not sufficient in amount or lacks sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(b) *Notice of revocation or suspension.* The port director shall suspend or revoke a license by serving notice of the proposed action in writing upon the holder of the license. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the license and shall be final and conclusive upon the licensee 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 licensee 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 licensee to the statement of the port director. The licensee 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 licensee shall be notified of the time and place of the hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the license 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 licensee. 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 licensee 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 licensee 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 licensee.

(f) *Review by the Court of International Trade.* Any licensee adversely affected by a decision of the Commissioner of Customs may appeal the decision in the Court of International Trade.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 85-90, 50 FR 21431, May 24, 1985; T.D. 88-63, 53 FR 40220, Oct. 14, 1988]

### Subpart D—Identification Cards

#### § 112.41 Identification cards required.

A port director may require each licensed cartman or lighterman and each employee thereof who receives, transports, or otherwise handles imported merchandise which has not been released from Customs custody to carry and display upon request of a Customs officer an identification card issued by Customs. The card shall be in the possession of the person in whose name it is issued at all times when he is engaged in transactions with respect to imported merchandise. An identification card shall not be issued to any

person whose employment in connection with the transportation of bonded merchandise will, in the judgment of 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:

- (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.