

maintain participation in the programs required for eligibility (AAMS and C-TPAT), or failure to adhere to all applicable laws and regulations, may result in the suspension or termination of the participant from the test program. Except in instances of willfulness on the part of the participant, or where public health, interest, or safety is at issue, the port director will issue a written notice of proposed suspension to the participant. The notice will inform the participant of the following:

1. The basis of the proposed action and all applicable terms and conditions regarding implementation of the proposed action and the administrative review process.

2. The right to seek administrative review of the action, pursuant to the terms set forth in the notice. A request for review must be received by Customs on or before the 10th calendar day from the date the notice of proposed suspension was issued.

3. That any action will be held in abeyance for a period of 10 calendar days from the date of the notice or, if the participant timely seeks administrative review of the matter pursuant to the terms set forth in the notice, pending conclusion of Customs review of the matter.

4. That failure to seek administrative review of the matter pursuant to the terms set forth in the notice will constitute acceptance of the terms and conditions set forth in the notice, preclude any further administrative review of the matter, and automatically commence the suspension at midnight of the 10th calendar day from the date of the notice.

Where there is willfulness on the part of the participant, or where public health, interest, or safety is concerned, suspension from the test program may

go into effect immediately upon issuance of an electronic notice by the port director that sets forth the basis of the action and any related information. Within 5 calendar days from the date the electronic notice was issued, Customs will issue a written notice of immediate suspension to the participant. A notice of immediate action, whether electronic or in paper form, will provide the same kind of information as that contained in a notice of proposed suspension. An immediate suspension will remain in effect pending conclusion of any administrative review of the action by Customs.

Administrative Review

To seek administrative review of any suspension from the test program, the participant must submit documentation to the port director that issued the suspension notice within 10 calendar days from the date the notice of proposed suspension or an electronic notice of immediate suspension was issued. The documentation must establish, to the satisfaction of Customs, that the alleged deficiencies which led to the action did not occur or have been corrected.

The port director will review the documentation and issue a written final notice of decision to the participant within 30 days from the date the documentation was received by Customs, unless the time period is extended upon due notice. In the case of a participant seeking review of a proposed suspension, the final notice will either impose a suspension that is effective upon the date of the final notice or indicate that no suspension will be imposed. In the case of a participant seeking administrative review of an immediate suspension, the

final notice will inform the participant that the suspension has been affirmed, modified, or revoked upon the date of the final notice.

If a suspension is imposed, the suspended participant may seek a second level of administrative review to appeal the final notice of suspension by submitting documentation to the Assistant Commissioner, Office of Field Operations, within 10 calendar days of the final notice. The Assistant Commissioner or its designee will issue to the suspended participant a written decision within 30 calendar days from the date the documentation was received, unless this time period is extended upon due notice. The decision will affirm, modify, or revoke the suspension and will set forth the basis for the determination, as well as any applicable terms and conditions.

VI. Test Evaluation Criteria

During the course of the test, Customs and the participants will evaluate the test, and the results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required by § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)). The test will be evaluated through an analysis of questionnaires completed by affected participants and Customs personnel. Evaluation criteria for Customs and other government agencies include workload impact, policy and procedural accommodation, and trade compliance impact. Criteria for participants include cost benefits and operational efficiency.

Dated: January 28, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03-2280 Filed 1-30-03; 8:45 am]

BILLING CODE 4820-02-P