

§ 103.33 Release of information to foreign agencies.

(a) The Commissioner or his designee may authorize Customs officers to exchange information or documents with foreign customs and law enforcement agencies if the Commissioner or his designee reasonably believes the exchange of information is necessary to—

(1) Ensure compliance with any law or regulation enforced or administered by Customs;

(2) Administer or enforce multilateral or bilateral agreements to which the U.S. is a party;

(3) Assist in investigative, judicial and quasi-judicial proceedings in the U.S.; and

(4) An action comparable to any of those described in paragraphs (a) (1) through (3) of this section undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.

(b)(1) Information may be provided to foreign customs and law enforcement agencies under paragraph (a) of this section only if the Commissioner or his designee obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Commissioner or his designee.

(2) No information may be provided under paragraph (a) of this section to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (b)(1) of this section.

[T.D. 86-196, 51 FR 40792, Nov. 10, 1986. Redesignated by T.D. 96-36, 61 FR 19838, May 3, 1996]

§ 103.34 Sanctions for improper actions by CBP officers or employees.

(a) The improper disclosure of the confidential information contained in CBP documents, or the disclosure of information relative to the business of one importer or exporter that is acquired by a CBP officer or employee in an official capacity to any person not authorized by law or regulations to receive this information is a ground for dismissal from CBP, suspension, or other disciplinary action, and if done

for a valuable consideration subjects that person to criminal prosecution.

(b) Under 5 U.S.C. 552(a)(4)(F), the Special Counsel, Merit Systems Protection Board, has authority, upon the issuance of a written finding by a court that a CBP officer or employee who was primarily responsible for withholding a record may have acted arbitrarily or capriciously, to initiate a proceeding to determine whether disciplinary action is warranted against that officer or employee. Such proceedings are governed by Merit Systems Protection Board regulations found at part 1201 of Title 5 of the Code of Federal Regulations.

[T.D. 81-168, 46 FR 32565, June 24, 1981. Redesignated by T.D. 96-36, 61 FR 19838, May 3, 1996, as amended by CBP Dec. 15-16, 80 FR 71693, Nov. 17, 2015]

PART 111—CUSTOMS BROKERS

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Section 111.96 also issued under 19 U.S.C. 58c, 31 U.S.C. 9701.

SOURCE: T.D. 00–17, 65 FR 13891, Mar. 15, 2000, unless otherwise noted.

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalties, the revocation or suspension of licenses and permits, and the obligation for individual brokers to satisfy a continuing education requirement.

[T.D. 00–17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 23–04, 88 FR 41258, June 23, 2023]

Subpart A—General Provisions**§ 111.1 Definitions.**

When used in this part, the following terms have the meanings indicated:

Appropriate Executive Director, Office of Trade. “Appropriate Executive Director, Office of Trade” means the Executive Director responsible for broker management.

Broker. “Broker” means a customs broker.

Broker’s office of record. “Broker’s office of record” means the office designated by a customs broker as the broker’s primary location that oversees the administration of the provisions of this part regarding all activities conducted under a national permit.

Continuing broker education requirement. “Continuing broker education requirement” means an individual broker’s obligation to complete a certain number of continuing education credits of qualifying continuing broker education, as set forth in subpart F of this part, in order to maintain sufficient knowledge of customs and related laws, regulations, and procedures, book-keeping, accounting, and all other appropriate matters necessary to render valuable service to importers and drawback claimants.

Continuing education credit. “Continuing education credit” means the unit of measurement used for meeting the continuing broker education requirement. The smallest recognized unit is half of one continuing education credit, which requires 30 minutes of continuous participation in qualifying continuing broker education, as defined in § 111.103(a). For qualifying continuing broker education lasting more than 30 minutes, half of one continuing education credit may be claimed for every full 30 minutes of continuous participation thereafter. For example, for qualifying continuing broker education lasting more than 60 minutes but less than 90 minutes, only one continuing education credit may be claimed. In contrast, for qualifying continuing broker education lasting 90 minutes, 1.5 continuing broker education credits may be claimed.

Corporate compliance activity. “Corporate compliance activity” means activity performed by a business entity

to ensure that documents for a related business entity or entities are prepared and filed with CBP using “reasonable care”, but such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a “business entity” is an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes, and the term “related business entity or entities” encompasses a business entity that has more than a 50 percent ownership interest in another business entity, a business entity in which another business entity has more than a 50 percent ownership interest, and two or more business entities in which the same business entity has more than a 50 percent ownership interest.

Customs broker. “Customs broker” means a person who is licensed under this part to transact customs business on behalf of others.

Customs business. “Customs business” means those activities involving transactions with CBP concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by CBP on merchandise by reason of its importation, and the refund, rebate, or drawback of those duties, taxes, or other charges. “Customs business” also includes the preparation, and activities relating to the preparation, of documents in any format and the electronic transmission of documents and parts of documents intended to be filed with CBP in furtherance of any other customs business activity, whether or not signed or filed by the preparer. However, “customs business” does not include the mere electronic transmission of data received for transmission to CBP and does not include a corporate compliance activity.

Department of Homeland Security or any representative of the Department of Homeland Security. “Department of Homeland Security or any representative of the Department of Homeland Security” means any office, officer, or employee of the U.S. Department of Homeland Security, wherever located.

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Employee. “Employee” means a person who meets the common law definition of employee and is in the service of a customs broker.

Executive Assistant Commissioner. “Executive Assistant Commissioner” means the Executive Assistant Commissioner of the Office of Trade at the Headquarters of U.S. Customs and Border Protection.

Freight forwarder. “Freight forwarder” means a person engaged in the business of dispatching shipments in foreign commerce between the United States, its territories or possessions, and foreign countries, and handling the formalities incident to such shipments, on behalf of other persons.

Officer. “Officer”, when used in the context of an association or corporation, means a person who has been elected, appointed, or designated as an officer of an association or corporation in accordance with statute and the articles of incorporation, articles of agreement, charter, or bylaws of the association or corporation.

Permit. “Permit” means a permit issued to a broker under § 111.19.

Person. “Person” includes individuals, partnerships, associations, and corporations.

Processing Center. “Processing Center” means the broker management operations of a Center of Excellence and Expertise (Center) that process applications for a broker’s license under § 111.12(a), applications for a national permit under § 111.19(b) for an individual, partnership, association, or corporation, as well as submissions required in this part for an already-licensed broker.

Qualifying continuing broker education. “Qualifying continuing broker education” means any training or educational activity that is eligible or, if required, has been approved for continuing education credit, in accordance with § 111.103.

Records. “Records” means documents, data and information referred to in, and required to be made or maintained under, this part and any other records, as defined in § 163.1(a) of this chapter, that are required to be maintained by a broker under part 163 of this chapter.

Responsible supervision and control. “Responsible supervision and control” means that degree of supervision and control necessary to ensure the proper transaction of the customs business of a broker, including actions necessary to ensure that an employee of a broker provides substantially the same quality of service in handling customs transactions that the broker is required to provide. See § 111.28 for a list of factors which CBP may consider when evaluating responsible supervision and control.

Triennial period. “Triennial period” means a period of three years commencing on February 1, 1985, or on February 1 in any third year thereafter.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 03-15, 68 FR 47460, Aug. 11, 2003; CBP Dec. 22-21, 87 FR 63313, Oct. 18, 2022; CBP Dec. 23-04, 88 FR 41258, June 23, 2023]

§ 111.2 License and permit required.

(a) *License*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, a person must obtain the license provided for in this part in order to transact customs business as a broker.

(2) *Transactions for which license is not required*—(i) *For one’s own account.* An importer or exporter transacting customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(ii) *As employee of broker*—(A) *General.* An employee of a broker, acting solely for his employer, is not required to be licensed where:

(1) *Authorized to sign documents.* The broker has authorized the employee to sign documents pertaining to customs business on his behalf, and has executed a power of attorney for that purpose. The broker is not required to file the power of attorney with CBP, but must provide proof of its existence to CBP upon request; or

(2) *Authorized to transact other business.* The broker has filed with the processing Center a statement identifying the employee as authorized to transact customs business on his behalf.

(B) *Broker supervision; withdrawal of authority.* Where an employee has been given authority under paragraph (a)(2)(ii) of this section, the broker must exercise sufficient supervision of the employee to ensure proper conduct on the part of the employee in the transaction of customs business, and the broker will be held strictly responsible for the acts or omissions of the employee within the scope of his employment and for any other acts or omissions of the employee which, through the exercise of reasonable care and diligence, the broker should have foreseen. The broker must promptly notify the processing Center if authority granted to an employee under paragraph (a)(2)(ii) of this section is withdrawn. The withdrawal of authority will be effective upon receipt by the processing Center.

(iii) *Marine transactions.* A person transacting business in connection with entry or clearance of vessels or other regulation of vessels under the navigation laws is not required to be licensed as a broker.

(iv) *Transportation in bond.* Any carrier bringing merchandise to the port of arrival or any bonded carrier transporting merchandise for another may make entry for that merchandise for transportation in bond without being a broker.

(v) *Noncommercial shipments.* An individual entering noncommercial merchandise for another party is not required to be a broker, provided that the requirements of §141.33 of this chapter are met.

(vi) *Foreign trade zone activities.* A foreign trade zone operator or user need not be licensed as a broker in order to engage in activities within a zone that do not involve the transfer of merchandise to the customs territory of the United States.

(b) *National permit.* A national permit issued to a broker under §111.19 will constitute sufficient permit authority for the broker to conduct customs business within the customs territory of

the United States as defined in §101.1 of this chapter.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 03-15, 68 FR 47460, Aug. 11, 2003; CBP Dec. 09-47, 74 FR 69018, Dec. 30, 2009; CBP Dec. 22-21, 87 FR 63313, Oct. 18, 2022]

§ 111.3 Customs business.

(a) *Location.* Customs business must be conducted within the customs territory of the United States as defined in §101.1 of this chapter.

(b) *Point of contact.* A licensed customs broker, or partnership, association, or corporation, conducting customs business under a national permit must designate a knowledgeable point of contact to be available to CBP during and outside of normal operating hours to respond to customs business issues. The licensed customs broker, or partnership, association, or corporation, must maintain accurate and current point of contact information in a CBP-authorized electronic data interchange (EDI) system. If a CBP-authorized EDI system is not available, then the information must be provided in writing to the processing Center.

[CBP Dec. 22-21, 87 FR 63313, Oct. 18, 2022]

§ 111.4 Transacting customs business without a license.

Any person who intentionally transacts customs business, other than as provided in §111.2(a)(2), without holding a valid broker's license, will be liable for a monetary penalty for each such transaction as well as for each violation of any other provision of 19 U.S.C. 1641. The penalty will be assessed in accordance with subpart E of this part.

§ 111.5 Representation before Government agencies.

(a) *Agencies within the Department of Homeland Security.* A broker who represents a client in the importation or exportation of merchandise may represent the client before the Department of Homeland Security or any representative of the Department of Homeland Security on any matter concerning that merchandise.

(b) *Agencies not within the Department of Homeland Security.* In order to represent a client before any agency not

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within the Department of Homeland Security, a broker must comply with any regulations of that agency governing the appearance of representatives before it.

Subpart B—Procedure To Obtain License or Permit

§ 111.11 Basic requirements for a license.

(a) *Individual.* In order to obtain a broker's license, an individual must:

(1) Be a citizen of the United States on the date of submission of the application referred to in § 111.12(a) and not an officer or employee of the United States Government;

(2) Attain the age of 21 prior to the date of submission of the application referred to in § 111.12(a);

(3) Be of good moral character; and

(4) Have established, by attaining a passing (75 percent or higher) grade on an examination taken within the 3-year period before submission of the application referred to in § 111.12(a), that he has sufficient knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters to render valuable service to importers and exporters.

(b) *Partnership.* In order to qualify for a broker's license, a partnership must have at least one member of the partnership who is a broker.

(c) *Association or corporation.* In order to qualify for a broker's license, an association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs business as a broker; and

(2) Have at least one officer who is a broker.

[T.D. 00–17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 17–05, 82 FR 29718, June 30, 2017]

§ 111.12 Application for license.

(a) *Submission of application and fee.* An application for a broker's license must be timely submitted to the processing Center after the applicant attains a passing grade on the examination. The application must be executed on CBP Form 3124. The application must be accompanied by the applica-

tion fee prescribed in § 111.96(a) and one copy of the appropriate attachment required by the application form (Articles of Agreement or an affidavit signed by all partners, Articles of Agreement of the association, or the Articles of Incorporation). If the applicant proposes to operate under a trade or fictitious name in one or more States, evidence of the applicant's authority to use the name in each of those States must accompany the application. The application, application fee and any additional documentation as required above may be submitted to a CBP-authorized electronic data interchange (EDI) system. If a CBP-authorized EDI system is not available, then the information must be submitted in writing to the processing Center. An application for an individual license must be submitted within the 3-year period after the applicant took and passed the examination referred to in §§ 111.11(a)(4) and 111.13. The processing Center may require an individual applicant to provide a copy of the notification that the applicant passed the examination (see § 111.13(e)) and will require the applicant to submit fingerprints at the time of the interview. The processing Center may reject an application as improperly filed if the application is incomplete or, if on its face, the application demonstrates that one or more of the basic requirements set forth in § 111.11 has not been met at the time of filing; in either case the application and fee will be returned to the filer without further action.

(b) *Withdrawal of application.* An applicant for a broker's license may withdraw the application at any time prior to issuance of the license by providing written notice of the withdrawal to the processing Center or through a CBP-authorized EDI system, if available. However, withdrawal of the application does not entitle the applicant to a refund of the application fee set forth in § 111.96(a).

[CBP Dec. 22–21, 87 FR 63313, Oct. 18, 2022]

§ 111.13 Examination for individual license.

(a) *Scope of examination.* The examination for an individual broker's license will be designed to determine the individual's knowledge of customs and

related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and exporters. The examination will be prepared by Customs and Border Protection (CBP).

(b) *Basic requirements, date, and place of examination.* In order to be eligible to take the examination, an individual must on the date of examination be a citizen of the United States who has attained the age of 18 years and who is not an officer or employee of the United States Government. CBP will publish a notice announcing each examination on its Web site. Examinations will be given on the fourth Wednesday in April and October unless the regularly scheduled examination date conflicts with a national holiday, religious observance, or other foreseeable event and the agency publishes in the FEDERAL REGISTER an appropriate notice of a change in the examination date. An individual who intends to take the examination must complete the electronic application at least 30 calendar days prior to the scheduled examination date and must remit the examination fee prescribed in §111.96(a) at that time. CBP will give notice of the time and place for the examination, including whether alternatives to on-site testing will be available, which is at CBP's sole discretion.

(c) *Special examination.* If a partnership, association, or corporation loses the required member or officer having an individual broker's license (see §111.11(b) and (c)(2)) and its license would be revoked by operation of law under the provisions of 19 U.S.C. 1641(b)(5) and §111.45(a) before the next scheduled examination, CBP may authorize a special examination for a prospective applicant for an individual license who would serve as the required licensed member or officer. CBP may also authorize a special examination for an individual for purposes of continuing the business of a sole proprietorship broker. A special examination for an individual may also be authorized by CBP if a brokerage firm loses the individual broker who was exercising responsible supervision and control over the transaction of customs business before the next scheduled ex-

amination. A request for a special examination must be submitted to the Executive Assistant Commissioner, Office of Trade, in writing and must describe the circumstances giving rise to the need for the examination. If the request is granted, the Executive Assistant Commissioner, Office of Trade or his/her designee, will notify the prospective examinee of the exact time and place for the examination. If the individual attains a passing grade on the special examination, the application for the license may be submitted in accordance with §111.12. The examinee will be responsible for all additional costs incurred by CBP in preparing and administering the special examination that exceed the examination fee prescribed in §111.96(a), and those additional costs must be reimbursed to CBP before the examination is given.

(d) *Failure to appear for examination.* If a prospective examinee advises the Office of Trade at the Headquarters of U.S. Customs and Border Protection, Attn: Broker Management Branch, electronically in a manner specified by CBP at least 2 working days prior to the date of a regularly scheduled examination that he will not appear for the examination, CBP will refund the examination fee referred to in paragraph (b) of this section. No refund of the examination fee or additional reimbursed costs will be made in the case of a special written examination provided for under paragraph (c) of this section.

(e) *Notice of examination result.* CBP will provide to each examinee written or electronic notice of the result of the examination taken under this section. A failure of an examinee to attain a passing grade on the examination will preclude the submission of an application under §111.12 but will not preclude the examinee from taking an examination again at a later date in accordance with paragraph (b) of this section.

(f) *Appeal of failing grade on examination.* If an examinee fails to attain a passing grade on the examination taken under this section, the examinee may challenge that result by filing a written or electronic appeal with the Office of Trade at the Headquarters of U.S. Customs and Border Protection, Attn: Broker Management Branch,

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within 60 calendar days after the date of the written or electronic notice provided for in paragraph (e) of this section. CBP will provide to the examinee written or electronic notice of the decision on the appeal. If the CBP decision on the appeal affirms the result of the examination, the examinee may request review of the decision on the appeal by submitting a written or electronic request to the appropriate Executive Director, Office of Trade, U.S. Customs and Border Protection, within 60 calendar days after the date of the notice on that decision.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 03-23, 68 FR 31977, May 29, 2003, CBP Dec. 09-38, 74 FR 52401, Oct. 13, 2009; CBP Dec. 10-29, 75 FR 52458, Aug. 26, 2010; CBP Dec. 17-05, 82 FR 29718, June 30, 2017; CBP Dec. 22-21, 87 FR 63314, Oct. 18, 2022]

§ 111.14 Background investigation of the license applicant.

(a) *Scope of background investigation.* A background investigation under this section will ascertain facts relevant to the question of whether the applicant is qualified and will cover, but need not be limited to:

- (1) The accuracy of the statements made in the application and interview;
- (2) The business integrity and financial responsibility of the applicant; and
- (3) When the applicant is an individual (including a member of a partnership or an officer of an association or corporation), the character and reputation of the applicant, including any association with any individuals or groups that may present a risk to the security or to the revenue collection of the United States.

(b) *Referral to Headquarters.* The processing Center will forward the application and supporting documentation to the appropriate Executive Director, Office of Trade. The processing Center will also submit the recommendation for action on the application.

(c) *Additional inquiry.* The appropriate Executive Director, Office of Trade, may require further inquiry if additional facts are deemed necessary to evaluate the application. The appropriate Executive Director, Office of Trade, may also require the applicant (or in the case of a partnership, association, or corporation, one or more of

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its members or officers) to appear in person or by another approved method before the appropriate Executive Director, Office of Trade, or his or her representatives, for the purpose of undergoing further written or oral inquiry.

[CBP Dec. 22-21, 87 FR 63314, Oct. 18, 2022]

§ 111.15 Issuance of license.

If the appropriate Executive Director, Office of Trade, finds that the applicant is qualified and has paid all applicable fees prescribed in § 111.96(a), the Executive Assistant Commissioner will issue a license. A license for an individual who is a member of a partnership, or an officer of an association or corporation will be issued in the name of the individual licensee and not in his or her capacity as a member or officer of the organization with which he or she is connected. The license will be forwarded to the processing Center, which will deliver it to the licensee.

[CBP Dec. 22-21, 87 FR 63314, Oct. 18, 2022]

§ 111.16 Denial of a license.

(a) *Notice of denial.* If the appropriate Executive Director, Office of Trade, determines that the application for a license should be denied for any reason, notice of denial will be given by him or her to the applicant and to the processing Center. The notice of denial will state the reasons why the license was not issued.

(b) *Grounds for denial.* The grounds sufficient to justify denial of an application for a license include, but need not be limited to:

- (1) Any cause which would justify suspension or revocation of the license of a broker under the provisions of § 111.53;
- (2) The failure to meet any requirement set forth in § 111.11;
- (3) A failure to establish the business integrity and financial responsibility of the applicant;
- (4) A failure to establish the good character and reputation of the applicant;
- (5) Any willful misstatement or omission of pertinent facts in the application or interview for the license;

(6) Any conduct which would be deemed unfair or detrimental in commercial transactions by accepted standards;

(7) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of that conduct; or

(8) Any other relevant information uncovered over the course of the background investigation.

[CBP Dec. 22–21, 87 FR 63314, Oct. 18, 2022]

§ 111.17 Review of the denial of a license.

(a) *By the appropriate Executive Director, Office of Trade.* Upon the denial of an application for a license, the applicant may file with the appropriate Executive Director, Office of Trade, in writing, additional information or arguments in support of the application and may request to appear in person, by telephone, or by other acceptable means of communication. This filing and request must be received by the appropriate Executive Director, Office of Trade within sixty (60) calendar days of the denial.

(b) *By the Executive Assistant Commissioner.* Upon the decision of the appropriate Executive Director, Office of Trade, affirming the denial of an application for a license, the applicant may file with the Executive Assistant Commissioner, in writing, a request for any additional review that the Executive Assistant Commissioner, deems appropriate. This request must be received by the Executive Assistant Commissioner within sixty (60) calendar days of the affirmation by the appropriate Executive Director, Office of Trade, of the denial of the application for a license.

(c) *By the Court of International Trade.* Upon a decision of the Executive Assistant Commissioner affirming the denial of an application for a license, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within sixty (60) calendar days after the decision date by the Executive Assistant Commissioner.

[CBP Dec. 22–21, 87 FR 63314, Oct. 18, 2022]

§ 111.18 Reapplication for license.

An applicant who has been denied a license may reapply at any time by complying with the provisions of § 111.12 and addressing how deficiencies have been remedied.

[T.D. 00–17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22–21, 87 FR 63315, Oct. 18, 2022]

§ 111.19 National permit.

(a) *General.* A national permit is required for the purpose of transacting customs business throughout the customs territory of the United States as defined in § 101.1 of this chapter.

(b) *Application for a national permit.* An applicant who obtains a passing grade on the examination for an individual broker's license may apply for a national permit. The applicant will exercise responsible supervision and control (as described in § 111.28) over the activities conducted under that national permit. The national permit application may be submitted concurrently with or after the submission of an application for a broker's license. An applicant applying for a national permit on behalf of a partnership, association, or corporation must be a licensed broker employed by the partnership, association, or corporation. An application for a national permit under this paragraph must be submitted in the form of a letter to the processing Center or to a CBP-authorized electronic data interchange (EDI) system. The application must set forth or attach the following:

(1) The applicant's broker license number and date of issuance if available;

(2) If the applicant is applying for a national permit on behalf of a partnership, association, or corporation: the name of the partnership, association, or corporation and the title held by the applicant within the partnership, association, or corporation;

(3) If the applicant is applying for a national permit on behalf of a partnership, association, or corporation: a copy of the documentation issued by a State, or local government that establishes the legal status and reserves the business name of the partnership, association, or corporation;

(4) The address, telephone number, and email address of the office designated by the applicant as the office of record as defined in §111.1. The office will be noted in the national permit when issued;

(5) The name, telephone number, and email address of the point of contact described in §111.3(b) to be available to CBP to respond to issues related to the transaction of customs business;

(6) If the applicant is applying for a national permit on behalf of a partnership, association, or corporation: the name, broker license number, office address, telephone number, and email address of each individual broker employed by the partnership, association, or corporation;

(7) A list of all employees together with the specific employee information prescribed in §111.28 for each employee;

(8) A supervision plan describing how responsible supervision and control will be exercised over the customs business conducted under the national permit, including compliance with §111.28;

(9) The location where records will be retained (*see* §111.23);

(10) The name, telephone number, and email address of the knowledgeable employee responsible for broker-wide records maintenance and financial recordkeeping requirements (*see* §111.21(d)); and

(11) A receipt or other evidence showing that the fees specified in §111.96(b) and (c) have been paid in accordance with paragraph (b) of this section.

(c) *Fees.* A national permit issued under paragraph (a) of this section is subject to the permit application fee specified in §111.96(b) and to the customs permit user fee specified in §111.96(c). The fees must be paid at the processing Center (*see* §111.1) or through a CBP-authorized EDI system at the time the permit application is submitted.

(d) *Action on application; list of permitted brokers.* The processing Center that receives the application will review the application to determine whether the applicant meets the requirements of paragraphs (a) and (b) of this section. If the processing Center is of the opinion that the national permit

should not be issued, the processing Center will submit written reasons for that opinion to the appropriate Executive Director, Office of Trade, CBP Headquarters, for appropriate instructions on whether to grant or deny the national permit. The appropriate Executive Director, Office of Trade, CBP Headquarters, will notify the applicant if his or her application is denied. CBP will issue a national permit to an applicant who meets the requirements of paragraphs (a) and (b) of this section. CBP will maintain and make available to the public an alphabetical list of permitted brokers.

(e) *Review of the denial of a national permit—(1) By the Executive Assistant Commissioner.* Upon the denial of an application for a national permit under this section, the applicant may file with the Executive Assistant Commissioner, in writing, additional information or arguments in support of the application and may request to appear in person, by telephone, or by other acceptable means of communication. This filing and request must be received by the Executive Assistant Commissioner within sixty (60) calendar days of the denial.

(2) *By the Court of International Trade.* Upon a decision of the Executive Assistant Commissioner affirming the denial of an application for a national permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within sixty (60) calendar days after the decision date by the Executive Assistant Commissioner.

(f) *Responsible supervision and control.* The individual broker who qualifies for the national permit will exercise responsible supervision and control (as described in §111.28) over the activities conducted under that national permit.

[T.D. 00–17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22–22, 87 FR 63267, Oct. 18, 2022; CBP Dec. 22–21, 87 FR 63315, Oct. 18, 2022; CBP Dec. 23–04, 88 FR 41258, June 23, 2023]

Subpart C—Duties and Responsibilities of Customs Brokers**§ 111.21 Record of transactions.**

(a) Each broker must keep current in a correct, orderly, and itemized manner records of account reflecting all his financial transactions as a broker. He must keep and maintain on file copies of all his correspondence and other records relating to his customs business.

(b) Each broker must provide notification to the CBP Office of Information Technology Security Operations Center (CBP SOC) of any known breach of electronic or physical records relating to the broker's customs business. Notification must be electronically provided (*cbpsoc@cbp.dhs.gov*) within 72 hours of the discovery of the breach, including any known compromised importer identification numbers (*see* 19 CFR 24.5). Within ten (10) business days of the notification, a broker must electronically provide an updated list of any additional known compromised importer identification numbers. To the extent that additional information is subsequently discovered, the broker must electronically provide that information within 72 hours of discovery. Brokers may also call CBP SOC at a telephone number posted on CBP.gov with questions as to the reporting of the breach, if any guidance is needed.

(c) Each broker must comply with the provisions of this part and part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(d) Each broker must designate a knowledgeable employee as the party responsible for brokerage-wide record-keeping requirements. Each broker must maintain accurate and current point of contact information in a CBP-authorized electronic data interchange (EDI) system. If a CBP-authorized EDI system is not available, then the information must be provided in writing to the processing Center.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63315, Oct. 18, 2022]

§ 111.22 [Reserved]**§ 111.23 Retention of records.**

(a) *Place of retention.* A licensed customs broker must maintain originals of the records referred to in this part, including any records stored in electronic formats, within the customs territory of the United States and in accordance with the provisions of this part and part 163 of this chapter.

(b) *Period of retention.* The records described in this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Powers of attorney must be retained until revoked, and revoked powers of attorney and letters of revocation must be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, records relating to the withdrawal must be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

[CBP Dec. 12-12, 77 FR 33966, June 8, 2012, as amended by CBP Dec. 22-21, 87 FR 63316, Oct. 18, 2022]

§ 111.24 Records confidential.

The records referred to in this part and pertaining to the business of the clients serviced by the broker are to be considered confidential, and the broker must not disclose their contents or any information connected with the records to any persons other than those clients, their surety on a particular entry, and representatives of the Department of Homeland Security (DHS), or other duly accredited officers or agents of the United States, except on subpoena or court order by a court of competent jurisdiction, or when authorized in writing by the client. This confidentiality provision does not apply to information that properly is available from a source open to the public.

[CBP Dec. 22-21, 87 FR 63316, Oct. 18, 2022]

§ 111.25 Records must be available.

(a) *General.* During the period of retention, the broker must maintain the

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records referred to in this part in such a manner that they may readily be examined. Records required to be maintained under the provisions of this part must be made available upon reasonable notice for inspection, copying, reproduction or other official use by representatives of the Department of Homeland Security (DHS) within the prescribed period of retention or within any longer period of time during which they remain in the possession of the broker.

(b) *Examination request.* Upon request by DHS to examine records, the designated recordkeeping contact (see § 111.21(d)), must make all records available to DHS within thirty (30) calendar days, or such longer time as specified by DHS, at the location specified by DHS.

(c) *Recordkeeping requirements.* Records subject to the requirements of part 163 of this chapter must be made available to DHS in accordance with the provisions of that part.

[CBP Dec. 22-21, 87 FR 63316, Oct. 18, 2022]

§ 111.26 Interference with examination of records.

Except in accordance with the provisions of part 163 of this chapter, a broker must not refuse access to, conceal, remove, or destroy the whole or any part of any record relating to his transactions as a broker which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Department of Homeland Security or any representative of the Department of Homeland Security, nor may he otherwise interfere, or attempt to interfere, with any proper and lawful efforts to procure or reproduce information contained in those records.

§ 111.27 Audit or inspection of records.

The Field Director, Regulatory Audit, will make any audit or inspection of the records required by this subpart to be kept and maintained by a broker as may be necessary to enable DHS, or other duly accredited officers or agents of the United States, to determine whether or not the broker is

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complying with the requirements of this part.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63316, Oct. 18, 2022]

§ 111.28 Responsible supervision and control.

(a) *General.* Every individual broker operating as a sole proprietor, every licensed member of a partnership that is a broker, and every licensed officer of an association or corporation that is a broker must exercise responsible supervision and control (see § 111.1) over the transaction of the customs business of the sole proprietorship, partnership, association, or corporation. A sole proprietorship, partnership, association, or corporation must employ a sufficient number of licensed brokers relative to the job complexity, similarity of subordinate tasks, physical proximity of subordinates, abilities and skills of employees, and abilities and skills of the managers. While the determination of what is necessary to perform and maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which CBP may consider in its discretion and to the extent any are relevant include, but are not limited to, the following:

(1) The training provided to broker employees;

(2) The issuance of instructions and guidelines to broker employees;

(3) The volume and type of business conducted by the broker;

(4) The reject rate for the various customs transactions relative to overall volume;

(5) The level of access broker employees have to current editions of CBP regulations, the Harmonized Tariff Schedule of the United States, and CBP issuances;

(6) The availability of a sufficient number of individually licensed brokers for necessary consultation with employees of the broker;

(7) The frequency of supervisory visits of an individually licensed broker to another office of the broker that does not have an individually licensed broker;

(8) The frequency of audits and reviews by an individually licensed

broker of the customs transactions handled by employees of the broker;

(9) The extent to which the individually licensed broker who qualifies the permit is involved in the operation of the brokerage and communications between CBP and the brokerage;

(10) Any circumstances which indicate that an individually licensed broker has a real interest in the operations of a brokerage;

(11) The timeliness of processing entries and payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client;

(12) Communications between CBP and the broker, and the broker's responsiveness and action to communications, direction, and notices from CBP;

(13) Communications between the broker and its officer(s) or member(s), and the broker's responsiveness and action to communications and direction from its officer(s) or member(s).

(b) *Employee information*—(1) *Current employees*. Each national permit holder must submit to the processing Center a list of the names of persons currently employed by the broker. The list of employees must be submitted prior to issuance of a national permit under § 111.19 and before the broker begins to transact customs business. For each employee, the broker must provide the name, social security number, date and place of birth, date of hire, and current home address. After the initial submission, an updated list must be submitted to a CBP-authorized electronic data interchange (EDI) system if any of the information required by this paragraph changes. If a CBP-authorized EDI system is not available, then the information must be provided in writing to the processing Center. The update must be submitted within thirty (30) calendar days of the change.

(2) *New employees*. Within thirty (30) calendar days of the start of employment of a new employee(s), the broker must submit a list of new employee(s) with the information required under paragraph (b)(1) of this section to a CBP-authorized EDI system. The broker may submit a list of the new employee(s) or an updated list of all employees, specifically noting the new

employee(s). If a CBP-authorized EDI system is not available, then the information must be provided in writing to the processing Center.

(3) *Terminated employees*. Within thirty (30) calendar days after the termination of employment of an employee, the broker must submit a list of terminated employee(s) to a CBP-authorized EDI system. The broker may submit a list of the terminated employee(s) or an updated list of all employees, specifically noting the terminated employee(s). If a CBP-authorized EDI system is not available, then the information must be provided in writing to the processing Center.

(c) *Broker's responsibility*. Notwithstanding a broker's responsibility for providing the information required in paragraph (b) of this section, in the absence of culpability by the broker, CBP will not hold the broker responsible for the accuracy of any information that is provided to the broker by the employee.

(d) *Termination of qualifying member or officer*. In the case of an individual broker who is a qualifying member of a partnership for purposes of § 111.11(b) or who is a qualifying officer of an association or corporation for purposes of § 111.11(c)(2), that individual broker must immediately provide written notice to the appropriate Executive Director, Office of Trade, when his employment as a qualifying member or officer terminates and must send a copy of the written notice to the processing Center.

(e) *Change in ownership*. If the ownership of a broker changes and ownership shares in the broker are not publicly traded, the broker must immediately provide written notice of that fact to the appropriate Executive Director, Office of Trade, and must send a copy of the written notice to the processing Center. When a change in ownership results in the addition of a new principal to the organization, and whether or not ownership shares in the broker are publicly traded, CBP reserves the right to conduct a background investigation on the new principal. The processing Center will notify the broker if CBP objects to the new principal, and the broker will be given a reasonable period of time to remedy the situation. If

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the background investigation uncovers information which would have been the basis for a denial of an application for a broker's license and the principal's interest in the broker is not terminated to the satisfaction of the processing Center, suspension or revocation proceedings may be initiated under subpart D of this part. For purposes of this paragraph, a "principal" means any person having at least a five (5) percent capital, beneficiary or other direct or indirect interest in the business of a broker.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63316, Oct. 18, 2022]

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker must exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any customs business matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client, must be made to the Government on or before the date that payment is due. Payments received by a broker from a client after the due date must be transmitted to the Government within 5 working days from receipt by the broker. Each broker must provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment to the Government has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's customs business, within 60 calendar days of receipt. No written statement is required if there is actual payment of the funds by a broker.

(b) *Notice to client of method of payment.* (1) All brokers must provide their clients with the following written notification:

If you are the importer of record, payment to the broker will not relieve you of liability for customs charges (duties, taxes, or other debts owed CBP) in the event the charges are

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not paid by the broker. Therefore, if you pay by check, customs charges may be paid with a separate check payable to the "U.S. Customs and Border Protection" which will be delivered to CBP by the broker.

(2) The written notification set forth in paragraph (b)(1) of this section must be provided by brokers as follows:

(i) On, or attached to, any power of attorney provided by the broker to a client for execution on or after September 27, 1982; and

(ii) To each active client no later than February 28, 1983, and at least once at any time within each 12-month period after that date. An active client means a client from whom a broker has obtained a power of attorney and for whom the broker has transacted customs business on at least two occasions within the 12-month period preceding notification.

§ 111.30 Notification of change in address, organization, name, or location of business records; status report; termination of brokerage business.

(a) *Change of address.* A broker is responsible for providing CBP with the broker's current addresses, which include the broker's office of record address as defined in § 111.1, an email address, and, if the broker is not actively engaged in transacting business as a broker, the broker's non-business address. If a broker does not receive mail at the broker's office of record or non-business address, the broker must also provide CBP with a valid address at which he or she receives mail. When address information (the broker's office of record address, mailing address, email address) changes, or the broker is no longer actively engaged in transacting business as a broker, he or she must update his or her address information within ten (10) calendar days through a CBP-authorized electronic data interchange (EDI) system. If a CBP-authorized EDI system is not available, then address updates must be provided in writing within ten (10) calendar days to the processing Center.

(b) *Change in organization.* A partnership, association, or corporation broker must update within ten (10) calendar days in writing to the processing Center any of the following:

(1) The date on which a licensed member or officer ceases to be the qualifying member or officer for purposes of §111.11(b) or (c)(2), and the name of the licensed member or officer who will succeed as the license qualifier;

(2) The date on which a licensed employee ceases to be the national permit qualifier for purposes of §111.19(a), and the name of the licensed employee who will succeed as the national permit qualifier; and

(3) Any change in the Articles of Agreement, Charter, Articles of Association, or Articles of Incorporation relating to the transaction of customs business, or any other change in the legal nature of the organization (for example, conversion of a general partnership to a limited partnership, merger with another organization, divestiture of a part of the organization, or entry into bankruptcy protection).

(c) *Change in name.* A broker who changes his or her name, or who proposes to operate under a trade or fictitious name in one or more States and is authorized by State law to do so, must submit to the appropriate Executive Director, Office of Trade, at the Headquarters of U.S. Customs and Border Protection, evidence of his or her authority to use that name. The name must not be used until the approval of Headquarters has been received. In the case of a trade or fictitious name, the broker must affix his own name in conjunction with each signature of the trade or fictitious name when signing customs documents.

(d) *Triennial status report*—(1) *General.* Each broker must file a triennial status report with CBP on February 1 of each third year after 1985. The report must be filed through a CBP-authorized EDI system and will not be considered received by CBP until payment of the triennial status report fee prescribed in §111.96(d) is received. If a CBP-authorized EDI system is not available, the triennial status report must be filed with the processing Center. A report received during the month of February will be considered filed timely. No form or particular format is required.

(2) *Individual.* Each individual broker must state in the report required under

paragraph (d)(1) of this section whether he or she is actively engaged in transacting business as a broker.

(i) If the individual broker is actively engaged in transacting business as a broker, the individual broker must also:

(A) State the name under which, and the address at which, the broker's business is conducted if he or she is a sole proprietor, and an email address;

(B) State the name and address of his or her employer if he or she is employed by another broker, unless his or her employer is a partnership, association or corporation broker for which he or she is a qualifying member or officer for purposes of §111.11(b) or (c)(2);

(C) State whether or not he or she still meets the applicable requirements of §§111.11 and 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under §111.53; and

(D) Report and certify the broker's compliance with the continuing broker education requirement as set forth in §111.102.

(ii) If the individual broker is not actively engaged in transacting business as a broker, the individual broker must also:

(A) State the broker's current mailing address and email address;

(B) State whether or not he or she still meets the applicable requirements of §§111.11 and 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under §111.53; and

(C) Report and certify the broker's compliance with the continuing broker education requirement as set forth in §111.102.

(3) *Partnership, association, or corporation.* (i) Each partnership, association, or corporation broker must state in the report required under paragraph (d)(1) of this section the name under which its business as a broker is being transacted, the broker's office of record (*see* §111.1), the name, address and email address of each licensed member of the partnership or licensed officer of the association or corporation, including the license qualifier under §111.11(b) or (c)(2) and the name of the licensed employee who is the national permit qualifier under §111.19(a), and whether

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the partnership, association, or corporation is actively engaged in transacting business as a broker. The report must be signed by a licensed member or officer.

(ii) A partnership, association, or corporation broker must state whether or not the partnership, association, or corporation broker still meets the applicable requirements of §§ 111.11 and 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under § 111.53.

(4) *Failure to file timely.* If a broker fails to file the report required under paragraph (d)(1) of this section by March 1 of the reporting year, the broker's license is suspended by operation of law on that date. By March 31 of the reporting year, CBP will transmit written notice of the suspension to the broker by certified mail, return receipt requested, at the address reflected in CBP records. If the broker files the required report and pays the required fee within 60 calendar days of the date of the notice of suspension, the license will be reinstated. If the broker does not file the required report and pay the required fee within that 60-day period, the broker's license is revoked by operation of law without prejudice to the filing of an application for a new license. Notice of the revocation will be published in the FEDERAL REGISTER.

(e) *Custody of records.* Upon permanent termination of brokerage business, written notification of the name, address, email address and telephone number of the party having legal custody of the brokerage business records must be provided to the processing Center. That notification will be the responsibility of:

(1) The individual broker, upon the permanent termination of his brokerage business;

(2) Each member of a partnership who holds an individual broker's license, upon the permanent termination of a partnership brokerage business; or

(3) Each association or corporate officer who holds an individual broker's license, upon the permanent termination

of an association or corporate brokerage business.

[T.D. 00–17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22–21, 87 FR 63317, Oct. 18, 2022; CBP Dec. 23–04, 88 FR 41258, June 23, 2023]

§ 111.31 Conflict of interest.

(a) *Former officer or employee of U.S. Government.* A broker who was formerly an officer or employee in U.S. Government service must not represent a client before the Department of Homeland Security or any representative of the Department of Homeland Security in any matter to which the broker gave personal consideration or gained knowledge of the facts while in U.S. Government service, except as provided in 18 U.S.C. 207.

(b) *Relations with former officer or employee of U.S. Government.* A broker must not knowingly assist, accept assistance from, or share fees with a person who has been employed by a client in a matter pending before the Department of Homeland Security or any representative of the Department of Homeland Security to which matter that person gave personal consideration or gained personal knowledge of the facts or issues of the matter while in U.S. Government service.

(c) *Importations by broker or employee.* A broker who is an importer himself must not act as broker for an importer who imports merchandise of the same general character as that imported by the broker unless the client has full knowledge of the facts. The same restriction will apply if a broker's employee is an importer.

§ 111.32 False information.

A broker must not file or procure or assist in the filing of any claim, or of any document, affidavit, or other papers, known by such broker to be false. In addition, a broker must not give, or solicit or procure the giving of, any information or testimony that the broker knew or should have known was false or misleading in any matter pending before the Department of Homeland Security or to any representative of the Department of Homeland Security. A broker also must document and report to CBP when the broker separates

from or cancels representation of a client as a result of determining the client is intentionally attempting to use the broker to defraud the U.S. Government or commit any criminal act against the U.S. Government. The report to CBP must include the client name, date of separation or cancellation, and reason for the separation or cancellation.

[CBP Dec. 22-21, 87 FR 63318, Oct. 18, 2022]

§ 111.33 Government records.

A broker must not procure or attempt to procure, directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by proper authority.

§ 111.34 Undue influence upon Department of Homeland Security employees.

A broker must not influence or attempt to influence the conduct of any representative of the Department of Homeland Security in any matter pending before the Department of Homeland Security or any representative of the Department of Homeland Security by the use of duress or a threat or false accusation, or by the offer of any special inducement or promise of advantage, or by bestowing any gift or favor or other thing of value.

§ 111.35 Acceptance of fees from attorneys.

With respect to customs transactions, a broker must not demand or accept from any attorney (whether directly or indirectly, including, for example, from a client as a part of any arrangement with an attorney) on account of any case litigated in any court of law or on account of any other legal service rendered by an attorney any fee or remuneration in excess of an amount measured by or commensurate with the time, effort and skill expended by the broker in performing his services.

§ 111.36 Relations with unlicensed persons.

(a) *Employment by unlicensed person other than importer.* When a broker is employed for the transaction of cus-

toms business by an unlicensed person who is not the actual importer, the broker must transmit to the actual importer either a copy of his bill for services rendered or a copy of the entry, unless the merchandise was purchased on a delivered duty-paid basis or unless the importer has in writing waived transmittal of the copy of the entry or bill for services rendered.

(b) *Service to others not to benefit unlicensed person.* Except as otherwise provided in paragraph (c) of this section, a broker must not enter into any agreement with an unlicensed person to transact customs business for others in such manner that the fees or other benefits resulting from the services rendered for others inure to the benefit of the unlicensed person.

(c) *Relations with a freight forwarder.* A broker may compensate a freight forwarder for referring brokerage business, subject to the following conditions:

(1) The importer or other party in interest is notified in advance by the forwarder or broker of the name of the broker selected by the forwarder for the handling of his Customs transactions;

(2) The broker transmits directly to the importer or other party in interest:

(i) A true copy of his brokerage charges if the fees and charges are to be collected by or through the forwarder, unless this requirement is waived in writing by the importer or other party in interest; or

(ii) A statement of his brokerage charges and an itemized list of any charges to be collected for the account of the freight forwarder if the fees and charges are to be collected by or through the broker;

(3) The broker must execute a customs power of attorney directly with the importer of record or drawback claimant, and not via a freight forwarder or other third party, to transact customs business for that importer of record or drawback claimant. No part of the agreement of compensation between the broker and the forwarder, nor any action taken pursuant to the agreement, can forbid or prevent direct communication between the importer of record, drawback claimant, or other party in interest and the broker; and

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(4) In making the agreement and in all actions taken pursuant to the agreement, the broker remains subject to all other provisions of this part.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63318, Oct. 18, 2022]

§ 111.37 Misuse of license or permit.

A broker must not allow his license, permit or name to be used by or for any unlicensed person (including a broker whose license or permit is under suspension), other than his own employees authorized to act for him, in the solicitation, promotion or performance of any customs business or transaction.

§ 111.38 False representation to procure employment.

A broker must not knowingly use false or misleading representations to procure employment in any customs matter. In addition, a broker must not represent to a client or prospective client that he can obtain any favors from the Department of Homeland Security or any representative of the Department of Homeland Security.

§ 111.39 Advice to client.

(a) *Withheld or false information.* A broker must not withhold information from a client relative to any customs business it conducts on behalf of a client who is entitled to the information. The broker must not knowingly impart to a client false information relative to any customs business.

(b) *Due diligence.* A broker must exercise due diligence to ascertain the correctness of any information which the broker imparts to a client, including advice to the client on the proper payment of any duty, tax, or other debt or obligation owing to the U.S. Government.

(c) *Error or omission by client.* If a broker knows that a client has not complied with the law or has made an error in, or omission from, any document, affidavit, or other record which the law requires the client to execute, he must advise the client promptly of that noncompliance, error, or omission. The broker must advise the client on the proper corrective actions required and retain a record of the bro-

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ker's communication with the client in accordance with §§ 111.21 and 111.23.

(d) *Illegal plans.* A broker must not knowingly suggest to a client or prospective client any illegal plan for evading payment of any duty, tax, or other debt or obligation owing to the U.S. Government.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63318, Oct. 18, 2022]

§ 111.40 Protests.

A broker must not act on behalf of any person, or attempt to represent any person, regarding any protest unless he is authorized to do so in accordance with part 174 of this chapter.

§ 111.41 Endorsement of checks.

A broker must not endorse or accept, without authority of his client, any U.S. Government draft, check, or warrant drawn to the order of the client.

§ 111.42 Relations with person who is notoriously disreputable or whose license is under suspension, canceled "with prejudice," or revoked.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, a broker must not knowingly and directly or indirectly:

(1) Accept employment to effect a customs transaction as associate, correspondent, officer, employee, agent, or subagent from any person who is notoriously disreputable or whose broker license was revoked for any cause or is under suspension or was cancelled "with prejudice;"

(2) Assist in the furtherance of any customs business or transactions of any person described in paragraph (a)(1) of this section;

(3) Employ, or accept assistance in the furtherance of any customs business or transactions from, any person described in paragraph (a)(1) of this section, without the approval of the Executive Assistant Commissioner, or his or her designee, (see § 111.79);

(4) Share fees with any person described in paragraph (a)(1) of this section; or

(5) Permit any person described in paragraph (a)(1) of this section to participate, directly or indirectly and

whether through ownership or otherwise, in the promotion, control, or direction of the business of the broker.

(b) *Client exception.* Nothing in this section will prohibit a broker from transacting customs business on behalf of a bona fide importer or exporter who may be notoriously disreputable or whose broker license is under suspension or was cancelled “with prejudice” or revoked.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63318, Oct. 18, 2022]

§§ 111.43–111.44 [Reserved]

§ 111.45 Revocation by operation of law.

(a) *License and permit.* If a broker that is a partnership, association, or corporation fails to have, during any continuous period of 120 days, at least one member of the partnership or at least one officer of the association or corporation who holds a valid individual broker’s license, that failure will, in addition to any other sanction that may be imposed under this part, result in the revocation by operation of law of the license and the national permit issued to the partnership, association, or corporation. If a broker that is a partnership, association, or corporation fails to employ, during any continuous period of 180 days, a licensed customs broker who is the national permit qualifier for the broker, that failure will, in addition to any other sanction that may be imposed under this part, result in the revocation by operation of law of the national permit issued to the partnership, association, or corporation. CBP will notify the broker in writing of an impending revocation by operation of law under this section thirty (30) calendar days before the revocation is due to occur, if the broker has provided advance notice to CBP of the underlying events that could cause a revocation by operation of law under this section. If the license or permit of a partnership, association, or corporation is revoked by operation of law, CBP will notify the organization of the revocation.

(b) *Annual broker permit fee.* If a broker fails to pay the annual permit user fee pursuant to § 111.96(c), the per-

mit is revoked by operation of law. The processing Center will notify the broker in writing of the failure to pay and the revocation of the permit.

(c) *Publication.* Notice of any revocation under this section will be published in the FEDERAL REGISTER.

(d) *Applicability of other sanctions.* Notwithstanding the operation of paragraph (a) or (b) of this section, each broker still has a continuing obligation to exercise responsible supervision and control over the conduct of its brokerage business and to otherwise comply with the provisions of this part. Any failure on the part of a broker to meet that continuing obligation during the 120 or 180-day period referred to in paragraph (a) of this section, or during any shorter period of time, may result in the initiation of suspension or revocation proceedings or the assessment of a monetary penalty under subpart D or subpart E of this part.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63318, Oct. 18, 2022]

Subpart D—Cancellation, Suspension, or Revocation of License or Permit, and Monetary Penalty in Lieu of Suspension or Revocation

§ 111.50 General.

This subpart sets forth provisions relating to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu of suspension or revocation, under section 641(d)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)(B)). The provisions relating to assessment of a monetary penalty under sections 641(b)(6) and (d)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(6) and (d)(2)(A)), are set forth in subpart E of this part.

§ 111.51 Cancellation of license or permit.

(a) *Without prejudice.* The appropriate Executive Director, Office of Trade, may cancel a broker’s license or permit “without prejudice” upon written application by the broker if the appropriate Executive Director, Office of Trade, determines that the application

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for cancellation was not made in order to avoid proceedings for the suspension or revocation of the license or permit. If the appropriate Executive Director, Office of Trade, determines that the application for cancellation was made in order to avoid those proceedings, he or she may cancel the license or permit “without prejudice” only with authorization from the Executive Assistant Commissioner.

(b) *With prejudice.* The appropriate Executive Director, Office of Trade may cancel a broker’s license or permit “with prejudice” when specifically requested to do so by the broker. The effect of a cancellation “with prejudice” is in all respects the same as if the license or permit had been revoked for cause by the Executive Assistant Commissioner except that it will not give rise to a right of appeal.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.52 Voluntary suspension of license or permit.

The appropriate Executive Director, Office of Trade, may accept a broker’s written voluntary offer of suspension of the broker’s license or permit for a specific period of time under any terms and conditions to which the parties may agree.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.53 Grounds for suspension or revocation of license or permit.

The appropriate CBP officer may initiate proceedings for the suspension, for a specific period of time, or revocation of the license or permit of any broker for any of the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under this part, or report filed with CBP, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required;

(b) The broker has been convicted, at any time after the filing of an applica-

tion for a license under § 111.12, of any felony or misdemeanor which:

(1) Involved the importation or exportation of merchandise;

(2) Arose out of the conduct of customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

(c) The broker has violated any provision of any law enforced by CBP or the rules or regulations issued under any provision of any law enforced by CBP;

(d) The broker has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by CBP or the rules or regulations issued under any provision of any law enforced by CBP;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of that employment from the appropriate Executive Director, Office of Trade,;

(f) The broker has, in the course of customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client;

(g) The broker has been convicted of committing or conspiring to commit an act of terrorism as described in section 2332b of title 18, United States Code; or

(h) The broker no longer meets the applicable requirements of §§ 111.11 and 111.19.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.54 [Reserved]

§ 111.55 Investigation of complaints.

Every complaint or charge against a broker which may be the basis for disciplinary action may be forwarded for investigation to the appropriate investigative authority within the Department of Homeland Security. The investigative authority will submit a final report on the investigation of complaints to the processing Center and

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send a copy of the report to the appropriate Executive Director, Office of Trade.

[CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.56 Review of report on the investigation of complaints.

The processing Center will review the report on the investigation of complaints, or if there is no report on the investigation of complaints, other documentary evidence, to determine if there is sufficient basis to recommend that charges be preferred against the broker. The processing Center will then submit the recommendation with supporting reasons to the appropriate Executive Director, Office of Trade, for final determination together with a proposed statement of charges when recommending that charges be preferred.

[CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.57 Determination by appropriate Executive Director, Office of Trade.

The appropriate Executive Director, Office of Trade, will make a determination on whether or not charges should be preferred, and will notify the processing Center of the decision.

[CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.58 Content of statement of charges.

Any statement of charges referred to in this subpart must give a plain and concise, but not necessarily detailed, description of the facts claimed to constitute grounds for suspension or revocation of the license or permit. The statement of charges also must specify the sanction being proposed (that is, suspension of the license or permit or revocation of the license or permit), but if a suspension is proposed the charges need not state a specific period of time for which suspension is proposed. A statement of charges which fairly informs the broker of the charges against him so that he is able to prepare his response will be deemed sufficient. Different means by which a purpose might have been accomplished, or different intents with which acts might have been done, so as to constitute grounds for suspension or revocation of the license may be alleged in

the alternative under a single count in the statement of charges.

§ 111.59 Preliminary proceedings.

(a) *Opportunity to participate.* The processing Center will advise the broker of his opportunity to participate in preliminary proceedings with an opportunity to avoid formal proceedings against his license or permit.

(b) *Notice of preliminary proceedings.* The processing Center will serve upon the broker, in the manner set forth in § 111.63, written notice that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs the broker that formal proceedings are available to him;

(3) Informs the broker that sections 554 and 558, Title 5, United States Code, will be applicable if formal proceedings are necessary;

(4) Invites the broker to show cause why formal proceedings should not be instituted;

(5) Informs the broker that he may make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(6) Invites any negotiation for settlement of the complaint or charge that the broker deems it desirable to enter into;

(7) Advises the broker of his right to be represented by counsel;

(8) Specifies the place where the broker may respond in writing; and

(9) Advises the broker that the response must be received within 30 calendar days of the date of the notice.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.60 Request for additional information.

If, in order to prepare his response, the broker desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged misconduct, he may request that information in writing. The broker's request must set forth in what respect the proposed statement of charges leaves him in doubt and must describe the particular language of the proposed statement of charges as to

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which additional information is needed. If in the opinion of the processing Center that information is reasonably necessary to enable the broker to prepare his response, he will furnish the broker with that information.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.61 Decision on preliminary proceedings.

The processing Center will prepare a summary of any oral presentations made by the broker or the broker's attorney and forward it to the appropriate Executive Director, Office of Trade, together with a copy of each paper filed by the broker. The processing Center will also give to the appropriate Executive Director, Office of Trade, a recommendation on action to be taken as a result of the preliminary proceedings. If the appropriate Executive Director, Office of Trade, determines that the broker has satisfactorily responded to the proposed charges and that further proceedings are not warranted, he or she will so inform the processing Center, who will notify the broker. If no response is filed by the broker or if the appropriate Executive Director, Office of Trade, determines that the broker has not satisfactorily responded to all of the proposed charges, he or she will advise the processing Center of that fact and instruct the processing Center to prepare, sign, and serve a notice of charges and the statement of charges. If one or more of the charges in the proposed statement of charges was satisfactorily answered by the broker in the preliminary proceedings, the appropriate Executive Director, Office of Trade, will instruct the processing Center to omit those charges from the statement of charges.

[CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.62 Contents of notice of charges.

The notice of charges must inform the broker that:

(a) Sections 554 and 558, Title 5, United States Code, are applicable to the formal proceedings;

(b) The broker may be represented by counsel;

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(c) The broker will have the right to cross-examine witnesses;

(d) The broker will be notified of the time and place of a hearing on the charges; and

(e) Prior to the hearing on the charges, the broker may file with the processing Center, a verified answer to the charges.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63319, Oct. 18, 2022]

§ 111.63 Service of notice and statement of charges.

(a) *Individual.* The processing Center will serve the notice of charges and the statement of charges against an individual broker as follows:

(1) By delivery to the broker personally;

(2) By certified mail, return receipt requested, addressed to the broker's office of record (or other address as provided pursuant to § 111.30).

(3) By any other means which the broker may have authorized in a written communication to the processing Center; or

(4) If attempts to serve the broker by the methods prescribed in paragraphs (a)(1) through (a)(3) of this section are unsuccessful, the processing Center may serve the notice and statement by leaving them with the person in charge of the broker's office.

(b) *Partnership, association or corporation.* The processing Center will serve the notice of charges and the statement of charges against a partnership, association, or corporation broker as follows:

(1) By delivery to any member of the partnership personally or to any officer of the association or corporation personally;

(2) By certified mail addressed to any member of the partnership or to any officer of the association or corporation, with demand for a return card signed solely by the addressee;

(3) By any other means which the broker may have authorized in a written communication to the processing Center; or

(4) If attempts to serve the broker by the methods prescribed in paragraphs (b)(1) through (b)(3) of this section are unsuccessful, the processing Center

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may serve the notice and statement by leaving them with the person in charge of the broker's office.

(c) *Certified mail; evidence of service.* When service under this section is by certified mail to the broker's office of record (or other address as provided pursuant to §111.30), the receipt of the return card signed or marked will be satisfactory evidence of service.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.64 Service of notice of hearing and other papers.

(a) *Notice of hearing.* After service of the notice and statement of charges, the processing Center will serve upon the broker and his attorney if known, by one of the methods set forth in §111.63 or by ordinary mail, a written notice of the time and place of the hearing. The hearing will be scheduled to take place within 30 calendar days after service of the notice of hearing.

(b) *Other papers.* Other papers relating to the hearing may be served by one of the methods set forth in §111.63 or by ordinary mail or upon the broker's attorney.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.65 Extension of time for hearing.

If the broker or his attorney requests in writing a delay in the hearing for good cause, the hearing officer designated pursuant to §111.67(a) may reschedule the hearing and in that case will notify the broker or his attorney in writing of the extension and the new time for the hearing.

§ 111.66 Failure to appear.

If the broker or his attorney fails to appear for a scheduled hearing, the hearing officer designated pursuant to §111.67(a) will proceed with the hearing as scheduled and will hear evidence submitted by the parties. The provisions of this part will apply as though the broker were present, and the Executive Assistant Commissioner may issue an order of suspension of the license or permit for a specified period of time or revocation of the license or permit, or assessment of a monetary

penalty in lieu of suspension or revocation, in accordance with §111.74 if he finds that action to be in order.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.67 Hearing.

(a) *Hearing officer.* The hearing officer must be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

(b) *Rights of the broker.* The broker or his attorney will have the right to examine all exhibits offered at the hearing and will have the right to cross-examine witnesses and to present witnesses who will be subject to cross-examination by the Government representatives.

(c) *Interrogatories.* Upon the written request of either party, the hearing officer may permit deposition upon oral or written interrogatories to be taken before any officer duly authorized to administer oaths for general purposes or in customs matters. The other party to the hearing will be given a reasonable time in which to prepare cross-interrogatories and, if the deposition is oral, will be permitted to cross-examine the witness. The deposition will become part of the hearing record.

(d) *Transcript of record.* The processing Center will provide a competent reporter to make a record of the hearing. When the record of the hearing has been transcribed by the reporter, the processing Center will deliver a copy of the transcript of record to the hearing officer, the broker and the Government representative without charge.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.68 Proposed findings and conclusions.

The hearing officer will allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons for the findings as contemplated by 5 U.S.C. 557(c).

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§ 111.69 Recommended decision by hearing officer.

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer will make his recommended decision in the case and certify the entire record to the Executive Assistant Commissioner. The hearing officer's recommended decision must conform to the requirements of 5 U.S.C. 557.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.70 Additional submissions.

Upon receipt of the record, the Executive Assistant Commissioner will afford the parties a reasonable opportunity to make any additional submissions that are permitted under 5 U.S.C. 557(c) or otherwise required by the circumstances of the case.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.71 Immaterial mistakes.

The Executive Assistant Commissioner will disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place, or ownership of any property, any other immaterial mistake in the statement of charges, or a failure to prove immaterial allegations in the description of the broker's conduct.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.72 Dismissal subject to new proceedings.

If the Executive Assistant Commissioner finds that the evidence produced at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, he or she may instruct the processing Center to serve appropriate charges as a basis for new proceedings to be conducted in accordance with the procedures set forth in this subpart.

[CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

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§ 111.73 [Reserved]

§ 111.74 Decision and notice of suspension or revocation or monetary penalty.

If the Executive Assistant Commissioner finds that one or more of the charges in the statement of charges is not sufficiently proved, the suspension, revocation, or monetary penalty action may be based on any remaining charges if the facts alleged in the charges are established by the evidence. If the Executive Assistant Commissioner in the exercise of discretion and based solely on the record, issues an order suspending a broker's license or permit for a specified period of time or revoking a broker's license or permit or, except in a case described in § 111.53(b)(3), assessing a monetary penalty in lieu of suspension or revocation, the appropriate Executive Director, Office of Trade, will promptly provide written notification of the order to the broker and, unless an appeal from the order of the Executive Assistant Commissioner is filed by the broker (*see* § 111.75), the appropriate Executive Director, Office of Trade, will publish a notice of the suspension or revocation, or the assessment of a monetary penalty, in the FEDERAL REGISTER. If no appeal from the order of the Executive Assistant Commissioner is filed, an order of suspension or revocation or assessment of a monetary penalty will become effective sixty (60) calendar days after issuance of written notification of the order unless the Executive Assistant Commissioner finds that a more immediate effective date is in the national or public interest. If a monetary penalty is assessed and no appeal from the order of the Executive Assistant Commissioner is filed, payment of the penalty must be tendered within sixty (60) calendar days after the effective date of the order, and, if payment is not tendered within that sixty (60)-day period, the license or permit of the broker will immediately be suspended until payment is made.

[CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.75 Appeal from the Executive Assistant Commissioner's decision.

An appeal from the order of the Executive Assistant Commissioner suspending or revoking a license or permit, or assessing a monetary penalty, may be filed by the broker in the Court of International Trade as provided in section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of those proceedings will, unless specifically ordered by the Court, operate as a stay of the Executive Assistant Commissioner's order.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Provided that no appeal is filed in accordance with § 111.75, a person whose license or permit has been suspended or revoked, or against whom a monetary penalty has been assessed in lieu of suspension or revocation, may make application to the appropriate Executive Director, Office of Trade, to reopen the case and have the order of suspension or revocation or monetary penalty assessment set aside or modified on the ground that new evidence has been discovered or on the ground that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application must set forth the precise character of the evidence to be relied upon and must state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) *Procedure.* The appropriate Executive Director, Office of Trade, will forward the application, together with a recommendation for action thereon, to the Executive Assistant Commissioner. The Executive Assistant Commissioner may grant or deny the application to reopen the case and may order the taking of additional testimony before the appropriate Executive Director, Office of Trade. The appropriate Executive Director, Office of Trade, will notify the applicant of the decision by the Executive Assistant Commissioner. If the Executive Assistant Commissioner grants the application and orders a hearing, the appropriate Executive Director, Office of Trade, will set a time

and place for the hearing and give due written notice of the hearing to the applicant. The procedures governing the new hearing and recommended decision of the hearing officer will be the same as those governing the original proceeding. The original order of the Executive Assistant Commissioner will remain in effect pending conclusion of the new proceedings and issuance of a new order under § 111.77.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.77 Notice of vacated or modified order.

If, pursuant to § 111.76 or for any other reason, the Executive Assistant Commissioner issues an order vacating or modifying an earlier order under § 111.74 suspending or revoking a broker's license or permit, or assessing a monetary penalty, the appropriate Executive Director, Office of Trade, will notify the broker in writing and will publish a notice of the new order in the FEDERAL REGISTER.

[CBP Dec. 22-21, 87 FR 63320, Oct. 18, 2022]

§ 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but that failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings, Headquarters, or the processing Center with the approval of Headquarters, may serve the broker with a written reprimand. The reprimand, and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted against the broker in question.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation "with prejudice" of a license, the ex-broker may petition the appropriate Executive Director, Office of Trade for authorization to assist, or accept employment with, a broker. The petition will not be approved unless the

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appropriate Executive Director, Office of Trade is satisfied that the petitioner has refrained from all activities described in §111.42 and that the petitioner's conduct has been exemplary during the period of disability. The appropriate Executive Director, Office of Trade will also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which the misconduct led to pecuniary loss to the Government or to any person, the appropriate Executive Director, Office of Trade will also take into account whether the petitioner has made restitution of that loss.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.80 [Reserved]

§ 111.81 Settlement and compromise.

The Executive Assistant Commissioner may settle and compromise any disciplinary proceeding which has been instituted under this subpart according to the terms and conditions agreed to by the parties including, but not limited to, the assessment of a monetary penalty in lieu of any proposed suspension or revocation of a broker's license or permit.

[CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

Subpart E—Monetary Penalty and Payment of Fees

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

CBP may assess a monetary penalty or penalties as follows:

(a) In the case of a broker, in an amount not to exceed an aggregate of \$30,000 for one or more of the reasons set forth in §111.53(a) through (g) other than those listed in §111.53(b)(3), and provided that no license or permit suspension or revocation proceeding has been instituted against the broker under subpart D of this part for any of the same reasons; or

(b) In the case of a person who is not a broker, in an amount not to exceed \$10,000 for each transaction or violation referred to in §111.4 and in an amount

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not to exceed an aggregate of \$30,000 for all those transactions or violations.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.92 Notice of monetary penalty.

(a) *Pre-penalty notice.* If assessment of a monetary penalty under §111.91 is contemplated, CBP will issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the broker or other person has a right to respond to the allegations or complaints in writing within 30 days of the date of mailing of the notice. The Fines, Penalties, and Forfeitures Officer has discretion to provide additional time for good cause.

(b) *Penalty notice.* If the broker or other person files a timely response to the written notice of the allegations or complaints, the Fines, Penalties, and Forfeiture Officer will review this response and will either cancel the case, issue a notice of penalty in an amount which is lower than that provided for in the written notice of allegations or complaints or issue a notice of penalty in the same amount as that provided in the written notice of allegations or complaints. If no response is received from the broker or other person, the Fines, Penalties, and Forfeitures Officer will issue a notice of penalty in the same amount as that provided in the written notice of allegations or complaints.

[T.D. 00-57, 65 FR 53575, Sept. 5, 2000, as amended by CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.93 Petition for relief from monetary penalty.

A broker or other person who receives a notice issued under §111.92(b) may file a petition for relief from the monetary penalty in accordance with the procedures set forth in part 171 of this chapter.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

§ 111.94 Decision on monetary penalty.

CBP will follow the procedures set forth in part 171 of this chapter in considering any petition for relief filed under § 111.93. After CBP has considered the allegations or complaints set forth in the notice issued under § 111.92 and any timely response made to the notice by the broker or other person, the Fines, Penalties, and Forfeitures Officer will issue a written decision to the broker or other person setting forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the broker or other person is liable for a monetary penalty, the broker or other person must pay the monetary penalty, or make arrangements for payment of the monetary penalty, within 60 calendar days of the date of the written decision. If payment or arrangements for payment are not timely made, CBP will refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.95 Supplemental petition for relief from monetary penalty.

A decision of the Fines, Penalties, and Forfeitures Officer with regard to any petition filed in accordance with part 171 of this chapter may be the subject of a supplemental petition for relief. Any supplemental petition also must be filed in accordance with the provisions of part 171 of this chapter.

§ 111.96 Fees.

(a) *License fee; examination fee; fingerprint fee.* Each applicant for a broker's license pursuant to § 111.12 must pay a fee of \$300 for an individual license application and \$500 for a partnership, association, or corporation license application to defray the costs to CBP in processing the application. Each individual who intends to take the examination provided for in § 111.13 must pay a \$390 examination fee before taking the examination. An individual who submits an application for a license must also pay a fingerprint processing fee; the processing Center will inform

the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks, which must be paid to CBP before further processing of the application will occur.

(b) *Permit application fee.* An application fee of \$100 must be paid in connection with a national permit issued under § 111.19 to defray the processing costs, including costs associated with an application for reinstatement of a permit that was revoked by operation of law or otherwise.

(c) *Permit user fee.* Payment of an annual permit user fee defined in § 24.22(h) of this chapter is required for a national permit granted to an individual, partnership, association, or corporate broker. The permit user fee is payable with the filing of an application for a national permit under § 111.19(b), and for each subsequent calendar year at the processing Center referred to in § 111.19(b). The permit user fee must be paid by the due date as published annually in the FEDERAL REGISTER, and must be remitted in accordance with the procedures set forth in § 24.22(i) of this chapter. When a broker submits an application for a national permit under § 111.19(b), the full permit user fee must be remitted with the application, regardless of the point during the calendar year at which the application is submitted. If a broker fails to pay the annual permit user fee by the published due date, the permit is revoked by operation of law. The processing Center will notify the broker in writing of the failure to pay and the revocation of the permit.

(d) *Triennial status report fee.* A fee of \$100 is required to defray the costs of administering the triennial status reporting requirement prescribed in § 111.30(d)(1).

(e) *Method of payment.* All fees prescribed under this section must be paid by check or money order payable to the U.S. Customs and Border Protection, or paid by other CBP-approved payment method.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 03-13, 68 FR 43630, July 24, 2003; 72 FR 3734, Jan. 26, 2007; CBP Dec. 17-05, 82 FR 29719, June 30, 2017; CBP Dec. 17-16, 82 FR 50530, Nov. 1, 2017; CBP Dec. 22-22, 87 FR 63267, Oct. 18, 2022; CBP Dec. 22-21, 87 FR 63321, Oct. 18, 2022]

§ 111.97—111.100 [Reserved]

Subpart F—Continuing Education Requirements for Individual Brokers

SOURCE: CBP Dec. 23–04, 88 FR 41258, June 23, 2023, unless otherwise noted.

§ 111.101 Scope.

This subpart sets forth regulations providing for a continuing education requirement for individual brokers and the framework for administering this requirement. The continuing broker education requirement is for individual brokers, in order to maintain sufficient knowledge of customs and related laws, regulations, and procedures, book-keeping, accounting, and all other appropriate matters necessary to render valuable service to importers and drawback claimants. Individual brokers will be required to certify completion of the continuing broker education requirement with the filing of their 2027 status report, required under § 111.30(d), and every status report thereafter, in accordance with the provisions of this subpart.

§ 111.102 Obligations of individual brokers in conjunction with continuing broker education requirement.

(a) *Continuing broker education requirement.* All individual brokers must complete qualifying continuing broker education as defined in § 111.103(a), except:

- (1) During a period of voluntary suspension as described in § 111.52; or
- (2) When individual brokers have not held their license for an entire triennial period at the time of the submission of the status report as required under § 111.30(d).

(b) *Required minimum number of continuing education credits.* All individual brokers who are subject to the continuing broker education requirement must complete at least 36 continuing education credits of qualifying continuing broker education each triennial period, except upon the reinstatement of a license following a period of voluntary suspension as described in § 111.52. Upon the reinstatement of a license following a period of voluntary suspension as described in

§ 111.52, the number of continuing education credits that an individual broker must complete by the end of the triennial period during which the reinstatement of the license occurred will be calculated on a prorated basis of one continuing education credit for each complete remaining month until the end of the triennial period.

(c) *Reporting requirements.* Individual brokers who are subject to the continuing broker education requirement must report and certify their compliance upon submission of the status report required under § 111.30(d).

(d) *Recordkeeping requirements*—(1) *General.* Individual brokers who are subject to the continuing broker education requirement must retain the following information and documentation pertaining to the qualifying education completed during a triennial period for a period of three years following the submission of the status report required under § 111.30(d):

- (i) The title of the qualifying continuing broker education attended;
- (ii) The name of the provider or host of the qualifying continuing broker education;
- (iii) The date(s) attended;
- (iv) The number of continuing education credits accrued;
- (v) The location of the qualifying continuing broker education; and
- (vi) Any documentation received from the provider or host of the qualifying continuing broker education that evidences the individual broker's registration for, attendance at, completion of, or other activity bearing upon the individual broker's participation in and completion of the qualifying continuing broker education.

(2) *Availability of records.* In order to ensure that the individual broker has met the continuing broker education requirement, upon CBP's request, the individual broker must make available to CBP the information and documentation described in paragraph (d)(1) of this section on or before 30 calendar days from the date of receipt of CBP's request. CBP can request that the information and documentation be made available for in-person inspection or be delivered to CBP by either hard-copy or electronic means, or any combination thereof.

§ 111.103 Accreditation of qualifying continuing broker education.

(a) *Qualifying continuing broker education.* In order for a training or educational activity to be considered qualifying continuing broker education, it must meet the following two requirements:

(1) *Providers of qualifying continuing broker education.* The training or educational activity must be offered by one of the following providers:

(i) *Government agencies.* Qualifying continuing broker education constitutes any training or educational activity offered by CBP, whether online or in-person, and training or educational activity offered by another U.S. government agency, whether online or in-person, but only if the content is relevant to customs business as identified by CBP in coordination with the appropriate U.S. government agency when applicable. Accreditation is not required for trainings or educational activities offered by U.S. government agencies.

(ii) *Other providers requiring accreditation.* Any other training or educational activity not offered by a U.S. government agency, whether online or in-person, will not be considered a qualifying continuing broker education, unless the training or educational activity has been approved for continuing education credit by a CBP-selected accreditor before the training or educational activity is provided.

(2) *Recognized trainings or educational activities.* The training or educational activity must constitute one of the following:

(i) A seminar, webinar, or a workshop, whether online or in-person, whether experienced live or recorded, that is conducted by an instructor, discussion leader, or speaker;

(ii) A symposium or convention, with the exception of the attendance at a meeting conducted in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), whether online or in-person;

(iii) Online coursework, a workshop, or a module, conducted as self-guided education, culminating in a retention test;

(iv) The preparation of a subject matter for presentation as an instructor,

discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (a)(2)(ii) of this section, subject to the requirements set forth in paragraph (b) of this section; and

(v) The presentation of a subject matter as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (a)(2)(ii) of this section, subject to the requirements set forth in paragraph (b) of this section.

(b) *Special allowance for instructors, discussion leaders, and speakers.* (1) Contingent upon the approval by a CBP-selected accreditor, an individual broker may claim half of one continuing education credit for each full 30 minutes spent:

(i) Presenting subject matter as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (ii) of this section; or

(ii) Preparing subject matter for presentation as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (ii) of this section.

(2) The special allowance for instructors, discussion leaders, and speakers is subject to the following limitations:

(i) For any session of presentation given at one time, regardless of the duration of that session, an individual broker may claim, at a maximum, one continuing education credit for the time spent preparing subject matter for that presentation pursuant to paragraph (b)(1)(ii) of this section.

(ii) Per triennial period, an individual broker may claim, at a maximum, a combined total of 12 continuing education credits earned in accordance with paragraphs (b)(1)(i) and (ii) of this section.

(3) Regardless of whether the training or educational activity is offered by a U.S. government agency or another provider, any instructor, discussion leader, or speaker seeking to claim continuing education credit in accordance with paragraph (b)(1) of this section must obtain the approval of a CBP-selected accreditor.

(c) *Selection of accreditors.* The Office of Trade will select accreditors based on a Request for Information (RFI) and

a Request for Proposal (RFP) announced through the System for Award Management (SAM) or any other electronic system for award management approved by the U.S. General Services Administration, in accordance with the Federal Acquisition Regulation (48 CFR 1.000 *et seq.*), for a specific period of award, subject to renewal. The Executive Assistant Commissioner, Office of Trade, will periodically publish notices in the FEDERAL REGISTER announcing the criteria that CBP will use to select an accreditor, the period during which CBP will accept applications by potential accreditors, and the period of award for a CBP-selected accreditor.

(d) *Responsibilities of CBP-selected accreditors.* CBP-selected accreditors administer the accreditation of trainings or educational activities other than those described in paragraph (a)(1) of this section for the purpose of the continuing broker education requirement by reviewing and approving or denying such educational content for continuing education credit. A CBP-selected accreditor's approval of a training or educational activity for continuing education credit is valid for one year, and the accreditation may be renewed through any CBP-selected accreditor. CBP-selected accreditors will not deny review or approval of a training or educational activity for continuing education credit solely because it was previously denied by the CBP-selected accreditor or any other CBP-selected accreditor.

(e) *Prohibition of self-certification by an accreditor.* CBP-selected accreditors may not approve their own trainings or educational activities for continuing education credit.

§ 111.104 Failure to report and certify compliance with continuing broker education requirement.

(a) *Notification by CBP.* If an individual broker is subject to the continuing broker education requirement pursuant to § 111.102 and submits a status report as required under § 111.30(d)(2) but fails to report and certify compliance with the continuing broker education requirement as part of the submission of the status report, then CBP will notify the individual broker of the broker's failure to report

and certify compliance in accordance with § 111.30(d). The notification will be sent to the address reflected in CBP's records or transmitted electronically pursuant to any electronic means authorized by CBP for that purpose.

(b) *Required response to notice.* Upon the issuance of such notification, the individual broker must on or before 30 calendar days:

(1) Submit a corrected status report that, in accordance with § 111.30(d), reflects the individual broker's compliance with the continuing broker education requirement, if the individual broker completed the required number of continuing education credits but failed to report and certify compliance with the requirement as part of the submission of the status report; or

(2) Complete the required number of continuing education credits of qualifying continuing broker education and submit a corrected status report that, in accordance with § 111.30(d), reflects the individual broker's compliance with the continuing broker education requirement, if the individual broker had not completed the required number of continuing education credits at the time the status report was due.

(c) *Suspension of license.* Unless the individual broker takes the corrective actions described in paragraph (b)(1) or (b)(2) of this section on or before 30 calendar days from the issuance date of the notification described in paragraph (a) of this section, CBP will take actions to suspend the individual broker's license in accordance with subpart D of this part.

(d) *Revocation of license.* If the individual broker's license has been suspended pursuant to paragraph (c) of this section and the individual broker fails to take the corrective actions described in paragraph (b)(1) or (b)(2) of this section on or before 120 calendar days from the issuance date of the order of suspension, CBP will take actions to revoke the individual broker's license without prejudice to the filing of an application for a new license in accordance with subpart D of this part.

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

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AUTHORITY: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

SOURCE: T.D. 73-140, 38 FR 13551, May 23, 1973, unless otherwise noted.

§ 112.0 Scope.

This part sets forth regulations providing for the bonding of carriers which will receive merchandise for transportation in bond, the licensing of cartmen and lightermen, and the procedures for applying for such bonds and licenses. This part also sets forth the regulations concerning the obtaining of identification cards by cartmen and lightermen, and their employees and the procedures for revoking or suspending licenses and identification

cards. Provisions setting forth the duties and responsibilities of cartmen and lightermen are set forth in part 125 of this chapter.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 94-81, 59 FR 51494, Oct. 12, 1994]

Subpart A—General Provisions

§ 112.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

Carrier. A “carrier” is one who undertakes to transport goods, merchandise or people.

Cartman. A “cartman” is one who undertakes to transport goods or merchandise within the limits of the port.

Common carrier. A “common carrier” is a carrier owning or operating a railroad, steamship, or other transportation line or route which undertakes to transport goods or merchandise for all of the general public who choose to employ him.

Contract carrier. A “contract carrier” is a carrier which undertakes to transport specific goods or merchandise for a specific person or group of persons, and is authorized to operate as such by any agency of the United States.

District. “District” means the geographic area in which the parties excepted by the last sentence of § 112.2(b)(2) may operate under their bonds without obtaining a cartage or lighterage license issued under this part. A listing of each district, and the ports thereunder, will be published on or before October 1, 1995, and whenever updated.

Freight forwarder. A “freight forwarder” is one who engages in the business of dispatching shipments on behalf of other persons, for a consideration, in foreign or domestic commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments, and is authorized to operate as such by any agency of the United States.

Lighterman. A “lighterman” is one who transports goods or merchandise on a barge, scow, or other small vessel to or from a vessel within the port, or from place to place within a port.