



U.S. Customs and Border Protection

Seattle Tacoma International Airport

CBP'S AIRPORT SECURITY PROGRAM EMPLOYER REQUIREMENTS AND RESPONSIBILITIES

**SeaTac Airport
Security Seals Office**

Office Hours: Monday – Friday 0800-1530

In addition to requirements outlined in 49 CFR § 1542, 1544, and 1546, airport operators are also required to follow the guidelines in 19 C.F.R. § 122 Subpart S when requesting access to CBP Security Areas at SeaTac Airport. Some of the more important points are highlighted below:

1. How to Submit a Letter Assigning Airport Security Coordinators Authorized to Sign Documents Requesting Security Seals (Authorized Signers):

- a) On company letterhead, submit a letter which lists the name, SIDA badge number, and signature of each Airport Security Coordinator (i.e. signatory) authorized to submit applications for CBP security seal. (see Attachment 1 for example).

2. How to Post a Bond:

- a) Post an active continuous bond or an Airport Security Area Bond. These bonds are obtained from sureties authorized by CBP. See 19 C.F.R. § 113.62, 113.63, and 113.64 for details. The face value of the bond depends upon how many employees require holograms:
 - Fewer than 15 employees- \$ 25,000
 - Between 15 and 25 employees - \$ 50,000
 - More than 25 employees - \$ 100,000
- a) If the employer is NOT the principal on an active continuous bond, CBP requires a type 11 Airport Security Area Bond as mentioned in 19 C.F.R. § 113 Appendix A.
- b) How do I get a Customs bond? You can obtain a CBP bond through a surety licensed by the U.S. Department of the Treasury. Please visit the Bureau of the Fiscal Service (<https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>) for a list of sureties.
- c) Many Customs brokers sell bonds and are also agents for sureties. For a list of licensed customs brokers, contact the CBP Broker Management Branch by email at brokermanagement@cbp.dhs.gov
- d) Please visit CBPs website for additional information regarding Customs bonds.
- e) Law enforcement and emergency services agencies are not required to post a bond.
- f) CBP's port director has the authority to require an increase in the bond amount an any time, in accordance with the procedures set forth in 19

C.F.R. § 113.13(c), due to historical non-compliance with laws and/or CBP Regulations.

g) A copy of the bond certificate should be sent to CBP no later than the last business day of the first month of each calendar year or 1/31.

a) **How to Apply for a CBP Security Seal:**

b) Signatories are responsible for administrating all provisions of these guidelines.

c) Applications cannot be sent to CBP any earlier than 30 days before expiration of the SIDA badge.

d) Each signatory must complete and sign a letter of intent (LOI). The letter of intent is a written request that details the justification and job duties that the applicant will be performing while in the Customs and Border Protection/Federal Inspection Service areas. The letter of intent must be on official letterhead, include the employees name, job title, job duties, job location, and zone request. Applicants who are authorized signers cannot sign for themselves. An example of the letter of intent is included in Attachment 2.

e) The signatory must scan copies of REAL ID compliant documents proving identification, citizenship (and work authorization if not a citizen or resident of the U.S.). For a list of acceptable documents, please see attachment 4.

f) Signatory must then complete the Digital Application for a CBP Security seal, including the cover letter and CBP Form 3078 (signed by authorized signer). Click the gray “Submit Application” button on page 4 when complete. The form will automatically generate an outgoing email addressed to seatacseal@cbp.dhs.gov along with the first and last name of the employee.

g) Zones designation is as follows:

- Zone 1 –allows an employee access to the Federal Inspection Service (FIS), sterile corridors and jet ways leading to and from aircraft arriving from international destinations or aircraft readying for departure to international destinations. Generally, employees involved with cleaning, catering, cargo loading, baggage loading, internal fuselage maintenance, and boarding functions require zone 1 access.
- Zone 2 –allows an employee access to areas near arriving or departing international flights. These employees may NOT access the aircraft, the FIS, jet ways, and sterile corridors. Areas that require zone 2 access include the envelope of the aircraft (i.e. employees in areas surrounding both arriving international aircraft or aircraft departing for foreign destinations) Fuelers, baggage handlers, maintenance workers conducting work external to the aircraft, deicing operators, etc.)

- e) Areas used for the storage, processing, or handling of non-bonded cargo, such as cargo terminals and the adjacent ramp/tarmac areas where NO international flights are being unloaded are NOT considered CBP Security Areas and employees do not need a hologram.
- f) Please attach scanned copies of REAL ID documents and the letter of intent to the email with the electronic 3078 before hitting the gray “submit” button.
- g) Recommend setting up your email system to “Request a Read Receipt” before sending. This will provide proof that the email was sent and later opened by CBP.
- h) If you do not receive a response after sending the application, assume the application was satisfactory and no additional information is required. Instruct your staff to wait at least ten business days then report to the Port of Seattle (POS) Badging Office for an airport badge with a CBP security seal.

3. Employer Requirements:

- a) Familiarizes managers and employees with rules and regulations of CBP security areas outlined in 19 C.F.R. § 122, Subpart S.
- b) Ensures a valid bond with sufficient face value is in place.
- c) Ensures all employees seeking security seals have passed all TSA/CDA background requirements and fingerprints have been taken and processed.
- d) Submit accurate and complete applications for CBP security seal to CBP via the seatacseal@cbp.dhs.gov email box.
- b) Ensures properly completed Letter of intent is attached to each application for a security seal.
- c) Ensures proper ID/citizenship documents are attached to each application for a security seal.
- i) Ensures properly completed electronic CBP Form 3078, “Application for Identification Card.” is attached to each application for security seal emailed to seatacseal@CBP.DHS.GOV.

4. Employer/Employee Deliverables:

- a) Signatory must prepare and submit an internally maintained quarterly report listing all employees with a security seal to include full names, dates of birth, zone access designation, and SIDA badge number. Each report should list separately, all additions to, and deletions from, the

previous quarterly report. Reports must be submitted by the last day of the first month of each calendar quarter (January 31, April 30, July 31 and October 31). Reports should be sent via email to sealtacseal@cbp.dhs.gov. To protect personally identifiable information (PII) sent by email, you may elect to send a password protected report with a follow-up email containing a password to open. Otherwise, send the list via U.S. mail to:

U.S. Customs and Border Protection, C/O Security Seals Office
17801 International Blvd Room MT 6439M, Seattle Wa 98188

- b) Loss or theft of a badge with a security seal must be reported promptly to CBP in writing by sending an email to seatacseal@CBP.DHS.GOV explaining the circumstances, name, date of birth, and badge number of employee.
- c) Failure to submit the information above may result in cessation of issuance of security seals to a company and/or issuance of liquidated damages penalties to said company.

5. Denial of security seal:

- a) CBP may deny a security seal to any person whose access to the Customs security area will, in the judgment of the port director, endanger the revenue or the security of the area or pose an unacceptable risk to public health, interest or safety, national security, or aviation
- b) Common reasons for denial:
 - Lack of candor when answering questions #31, #32, & 33 on the CBP Form 3078.
 - Failure to provide CBP with certified copies of court documents showing final disposition of arrests since applicant's 16th birthday. Documents must be provided to CBP within 30 days from the date your employee is contacted by CBP requesting additional documents. If, after 30 days, no documents have been provided or the employee fails to make an effort by contacting CBP with information on what they are doing to try to acquire documents, CBP will initiate action to deny the request for security seal as we are then unable to conduct a meaningful background investigation since we have no idea what the final disposition of each arrest was. We must assume each arrest was a conviction.
 - Failure to disclose use of narcotics on the CBP Form 3078 (question #33) after a conviction(s) for drugs.

- Felony conviction(s) for offenses listed in 19 C.F.R. § 122.183 within the last ten (10) years.

7. Revocation of security seal:

- a) CBP may revoke access to CBP security areas when, in the judgment of the port director, it appears [for any ground not specified in paragraph 19 C.F.R. § 122.187 (a)(2)] that continued access to CBP security areas by an employee might pose an unacceptable risk to public health, interest or safety, national security, aviation safety, the revenue, or the security of the area.
- j) Common reasons for security seal revocation:
 - The employee uses the approved Customs access seal in connection with a matter not related to his employment or not constituting a duty described in the written justification required by 19 CFR § 122.182(c)(1)
 - An employee is or has been convicted of or there is probable cause to believe that the employee has committed any act or omission involving an offense listed in 19 CFR § 122.183(a)(4).
 - The employee has been arrested for, or charged with, an offense listed in 19 CFR § 122.183(a)(4) and prosecution or other disposition of the arrest or charge is pending.

6. Employer violations that may be subject to liquidated damages penalties:

- a) Unauthorized entry into a CBP security area for an unauthorized purpose [e.g. meeting a family member arriving France at the baggage claim area within the FIS.
- b) Failure to retain employment history background investigation records.
- c) Failure to conduct an employment history background investigation on employee(s) to whom a security seal has been issued.
- d) Failure to notify CBP when an employee with a valid security seal changes jobs and no longer needs access to CBP security areas.
- e) Failure to return a SIDA badge with seal to CBP for any reason when requested by CBP per 19 CFR § 122.18(g).
- f) No bond or insufficient bond amount.

- g) Failure to provide quarterly deliverables as mentioned in #5 above.
- h) Failure to immediately advise CBP in writing within 24 hours after becoming aware of a change in circumstance of an employee.
- i) Failure of employee to openly display or failure to surrender their SIDA badge to a CBP officer upon demand.

Designation of Airport Security Coordinator(s)/Authorized Signer Example



XYZ COMPANY INC.
111 South Street
Chicago, IL 60607
312-123-4567
xyzcompany@email.com

01/01/2019

CBP Security Seal Coordinator
U.S. Customs and Border Protection
17801 International Blvd
Rm MT 6439M
SeaTac WA 98188

XYZ Company hereby requests that the following individual(s) be appointed as Airport Security Coordinator(s) and be given the authority to sign all documents related to CBP’s Airport Security Seals Program. No other signatures are to be honored.

By signing this letter, XYZ Company understands that the necessary background investigations have been conducted on each applicant for a CBP security seal in accordance with 19 C.F.R. § 122.182(d). The employees listed below may only request CBP security seals for access to areas at Seattle Tacoma International Airport. Each employee below has read the CBP security seal handbook and is aware of all requirements and responsibilities in 19 C.F.R. § 122.183, Subpart S. XYZ Company will monitor all employees granted access to CBP security areas and ensure they comply with all rules and regulations in 19 C.F.R. § 122.187.

- 1) Name: Jane Doe SIDA Badge #: 123456 Signature: 
Contact Information: PH# 773-686-00000 email address: janedoe@xyzcompany.com
- 2) Name: _____ SIDA Badge #: _____ Signature: _____
Contact Information: PH# _____ email address: _____
- 2) Name: _____ SIDA Badge #: _____ Signature: _____
Contact Information: PH# _____ email address: _____

Sincerely,

Joanne Johnson
District Manager, Ground Handling Operations
XYZ Corporation, O’Hare International Airport
(773) 773-1111 x0 (office)
(630) 773-1111(cell)
Joannejohnson@xyzcompany.com

This letter supersedes all previously issued letters!

Letter of Intent



01/01/2019

CBP Security Seal Coordinator
U.S. Customs and Border Protection
17801 International Blvd
Rm MT 6439M
SeaTac WA 98188

I, Jane Doe, an authorized signatory of XYZ Airways, attest in writing that a background check has been conducted on the applicant listed below, to the extent allowable by law, in accordance with 19 CFR 122.182. The background check included, at a minimum, references and employment history, to the extent necessary to verify representations made by the applicant relating to employment in the preceding five years. To the best of my knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. Records of background investigations will be retained for a period of one year following cessation of employment and made available to the port director, upon request. The CBP Form 3078 along with two forms of identification proving identity, immigration status, and residency are attached:

Name of applicant requiring access to CBP security areas: **Smitty Smith**
Applicant's email address: **smittysmith@xyzcompany.com**
Job Title: **Warehouse Agent**

Position Description (justification for required access to security zone(s): **Responsible for transporting international cargo from tarmac and into cargo facility via forklift. Some cargo will not be cleared by CBP on arrival at facility. Maintains accountability of cargo being relocated.**

First time applicant: New SIDA Badge # assigned by POS: 123456

Renewal: Current SIDA Badge #: _____ & Expiration date: _____

Access level requested: Zone #1 Zone #2

Zone #1 encompasses the Federal Inspection Service (FIS) area, including the aircraft, sterile corridors, jet-way, elevators, stairways leading into the FIS, and in-transit facilities, as well as all other areas designated by the port director or designee for the processing of passengers and baggage arriving from a location outside of the U.S. **Zone #2** encompasses those areas outside of the FIS including the envelope of an aircraft arriving from outside of the U.S (including pre-cleared aircraft), the ramp, tarmac, and baggage/cargo staging areas where activities related to international arrivals and departures occur. As international and domestic flights may occupy adjacent areas at many locations, it is anticipated that the CBP security area outside the FIS will be flexible.

Bond # 15C12345

Printed Name: Jane DOE Signature: Jane Doe

Contact Information: JANEDOE@XYZCOMPANY.COM Phone #: 773 894 0000

**Attachment 3
Application for Security Seal – Electronic CBP Form 3078 - Example**

Clear Form

APPLICATION FOR CBP SECURITY SEAL

COMPANY NAME	<input type="text"/>	COMPANY CODE	<input type="text"/>
ADDRESS	<input type="text"/>	CITY	<input type="text"/>
COUNTRY	Please Select a Country <input type="text"/>		
STATE	<input type="text"/>	DATE OF HIRE	<input type="text"/>
EMPLOYEE LAST	<input type="text"/>	FIRST	<input type="text"/>
		MIDDLE	<input type="text"/>
BIRTH COUNTRY	Please Select a Country <input type="text"/>		
CITIZENSHIP	Please Select a Country <input type="text"/>		M <input type="radio"/> F <input type="radio"/>
JOB TITLE	<input type="text"/>	EMAIL ADDRESS	<input type="text"/>
SPECIFIC DESCRIPTION OF DUTIES (below)		ZONES REQUESTED: 1 <input type="radio"/> 2 <input type="radio"/>	
<input type="text"/>			
DOCUMENT TYPE	Select a Document <input type="text"/>	DOCUMENT NUMBER	<input type="text"/>
COUNTRY OF ISSUANCE	Please Select a Country <input type="text"/>		
STATE	<input type="text"/>	EXPIRATION DATE	<input type="text"/>
CURRENT RESIDENTIAL ADDRESS:			
HOUSE NUMBER	<input type="text"/>	STREET	<input type="text"/>
		APT. #	<input type="text"/>
CITY	<input type="text"/>	POSTAL CODE	<input type="text"/>
COUNTRY	Please Select a Country <input type="text"/>		
STATE	<input type="text"/>		

AUTHORIZED SIGNER ONLY

BACKGROUND INVESTIGATION ACKNOWLEDGEMENT

A BACKGROUND INVESTIGATION HAS BEEN PERFORMED ON THE APPLICANT TO THE EXTENT ALLOWABLE BY LAW. THIS INCLUDES, AT A MINIMUM, REFERENCES AND THE APPLICANTS EMPLOYMENT HISTORY WHICH HAS BEEN VERIFIED FOR THE PRECEDING FIVE YEARS. TO THE BEST OF MY KNOWLEDGE THE APPLICANT MEETS THE CONDITIONS NECESSARY TO CONDUCT OFFICIAL COMPANY BUSINESS IN THE CUSTOMS SECURITY AREAS AS OUTLINED IN 19 CFR PART 122.

CHECKLIST FOR EMAIL

- Signed letter on company letterhead justifying issuance and describes duties to be conducted in the FIS.
- Scanned copy of REAL ID compliant photo identification of the applicant.

SIGNED:

TITLE:

EMAIL:

DATE: PHONE:

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection
APPLICATION FOR IDENTIFICATION CARD

19 U.S.C. 66, 1551, 1555, 1565, 1624, 1641;
19 CFR 112.42, 118, 122.182, 146.6

OMB No. 1651-0008
Exp. 02-28-2018

1. TYPE OF ACTIVITY REQUIRING IDENTIFICATION CARD					2. DATE OF THIS APPLICATION	
<input type="checkbox"/> Cartman/Lighterman <input type="checkbox"/> Broker's Employee <input checked="" type="checkbox"/> CBP Security Area Identification <input type="checkbox"/> Warehouse Officer or Employee <input type="checkbox"/> Container Station Employee <input type="checkbox"/> Foreign Trade Zone Employee <input type="checkbox"/> CES Employee						
3. NAME (Last, First, & Middle)				4. SOCIAL SECURITY NUMBER		
5. LIST ANY OTHER NAMES YOU HAVE EVER BEEN KNOWN BY (Nicknames, aliases, etc.)				6. DATE OF BIRTH		
7. HOME ADDRESS (Number, Street, City, State, and ZIP Code)			8. NAME AND ADDRESS OF PRESENT EMPLOYER			
9. HOME PHONE NUMBER			10. BUSINESS PHONE NUMBER			
11. PLACE OF BIRTH (City, State)		12. HEIGHT	13. WEIGHT	14. COLOR HAIR	15. COLOR EYES	
16. VISIBLE SCARS OR MARKS						
17. U.S. COAST GUARD PORT SECURITY CARD NUMBER			18. U.S. MERCHANT MARINE CARD NUMBER			
19. HAVE YOU EVER APPLIED FOR CARD IN ITEM 17 OR ITEM 18?			20. HAS APPLICATION FOR EITHER CARD IN ITEM 17 OR 18 BEEN DENIED?			
<input type="checkbox"/> YES <input type="checkbox"/> NO (Skip Items 20 and 21)			<input type="checkbox"/> YES (If Yes, explain in Item 21) <input type="checkbox"/> NO (Skip Item 21)			
21. EXPLANATION OF APPLICATION DENIAL						
22. LIST ALL RESIDENCES DURING THE LAST 5 YEARS (List in reverse order, beginning with the present address)						
DATES		Number and Street		City		State
From	To					
	PRESENT					
23. HAVE YOU EVER SERVED IN THE ARMED SERVICES OF THE U.S.?			24. BRANCH OF SERVICE			
<input type="checkbox"/> YES <input type="checkbox"/> NO (Skip Items 24-28)						
25. DATES OF SERVICE			26. SERIAL NUMBER	27. TYPE OF DISCHARGE		
28. IF DISCHARGE WAS OTHER THAN HONORABLE, EXPLAIN IN FULL DETAIL						
29. HAVE YOU EVER APPLIED FOR AN IDENTIFICATION CARD WITH U.S. CUSTOMS AND BORDER PROTECTION?			<input type="checkbox"/> YES (If Yes, explain details) <input type="checkbox"/> NO			

CBP Form 3078 (04/08)

30. PREVIOUS EMPLOYMENT -- LIST IN CHRONOLOGICAL ORDER, GIVING EARLIEST EMPLOYMENT FIRST (Last 10 Years)

DATES		EMPLOYER NAME AND ADDRESS	OCCUPATION
From	To		

31. HAVE YOU EVER BEEN CONVICTED OF ANY CRIME OR OFFENSE (Other than traffic violations, you may exclude any items which occurred before your 16th birthday) IN THIS COUNTRY OR ELSEWHERE? YES (If YES, explain in Item 32.) NO

32. EXPLANATION OF ALL CONVICTIONS (Federal, State, Military, or Foreign)

Date	Place	Charge	Court	Final Disposition

33. DO YOU NOW USE OR HAVE YOU EVER USED NARCOTIC DRUGS? YES (If YES, explain below.) NO

34. ATTACH PHOTOGRAPH HERE

Attach a scan of your REAL ID compliant identification to the email generated from this application packet.

35. CERTIFICATION	I certify that all of the statements made in this Application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.	SIGNATURE (Sign in ink) 	DATE <input style="width: 100%;" type="text"/>
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Paperwork Reduction Act Notice: The Paperwork Reduction Act says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for this information to carry out U.S. Customs and Border Protection laws of the United States. This form is used by licensed cartmen or lightermen or their employees as an application to apply for a CBP identification card and is required to obtain or retain a benefit. The estimated average burden associated with this collection of information is 17 minutes per respondent or recordkeeper depending on individual circumstances. The valid OMB Control Number for this Information Collection is 1651-0008.

Pursuant to the requirements of Public law 93-579 (Privacy Act of 1974), notice is hereby given that the authority to collect information on CBP Form 3078 is 5 U.S.C. 301, Reorganization Plan No. 1 of 1960; 19 U.S.C. 1551, 1565, 1624, 1641; 19 CFR 112.42. The principal purpose for collecting the information is to enable CBP to conduct a background investigation and thereby determine whether the applicant meets the criteria required for the issuance of an identification card. The information collected and contained in the applicant's file may be provided to those employees of CBP who have a need for the records in the performance of their duties. The information may also be used, when deemed appropriate, in a proceeding to revoke or suspend the identification card. Disclosure of all information requested on CBP Form 3078 is voluntary; however, failure to disclose some or all of this information may result in CBP's inability to conduct the required background investigation.



**U.S. Customs and Border Protection
ADDITIONAL INSTRUCTIONS TO APPLICANTS FOR CUSTOMS AND BORDER PROTECTION
AIRPORT SECURITY ACCESS**

Customs and Border Protection (CBP) Form 3078, Application for Identification Card, CBP Security Area Identification, question #31 asks, "Have you ever been convicted of any crime or offense (other than traffic violations, you may exclude any items which occurred before your 16th birthday) in this country or elsewhere?"

To properly answer this question, you must include the following:

- Any offenses, whether misdemeanor or felony, to which you pled *nolo contendere*, or no contest
- Any offenses, whether misdemeanor or felony, to which you pled guilty or were found guilty
- Any offenses, whether misdemeanor or felony, for which adjudication was withheld
- Any offenses, whether misdemeanor or felony, for which you were sentenced to incarceration
- Any offenses, whether misdemeanor or felony, for which you were placed on probation
- Any offenses, whether misdemeanor or felony, for which you were ordered to pay fines or restitution
- Any offenses, whether misdemeanor or felony, for which the record was sealed or expunged
- Any offenses meeting the above criteria that occurred in any state or country

There are no time limits for items above that must be included, except that offenses which occurred before your 16th birthday need not be included.

For the purpose of responding to this question, you are not required to disclose traffic violations, which are defined herein as non-criminal traffic or parking infractions. However, criminal traffic offenses punishable by incarceration must be disclosed.

Question #33 asks "Do you now use or have you ever used narcotic drugs?" To properly answer this question, please remember that the Federal government considers Marijuana use to be a schedule 1 narcotic. Note that the question asks *have you ever?*, all prior narcotics use should be included, as there are no time limits for this question. If answering yes, include the type of narcotic, and dates used.

The Port Director considers any false statement or omission on the application to be material to the applicant's honesty and integrity. By signing below, I affirm that I have read and understand the above statement on how to properly answer question #31 and question #33 of CBP Form 3078. I understand that failure to properly answer this, or any other question, on CBP Form 3078 may cause a denial or revocation of my application for Customs and Border Protection Security Access. Furthermore, I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form and all attachments per 18 USC 1001.

Signature

Print name

Date

Submit Application

(Rev. 09/18e)

Note to authorized signers

Emailed application for a security seal should look like the email below. Please call CBP to seek out help with correct submissions of electronic applications. Most problems arise from the signature fields on pages #1, #3, and #4



DO NOT FORGET TO ATTACH THE REQUIRED DOCUMENTS (LETTER AND IDENTIFICATION) TO THIS EMAIL.

Do not change anything in this email. Doing so will significantly delay the processing of your application.

Save the mail attachment for your own records.

-----Start

Block-----80%2082%2079%2083%2080%2069%2067%2084%2032%2065%2073%2082%2080%2079%2082%2084%2032%2083%2069%2082%2086%2073%2067%2069%2083%2032%2058%2048%2056%2047%2048%2055%2047%2050%2048%2049%2056%2058%2050%2049%2051%2048%2032%2083%2032%2087%2079%2076%2070%2032%2082%2068%2032%2058%2068%2069%2083%2032%2080%2076%2065%2073%2078%2069%2083%2032%2058%2073%2076%2058%2085%2083%2058%2065%2076%2073%2058%2083%2089%2069%2068%2032%2058%2077%2085%2072%2065%2077%2077%2065%2068%2058%2080%2075%2058%2077%2058%2066%2072%2058%2068%2076%2058%2052%2048%2048%2055%2057%2051%2054%2055%2051%2049%2048%2065%2058%2085%2083%2058%2073%2076%2058%2049%2048%2047%2051%2049%2047%2050%2048%2050%2049%2058%20101%20100%20105%20115%20111%20110%2097%2046%20109%20117%2099%20107%2097%2064%20112%20114%20111%20115%20112%20101%2099%20116%2097%20105%20114%2046%2099%20111%20109%2058%2055%2055%2051%2054%2056%2054%2048%2050%2053%2054%2058%2056%2055%2057%2056%2048%2056%2053%2057%2054%2058%2049%2048%2047%2051%2049%2047%2049%2057%2054%2055%2058%2075%2065%2082%2065%2067%2072%2073%2058%2080%2065%2075%2073%2083%2084%2065%2078%2032%2058%2080%2075%2058%2054%2052%2048%2056%2032%2058%2078%2032%2071%2076%2069%2078%2087%2079%2079%2068%2032%2065%2086%2069%2032%2058%2065%2080%2084%2050%2048%2051%2058%2067%2072%2073%2067%2065%2071%2079%2058%2073%2076%2058%2054%2048%2054%2050%2054%2058%2085%2083%2058%2048%2051%2047%2049%2054%2047%2050%2048%2049%2055%2058%2049%2048%2047%2048%2057%2047%2050%2048%2049%2056%2058%20104%20117%20109%2097%20122%20101%20104%20114%2097%2049%2050%2049%2050%2064%20103%20109%2097%20105%20108%2046%2099%20111%20109-----End Block-----

- 122.113 Form for transit air cargo manifest procedures.
- 122.114 Contents.
- 122.115 Labeling of cargo.
- 122.116 Identification of manifest sheets.
- 122.117 Requirements for transit air cargo transport.
- 122.118 Exportation from port of arrival.
- 122.119 Transportation to another U.S. port.
- 122.120 Transportation to another port for exportation.

Subpart M—Aircraft Liquor Kits

- 122.131 Application.
- 122.132 Sealing of aircraft liquor kits.
- 122.133 Stores list required on arrival.
- 122.134 When airline does not have in-bond liquor storeroom.
- 122.135 When airline has in-bond liquor storeroom.
- 122.136 Outgoing stores list.
- 122.137 Certificate of use.

Subpart N—Flights to and From the U.S. Virgin Islands

- 122.141 Definitions.
- 122.142 Flights between the U.S. Virgin Islands and a foreign area.
- 122.143 Flights from the U.S. to the U.S. Virgin Islands.
- 122.144 Flights from the U.S. Virgin Islands to the U.S.

Subpart O—Flights to and From Cuba

- 122.151 Definitions.
- 122.152 Application.
- 122.153 Limitations on airport of entry or departure.
- 122.154 Notice of arrival.
- 122.155 Document to be presented upon arrival.
- 122.156 Release of passengers.
- 122.157 Documents required for clearance.
- 122.158 Other entry and clearance requirements.

Subpart P—Public Aircraft [Reserved]

Subpart Q—Penalties

- 122.161 In general.
- 122.162 Failure to notify and explain differences in air cargo manifest.
- 122.163 Transit air cargo traveling to U.S. ports.
- 122.164 Transportation to another port for exportation.
- 122.165 Air cabotage.
- 122.166 Arrival, departure, discharge, and documentation.
- 122.167 Aviation smuggling.

Subpart R—Air Carrier Smuggling Prevention Program

- 122.171 Description of program.
- 122.172 Eligibility.
- 122.173 Application procedures.
- 122.174 Operational procedures.
- 122.175 Exemption from penalties.
- 122.176 Removal from ACSPP.

Subpart S—Access to Customs Security Areas

- 122.181 Definition of Customs security area.
- 122.182 Security provisions.
- 122.183 Denial of access.
- 122.184 Change of identification; change in circumstances of employee; additional employer responsibilities.
- 122.185 Report of loss or theft of Customs access seal.
- 122.186 Presentation of Customs access seal by other person.
- 122.187 Revocation or suspension of access.
- 122.188 Issuance of temporary Customs access seal.
- 122.189 Bond liability.

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

Section 122.22 is also issued under 46 U.S.C. 60105.

Section 122.49a also issued under 8 U.S.C. 1101, 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

Section 122.49b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49c also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49d also issued under 49 U.S.C. 44909(c)(3).

Section 122.75a also issued under 8 U.S.C. 1221, 19 U.S.C. 1431.

Section 122.75b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114.

SOURCE: T.D. 88-12, 53 FR 9292, Mar. 22, 1988, unless otherwise noted.

§ 122.0 Scope.

(a) *Applicability.* The regulations in this part relate to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft, and are applicable to all air commerce.

(b) *Authority of Other Agencies.* Nothing in this part is intended to divest or diminish authority and operational control that are vested in the FAA or any other agency, particularly with respect to airspace and aircraft safety.

[CBP Dec. 08-43, 73 FR 68309, Nov. 18, 2008]

§ 122.182 Security provisions.

(a) *Customs access seal required.* With the exception of all Federal and uniformed State and local law enforcement personnel and aircraft passengers and crew, 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 access seal issued by Customs. The approved Customs access seal must be in the possession of the person in whose name it is issued whenever the person is in the Customs security area and must be used only in furtherance of that person's employment in accordance with the description of duties submitted by the employer under paragraph (c)(1) of this section. The Customs access seal remains the property of Customs, and any bearer must immediately surrender it as provided in paragraph (g) of this section or upon demand by any authorized Customs officer for any cause referred to in § 122.187(a). Unless surrendered pursuant to paragraph (g) of this section or § 122.187, each approved Customs access seal issued under paragraph (c)(1) of this section will remain valid for 2 years from January 1, 2002, in the case of a Customs access seal issued prior to that date and for 2 years from the date of issuance in all other cases. Retention of an approved Customs access seal beyond the applicable 2-year period will be subject to the reapplication provisions of paragraph (c)(2) of this section.

(b) *Employers responsibility.* 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).

(c) *Application requirements—(1) Initial application.* An application for an approved Customs access seal, as required by this section, must be filed by the applicant with the port director on Customs

Form 3078 and must be supported by a written request and justification for issuance prepared by the applicant's employer that describes the duties that the applicant will perform while in the Customs security area. The application requirement applies to all employees required to display an approved Customs access seal by this section, regardless of the length of their employment. The application must 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 to which the bond conditions set forth in § 113.62, § 113.63, or § 113.64 relate, the application must be supported by an Airport Customs Security Area Bond, as set forth in appendix A of part 113 of this chapter. The latter 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 the agency in question or its employees from compliance with all other provisions of this subpart. In addition, in connection with an application for an approved Customs access seal under this section:

(1) The port director may require the applicant to submit fingerprints on form FD-258 or on any other approved medium either at the time of, or following, the filing of the application. If required, the port director will 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 by, or on behalf of, the applicant with the application; and

(1i) Proof of citizenship or authorized residency and a photograph may also be required.

(2) *Reapplication.* If a person wishes to retain an approved Customs access seal for one or more additional 2-year periods beyond the 2-year period referred to in paragraph (a) of this section, that person must submit a new application

no later than 30 calendar days prior to the start of each additional period. The new application must be filed in the manner specified in paragraph (c)(1) of this section for an initial application, and the port director may also require the submission of fingerprints as provided in paragraph (c)(1)(i) of this section. The new application will be subject to review on a de novo basis as if it were an initial application except that the written attestation referred to in paragraph (d) of this section will not be required if there has been no change in the employment of the applicant since the last attestation was submitted to Customs.

(d) *Background check.* An authorized official of the employer must attest in writing that a background check has been conducted on the applicant, to the extent allowable by law. The background check must 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. The authorized official of the employer must 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. 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 Customs access 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 access seal.* A new Customs access seal may be obtained from the port director in the following circumstances, without the completion of an additional application, except as de-

termined 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 Customs access seal (see § 122.185 of this part).

(g) *Surrender of access seal.* 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, or where the 2-year period referred to in paragraph (a) of this section expires and a new application under paragraph (c)(2) of this section has not been approved, the employer shall notify the port director in writing, at the time of such change, and shall return the Customs access seal to Customs. The notification shall include information regarding the disposition of the approved Customs access seal of the employee.

[T.D. 90-82, 55 FR 42557, Oct. 22, 1990, as amended by T.D. 93-18, 58 FR 15773, Mar. 24, 1993; T.D. 02-40, 67 FR 48984, July 29, 2002; 67 FR 51928, Aug. 9, 2002]

§ 122.183 Denial of access.

(a) *Grounds for denial.* Access to the Customs security area will not be granted, and therefore an approved Customs access seal will not be issued, to any person whose access to the Customs security area will, in the judgment of the port director, endanger the revenue or the security of the area or pose an unacceptable risk to public health, interest or safety, national security, or aviation safety. Specific grounds for denial of access to the Customs security area include, but are not limited to, the following:

- (1) Any cause which would justify a demand for surrender of a Customs access seal or the revocation or suspension of access under § 122.182(g) or § 122.187;
- (2) Evidence of a pending or past investigation establishing probable cause to believe that the applicant has engaged in any conduct which relates to, or which could lead to a conviction for,

a disqualifying offense listed under paragraph (a)(4) of this section;

(3) The arrest of the applicant for, or the charging of the applicant with, a disqualifying offense listed under paragraph (a)(4) of this section on which prosecution or other disposition is pending;

(4) A disqualifying offense committed by the applicant. For purposes of this paragraph, an applicant commits a disqualifying offense if the applicant has been convicted of, or found not guilty of by reason of insanity, or has committed any act or omission involving, any of the following in any jurisdiction during the 5-year period, or any longer period that the port director deems appropriate for the offense in question, prior to the date of the application submitted under § 122.182 or at any time while in possession of an approved Customs access seal:

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violation (49 U.S.C. 46306);

(ii) Interference with air navigation (49 U.S.C. 46308);

(iii) Improper transportation of a hazardous material (49 U.S.C. 46312);

(iv) Aircraft piracy in the special aircraft jurisdiction of the United States (49 U.S.C. 46502(a));

(v) Interference with flight crew members or flight attendants (49 U.S.C. 46504);

(vi) Commission of certain crimes aboard aircraft in flight (49 U.S.C. 46506);

(vii) Carrying a weapon or explosive aboard aircraft (49 U.S.C. 46505);

(viii) Conveying false information and threats (49 U.S.C. 46507);

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States (49 U.S.C. 46502(b));

(x) Lighting violations involving transportation of controlled substances (49 U.S.C. 46315);

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements (49 U.S.C. 46314);

(xii) Destruction of an aircraft or aircraft facility (18 U.S.C. 32);

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping or hostage taking;

(xviii) Treason;

(xix) Rape or aggravated sexual abuse;

(xx) Unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed or felony unarmed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance;

(xxiv) Felony arson;

(xxv) Felony involving:

(A) A threat;

(B) Willful destruction of property;

(C) Importation or manufacture of a controlled substance;

(D) Burglary;

(E) Theft;

(F) Dishonesty, fraud, or misrepresentation;

(G) Possession or distribution of stolen property;

(H) Aggravated assault;

(I) Bribery; or

(J) Illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than one year;

(xxvi) Violence at an airport serving international civil aviation (18 U.S.C. 37);

(xxvii) Embezzlement;

(xxviii) Perjury;

(xxix) Robbery;

(xxx) Crimes associated with terrorist activities;

(xxxi) Sabotage;

(xxxii) Assault with a deadly weapon;

(xxxiii) Illegal use or possession of firearms or explosives;

(xxxiv) Any violation of a U.S. immigration law;

(xxxv) Any violation of a Customs law or any other law administered or enforced by Customs involving narcotics or controlled substances, commercial fraud, currency or financial transactions, smuggling, failure to report, or failure to declare;

(xxxvi) Airport security violations; or

(xxxvii) Conspiracy or attempt to commit any of the offenses or acts referred to in paragraphs (a)(4)(i) through (a)(4)(xxxv) of this section;

(5) Denial or suspension of the applicant's unescorted access authority to a

Security Identification Display Area (SIDA) pursuant to regulations promulgated by the U.S. Federal Aviation Administration or other appropriate government agency; or

(6) Inability of the applicant's employer or Customs to complete a meaningful background check or investigation of the applicant.

(b) *Notification of denial.* The port director shall give written notification to any person whose application for access to the Customs security area has been denied, fully stating the reasons for denial and setting forth specific appeal procedures. The employer shall be notified in writing that the applicant has been denied access to the area and that the detailed reasons for the denial have been furnished to the applicant. Detailed reasons regarding the denial, however, shall not be furnished to the employer by Customs.

(c) *Appeal of denial.* The denial will be final unless the applicant files with the port director a written notice of appeal within 10 days following receipt of the notice of denial. The notice of appeal shall be filed in duplicate and shall set forth the response of the applicant to the statement of the port director. The port director will render his decision on the appeal to the applicant in writing within 30 calendar days of receipt of the notice of appeal and, if the application is denied on appeal, the decision will advise the applicant of the procedures for filing a further appeal pursuant to paragraph (d) of this section.

(d) *Further appeal of denial.* Where the application on appeal is denied by the port director, the applicant may file a further written notice of appeal with the director of field operations at the Customs Management Center having jurisdiction over the office of the port director within 10 calendar days of receipt of the port director's decision on the appeal. The further notice of appeal must be filed in duplicate and must set forth the response of the applicant to the decision of the port director. The director of field operations will review the appeal and render a written decision. The final decision will be trans-

mitted to the port director and served by him on the applicant.

[T.D. 90-82, 55 FR 42557, Oct. 22, 1990, as amended by T.D. 02-40, 67 FR 48985, July 29, 2002]

§ 122.184 Change of identification; change in circumstances of employee; additional employer responsibilities.

(a) *Change of identification.* The Customs access seal may be removed from the employee by the port director where, for security reasons, a change in the nature of the identification card or other medium on which it appears is necessary.

(b) *Change in circumstances of employee.* If, after issuance of a Customs access seal to an employee, any circumstance arises (for example, an arrest or conviction for a disqualifying offense) that constitutes a ground for denial of access to the Customs security area under § 122.183(a) or for revocation or suspension of access to the Customs security area and surrender of the Customs access seal under § 122.187(a), the employee must within 24 hours advise the port director in writing of that change in circumstance. In the case of an arrest or prosecution for a disqualifying offense listed in § 122.183(a)(4), the employee also must within 5 calendar days advise the port director in writing of the final disposition of that arrest or prosecution. In addition, if an airport operator or an aircraft operator suspends an employee's unescorted access authority to a Security Identification Display Area pursuant to regulations promulgated by the U.S. Federal Aviation Administration or other appropriate government agency and the employee also has an approved Customs access seal, the employee must within 24 hours advise the port director in writing of the fact of, and basis for, the suspension.

(c) *Additional employer responsibilities.* If an employer becomes aware of any change in the circumstances of its employee as described in paragraph (b) of this section, the employer must immediately advise the port director of that fact even though the employee may have separately reported that fact to the port director under paragraph (b) of

this section. In addition, each employer must submit to the port director during the first month of each calendar quarter a report setting forth a current list of all its employees who have an approved Customs access seal. The quarterly report must list separately all additions to, and deletions from, the previous quarterly report. Moreover, each employer must take appropriate steps to ensure that an employee uses an approved Customs access seal only in connection with activities relating to his employment.

[T.D. 02-40, 67 FR 48986, July 29, 2002; 67 FR 51928, Aug. 9, 2002]

§ 122.185 Report of loss or theft of Customs access seal.

The loss or theft of an approved Customs access seal must be promptly reported in writing by the employee to the port director. The Customs access seal may be replaced, as provided in § 122.182(f).

[T.D. 02-40, 67 FR 48986, July 29, 2002]

§ 122.186 Presentation of Customs access seal by other person.

If an approved Customs access seal is presented by a person other than the one to whom it was issued, the Customs access seal will be removed and destroyed. An approved Customs access seal may be removed from an employee by any Customs officer designated by the port director.

[T.D. 02-40, 67 FR 48986, July 29, 2002]

§ 122.187 Revocation or suspension of access.

(a) *Grounds for revocation or suspension of access*—(1) *General*. The port director:

(1) Must immediately revoke or suspend an employee's access to the Customs security area and demand the immediate surrender of the employee's approved Customs access seal for any ground specified in paragraph (a)(2) of this section; or

(1i) May propose the revocation or suspension of an employee's access to the Customs security area and the surrender of the employee's approved Customs access seal whenever, in the judgment of the port director, it appears for any ground not specified in para-

graph (a)(2) of this section that continued access might pose an unacceptable risk to public health, interest or safety, national security, aviation safety, the revenue, or the security of the area. In this case the port director will provide the employee with an opportunity to respond to the notice of proposed action.

(2) *Specific grounds*. Access to the Customs security area will be revoked or suspended, and surrender of an approved Customs access seal will be demanded, in any of the following circumstances:

(1) There is probable cause to believe that an approved Customs access seal was obtained through fraud, a material omission, or the misstatement of a material fact;

(1i) The employee is or has been convicted of, or found not guilty of by reason of insanity, or there is probable cause to believe that the employee has committed any act or omission involving, an offense listed in § 122.183(a)(4);

(1ii) The employee has been arrested for, or charged with, an offense listed in § 122.183(a)(4) and prosecution or other disposition of the arrest or charge is pending;

(1iv) The employee has engaged in any other conduct that would constitute a ground for denial of access to the Customs security area under § 122.183;

(1v) The employee permits the approved Customs access seal to be used by any other person or refuses to openly display or produce it upon the proper demand of a Customs officer;

(1vi) The employee uses the approved Customs access seal in connection with a matter not related to his employment or not constituting a duty described in the written justification required by § 122.182(c)(1);

(1vii) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation;

(1viii) For all employees of the bond holder, if the bond required by § 122.182(c) 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;

(1ix) The employee no longer requires access to the Customs security area for

an extended period of time at the airport of issuance because of a change in duties, termination of employment, or other reason; or

(x) The employee or employer fails to provide the notification of a change in circumstances as required under §122.184(b) or (c) or the employee fails to report the loss or theft of a Customs access seal as required under §122.185.

(b) *Notice of revocation or suspension.* The port director will revoke or suspend access to the Customs security area and demand surrender of the Customs access seal by giving notice of the revocation or suspension and demand in writing to the employee, with a copy of the notice to the employer. The notice will indicate whether the revocation or suspension is effective immediately or is proposed.

(1) *Immediate revocation or suspension.* When the revocation or suspension of access and the surrender of the Customs access seal are effective immediately, the port director will issue a final notice of revocation or suspension. The port director or his designee may deny physical access to the Customs security area and may demand surrender of an approved Customs access seal at any time on an emergency basis prior to issuance of a final notice of revocation or suspension whenever in the judgment of the port director or his designee an emergency situation involving public health, safety, or security is involved and, in such a case, a final notice of revocation or suspension will be issued to the affected employee within 10 calendar days of the emergency action. A final notice of revocation or suspension will state the specific grounds for the immediate revocation or suspension, direct the employee to immediately surrender the Customs access seal if that Customs access seal has not already been surrendered, and advise the employee that he may choose to pursue one of the following two options:

(1) Submit a new application for an approved Customs access seal, in accordance with the provisions of §122.182(c), on or after the 180th calendar day following the date of the final notice of revocation or suspension; or

(11) File a written administrative appeal of the final notice of revocation or suspension with the port director in accordance with paragraph (c) of this section within 30 calendar days of the date of the final notice of revocation or suspension. The appeal may request that a hearing be held in accordance with paragraph (d) of this section, and in that case the appeal also must demonstrate that there is a genuine issue of fact that is material to the revocation or suspension action.

(2) *Proposed revocation or suspension—*
(1) *Issuance of notice.* When the revocation or suspension of access and the surrender of the Customs access seal is proposed, the port director will issue a notice of proposed revocation or suspension. The notice of proposed revocation or suspension will state the specific grounds for the proposed action, inform the employee that he may continue to have access to the Customs security area and may retain the Customs access seal pending issuance of a final notice under paragraph (b)(2)(11) of this section, and advise the employee that he may file with the port director a written response addressing the grounds for the proposed action within 10 calendar days of the date the notice of proposed action was received by the employee. The employee may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The employee also may ask for a meeting with the port director or his designee to discuss the proposed action.

(11) *Final notice—(A) Based on non-response.* If the employee does not respond to the notice of proposed action, the port director will issue a final notice of revocation or suspension within 30 calendar days of the date the notice of proposed action was received by the employee. The final notice of revocation or suspension will state the specific grounds for the revocation or suspension, direct the employee to immediately surrender the Customs access seal, and advise the employee that he may choose to pursue one of the two options specified in paragraphs (b)(1)(1) and (11) of this section.

(B) *Based on response.* If the employee files a timely response, the port director will issue a final determination regarding the status of the employee's right of access to the Customs security area within 30 calendar days of the date the employee's response was received by the port director. If this final determination is adverse to the employee, then the final notice of revocation or suspension will state the specific grounds for the revocation or suspension, direct the employee to immediately surrender the Customs access seal, and advise the employee that he may choose to pursue one of the two options specified in paragraphs (b)(1)(i) and (ii) of this section.

(c) *Appeal procedures—(1) Filing of appeal.* The employee may file a written appeal of the final notice of revocation or suspension with the port director within 10 calendar days following receipt of the final notice of revocation or suspension. The appeal must be filed in duplicate and must set forth the response of the employee to the statement of the port director. The port director may, in his discretion, allow the employee additional time to submit documentation or other information in support of the appeal.

(2) *Action by port director—(1) If a hearing is requested.* If the appeal requests that a hearing be held, the port director will first review the appeal to determine whether there is a genuine issue of fact that is material to the revocation or suspension action. If a hearing is required because the port director finds that there is a genuine issue of fact that is material to the revocation or suspension action, a hearing will be held, and a decision on the appeal will be rendered, in accordance with paragraphs (d) through (f) of this section. If the port director finds that there is no genuine issue of fact that is material to the revocation or suspension action, no hearing will be held and the port director will forward the administrative record as provided in paragraph (c)(2)(ii) of this section for the rendering of a decision on the appeal under paragraph (c)(3) of this section.

(ii) *CMC review.* If no hearing is requested or if the port director finds that a requested hearing is not re-

quired, following receipt of the appeal the port director will forward the administrative record to the director of field operations at the Customs Management Center having jurisdiction over the office of the port director for a decision on the appeal. The transmittal of the port director must include a response to any disputed issues raised in the appeal.

(3) *Action by the director.* Following receipt of the administrative record from the port director, the director of field operations will render a written decision on the appeal based on the record forwarded by the port director. The decision will be rendered within 30 calendar days of receipt of the record and will be transmitted to the port director and served by the port director on the employee. A decision on an appeal rendered under this paragraph will constitute the final administrative action on the matter.

(d) *Hearing.* A hearing will be conducted in connection with an appeal of a final notice of revocation or suspension of access to the Customs security area only if the affected employee in writing requests a hearing and demonstrates that there is a genuine issue of fact that is material to the revocation or suspension action. If a hearing is required, it must be held before a hearing officer designated by the Commissioner, or his designee. The employee will be notified of the time and place of the hearing at least 5 calendar days before the hearing. The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in the proceeding, including substantiation of charges and the answer to the charges, must be presented. Both parties will have the right of cross-examination. A stenographic record of the proceedings will be made upon request and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer must promptly transmit all papers and the stenographic record to the director of field

operations, together with the recommendation for final action. If neither the employee nor his attorney appears for a scheduled hearing, the hearing officer must record that fact, accept any appropriate testimony, and conclude the hearing. The hearing officer must promptly transmit all papers, together with his recommendations, to the director of field operations.

(e) *Additional written views.* Within 10 calendar days after delivery of a copy of the stenographic record of the hearing to the director of field operations, either party may submit to the director of field operations additional written views and arguments on matters in the record. A copy of any submission will be provided to the other party. Within 10 calendar days of receipt of the copy of the submission, the other party may file a reply with the director of field operations, and a copy of the reply will be provided to the other party. No further submissions will be accepted.

(f) *Decision.* After consideration of the recommendation of the hearing officer and any additional written submissions and replies made under paragraph (e) of this section, the director of field operations will render a written decision. The decision will be transmitted to the port director and served by the port director on the employee. A decision on an appeal rendered under this paragraph will constitute the final administrative action on the matter.

[T.D. 02-40, 67 FR 48986, July 29, 2002; 67 FR 51928, Aug. 9, 2002; 67 FR 54023, Aug. 20, 2002]

§ 122.188 Issuance of temporary Customs access seal.

(a) *Conditions for issuance.* When an approved Customs access seal is required under § 122.182(a) of this part and the port director determines that the application cannot be administratively processed in a reasonable period of time, an employer may, upon written request, be issued a temporary Customs access seal for his employee. The employer must satisfy the port director that a hardship would result if the request is not granted. Surety on the bond, as required by § 122.182(c), may be waived in the discretion of the port director but only for the period of the

temporary Customs access seal and its renewal period.

(b) *Validation period.* The temporary Customs access seal shall be valid for a period of 60 days. The port director may renew the temporary Customs access seal for additional 30 day periods where the circumstances under which the temporary Customs access seal was originally issued continue to exist. The temporary Customs access seal shall be destroyed by the port director when the permanent approved Customs access seal is issued, or the privileges granted thereby are withdrawn.

(c) *Temporary employees and official visitors.* The provisions of this section shall also apply to temporary employees and official visitors requiring access to the Customs security area. In the case of temporary employees, the Customs access seal shall be valid for a period of 30 days. In the case of official visitors, the temporary Customs access seal shall be valid for the day of issuance only. Temporary employee and official visitor Customs access seal are renewable for periods equal to their original period of validity.

(d) *Revocation of denial and access.* The temporary Customs access seal may be revoked and access to the Customs security area denied at any time if the holder of the temporary Customs access seal refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation, or if, in the judgment of the port director, continuation of the privileges granted thereby would endanger the revenue or pose a threat to the Customs security area.

[T.D. 90-82, 55 FR 42557, Oct. 22, 1990, as amended by T.D. 02-40, 67 FR 48988, July 29, 2002]

§ 122.189 Bond liability.

Any failure on the part of a principal to comply with the conditions of the bond required under § 122.182(c), including a failure of an employer to comply with any requirement applicable to the employer under this subpart, will constitute a breach of the bond and may result in a claim for liquidated damages under the bond.

[T.D. 02-40, 67 FR 48988, July 29, 2002]

Required Documentation for Security Seal Application
(Proof of Citizenship and Identity)

NOTE: Copies of REAL ID compliant documents proving identification, citizenship (and work authorization if not a citizen or resident of the U.S.) are required for submission.

UNITED STATES CITIZENS

- U.S. Passport

- U.S. Passport Card

- U.S. Certificate of Naturalization

- Certification of Birth Abroad – Issued by Dept of State & Driver’s License (Real ID Act compliant document*)

- Enhanced Driver’s License

- U.S. Birth Certificate and Driver’s License (Real ID Act compliant document*)

LAWFUL PERMANENT RESIDENTS

- Permanent Resident Card

FEDERATED STATES OF MICRONESIA, PALAU, REPUBLIC OF MARSHALL ISLANDS

- Passport accompanied by a form I-94 or Employment Authorization Card (EAD)

ASYLEES OR REFUGEES

- Form I-94 with Asylee or Refugee Stamp along with Real ID Act compliant document*
- Re-entry Permit (I-327) / Asylee or Refugee Travel Document (I-571)
- EAD & U.S. CIS receipt I-797 showing approved or pending Asylee or Refugee status

FOREIGN CITIZEN (STUDENT)

- Passport, U.S. Visa, Form I-94, SEVIS Form I-20AB and Employment Authorization Card (EAD)

FOREIGN CITIZEN (L1 Intra-company transferee or E2 treaty investor)

- Passport, U.S. Visa and Form I-94

FOREIGN CITIZEN (OTHER)

- Passport, U.S. Visa and Form I-94
- DS-2019 (J1 Visa)
- I-821 (DACA)

For further general guidance and information regarding REAL ID enforcement, please refer to the following:

<http://www.dhs.gov/real-id-frequently-asked-questions>.

Attachment 5

Guidelines for CBP Customs Seal Use

A Customs Seal ALLOWS you:

- To be inside the Customs and Border Protection (CBP) Federal Inspection Site (FIS) when your employer's flight is clearing Customs and you have been assigned to work that flight.
- To be around aircraft on the Ramp Level while unloading cargo, baggage, and passengers from the aircraft and you were assigned to work that flight.
- To be in the Baggage Conveyer Area at ramp level while baggage is being sent down to the CBP area for clearance and you were assigned to work that flight.
- To unload freight from a foreign arrival and drive it to a CBP bonded air freight facility, if you were assigned the task.
- To be inside an arriving or departing international aircraft throughout the airport.

A Customs Seal DOES NOT ALLOW you:

- To be in the CBP FIS or on the Ramp/Conveyor Area on your days off or when you are not assigned to work.
- To be in the CBP FIS or the Ramp/Conveyor Area for any flight that you have not been assigned to work on by your employer.
- To assist, help, or carry baggage for arriving friends, relatives, or off duty employees who arrive on a flight you have been assigned to work.

Employee Requirements and Responsibilities

- Report the loss or theft of their CBP access seal to the CBP Seal Office in writing within 24 hours.
- Report the change in circumstances to the CBP Seal Office in writing within 24 hours of that change in circumstances.
- In case of an arrest, the employee must advise the CBP Seal Office in writing within 5 calendar days of the final disposition of that arrest or prosecution.
- In the case of suspension of an employee's SIDA (Port of Seattle) badge, the employee must advise the CBP Seal Office in writing within 24 hours of the fact and the basis for the suspension.

- Be cognizant and comply with CBP regulations, directives and memos as related to employee conduct. Typical examples of employee violations:
 - Entry into a CBP security area without an approved CBP access seal.
 - Failure to openly display approved CBP access seal.
 - Entry into a CBP security area for a purpose other than to perform duties approved by the employer and associated with work.
 - Failure to produce or surrender a CBP access seal following a proper demand by a CBP Officer.
 - Failure to safeguard a CBP access seal or a failure to report in writing the loss or theft of a CBP access seal within 24 hours.
 - Use of a CBP access seal by a person who is not the original applicant.
 - Refusal to obey a proper CBP order, rule, regulation, directive or memo.
 - Unauthorized use of personal items not approved by CBP in a secured area such as personal bags, fanny packs, cell phones, or other electronic devices.