

has committed acts, which would constitute a felony, or a misdemeanor involving theft or a theft-connected crime. In the absence of an indictment or conviction, the port director must have probable cause to believe the proscribed acts occurred.

(b) *Proposed revocation and cancellation.* The port director may propose to revoke the selection as operator and cancel the agreement to operate a CES if:

(1) The CES operator refuses or otherwise fails to follow any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation of a CES, or fails to operate in accordance with the terms of his agreement or to comply with any of the provisions of §118.4 of this part;

(2) The CES operator fails to retain merchandise which has been designated for examination;

(3) The CES operator does not provide secure facilities or properly safeguard merchandise within the CES;

(4) The CES operator fails to furnish a current list of names, addresses and other information required by §118.4 of this part; or

(5) The custodial bond required by §118.4 of this part is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(6) The CES operator or an officer of a corporation which is a CES operator or a person the port director determines is exercising substantial ownership or control over such operator or officer is indicted for, convicted of, or has committed acts, which would constitute any of the offenses listed under paragraph (a) of this section. Where adverse action is initiated by the port director pursuant to paragraph (a) of this section and continued under this paragraph, the suspension of CES activities remains in effect through the appeal procedures provided under §118.23.

(c) *Circumstance of change in employment not a bar to adverse action.* Any change in the employment status of a corporate officer (for example, discharge, resignation, demotion, or promotion) prior to indictment or conviction or after committing any acts

which would constitute the culpable behavior described under paragraph (a) of this section, will not preclude application of this section, but may be taken into account by the port director in exercising discretion to take adverse action. If the person whose employment status changed remains in a substantial ownership, control, or beneficial relationship with the CES operator, this factor will also be considered in exercising discretion under this section.

[T.D. 93-6, 58 FR 5604, Jan. 22, 1993; 58 FR 6574, Jan. 29, 1993, as amended by T.D. 96-57, 61 FR 39071, July 26, 1996]

**§118.22 Notice of immediate suspension or proposed revocation and cancellation action.**

Adverse action pursuant to the provisions of §118.21(a) or (b) is initiated when the port director serves written notice on the operator or entity selected to operate the CES. The notice shall be in the form of a statement specifically setting forth the grounds for the adverse action and shall inform the operator of the appeal procedures under §118.23 of this part.

[T.D. 96-57, 61 FR 39071, July 26, 1996]

**§118.23 Appeal to the Assistant Commissioner; procedure; status of CES operations.**

(a) *Appeal to the Assistant Commissioner.* Appeal of a port director's decision under §118.21(a) or (b) must be filed with the Assistant Commissioner, Office of Field Operations, within 10 calendar days of receipt of the written notice of the adverse action. The appeal shall be filed in duplicate and shall set forth the CES operator's or entity's responses to the grounds specified by the port director in his written notice letter for the adverse action initiated. The Assistant Commissioner, Office of Field Operations, or his designee, shall render a written decision to the CES operator or entity, stating the reasons for the decision, by letter mailed within 30 working days following receipt of the appeal, unless the period for decision is extended with due notification to the CES operator or entity.

(b) *Status of CES operations during appeal.* During this appeal period, an immediate suspension of a CES operator's or entity's selection and written agreement pursuant to §118.21(a) of this part shall remain in effect. A proposed revocation of a CES operator's or entity's selection and cancellation of the written agreement pursuant to §118.21(b)(1) through (5) of this part shall not take effect unless the appeal process under this paragraph has been concluded with a decision adverse to the operator.

(c) *Effect of suspension or revocation.* Once a suspension or revocation action takes effect, the CES operator must cease CES operations. However, when CES operations are suspended or revoked and cancelled by Customs, it is the CES operator's responsibility to ensure that merchandise already at the CES is properly consigned to another location for inspection, as directed by the importer and approved by the port director.

[T.D. 96-57, 61 FR 39071, July 26, 1996]

## PART 122—AIR COMMERCE REGULATIONS

Sec.

122.0 Scope

### Subpart A—General Definitions and Provisions

- 122.1 General definitions.
- 122.2 Other Customs laws and regulations.
- 122.3 Availability of forms.
- 122.4 English language required.
- 122.5 Reproduction of Customs forms.

### Subpart B—Classes of Airports

- 122.11 Designation as international airport.
- 122.12 Operation of international airports.
- 122.13 List of international airports.
- 122.14 Landing rights airport.
- 122.15 User fee airports.

### Subpart C—Private Aircraft

- 122.21 Application.
- 122.22 Notice of arrival.
- 122.23 Private aircraft arriving from areas south of the U.S.
- 122.24 Landing requirements.
- 122.25 Exemption from special landing requirements.
- 122.26 Entry and clearance.
- 122.27 Documents required.
- 122.28 Private aircraft taken abroad by U.S. residents.

- 122.29 Arrival fee and overtime services.
- 122.30 Other Customs laws and regulations.

### Subpart D—Landing Requirements

- 122.31 Notice of arrival.
- 122.32 Aircraft required to land.
- 122.33 Place of first landing.
- 122.35 Emergency or forced landing.
- 122.36 Responsibility of aircraft commander.
- 122.37 Precleared aircraft.
- 122.38 Permit and special license to unlade and lade.

### Subpart E—Aircraft Entry and Entry Documents

- 122.41 Aircraft required to enter.
- 122.42 Aircraft entry.
- 122.43 General declaration.
- 122.44 Crew baggage declaration.
- 122.45 Crew list.
- 122.46 Crew purchase list.
- 122.47 Stores list.
- 122.48 Air cargo manifest.
- 122.49 Correction of air cargo manifest or air waybill.
- 122.50 General order.

### Subpart F—International Traffic Permit

- 122.51 Aircraft of domestic origin registered in the U.S.
- 122.52 Aircraft of foreign origin registered in the U.S.
- 122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.
- 122.54 Aircraft of foreign registry.

### Subpart G—Clearance of Aircraft and Permission to Depart

- 122.61 Aircraft required to clear.
- 122.62 Aircraft not otherwise required to clear.
- 122.63 Scheduled airlines.
- 122.64 Other aircraft.
- 122.65 Failure to depart.

### Subpart H—Documents Required for Clearance and Permission to Depart

- 122.71 Aircraft departing with no commercial export cargo.
- 122.72 Aircraft departing with commercial export cargo.
- 122.73 General declaration and air cargo manifest.
- 122.74 Incomplete (pro forma) manifest.
- 122.75 Complete manifest.
- 122.76 Shipper's Export Declarations and inspection certifications.
- 122.77 Clearance certificate.
- 122.78 Entry or withdrawal for exportation or for transportation and exportation.
- 122.79 Shipments to U.S. possessions.
- 122.80 Verification of statement.