

(c) *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.

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

(e) *Informal entries.* A person entering merchandise qualifying for, and entered under, the informal entry procedures authorized by 19 U.S.C. 1498 is not required to be licensed as a broker, unless required to be so licensed under § 143.26 of this chapter, issued under the authority of 19 U.S.C. 1498.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 78-99, 43 FR 13061, Mar. 29, 1978; T.D. 84-93, 49 FR 17754, Apr. 25, 1984; T.D. 94-51, 59 FR 30294, June 13, 1994]

**§ 111.4 Transacting customs business without a license.**

Any person who intentionally transacts customs business, other than as provided in § 111.3, without holding a valid broker's license, shall be liable for a monetary penalty for each such transaction as well as for each violation of the requirements of 19 U.S.C. 1641. The penalty shall be assessed in accordance with subpart E of this chapter.

[T.D. 86-161, 51 FR 30340, Aug. 26, 1986]

**§ 111.5 Representation before Government agencies.**

(a) *Agencies within the Treasury Department.* A broker who represents a client in the importation or exportation of merchandise may represent the client before the Treasury Department or any representative thereof on any matter concerning such merchandise except that he shall not represent the client before Customs officers in a Customs district in which he has not been granted a permit.

(b) *Agencies not within the Treasury Department.* In order to represent a client before any agency not within the Treasury Department, a broker shall comply with any regulations of such

agency governing the appearance of representatives before it.

[T.D. 70-134, 35 FR 9254, June 13, 1970. Redesignated and amended by T.D. 86-161, 51 FR 30340, Aug. 26, 1986]

**Subpart B—Procedure To Obtain License or Permit**

**§ 111.11 Basic requirements.**

(a) *Individual.* An individual must:

(1) Be a citizen of the United States, but not an officer or employee of the United States;

(2) Be at least 21 years of age;

(3) Be of good moral character; and

(4) Establish through an examination 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. Satisfactory knowledge is established in part by attaining a grade of at least 75 percent on the examination.

(b) *Partnership.* A partnership must:

(1) Have at least one member of the partnership who is a licensed broker, and

(2) Establish that it will have an office at the customs port where it has applied for a permit in which its customs transactions will be performed by the licensed member of the partnership, or an employee under the responsible supervision and control of the licensed member.

(c) *Association or corporation.* An association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs brokerage business;

(2) Have at least one officer who is a licensed broker; and

(3) Establish that it will maintain an office at the customs port where it has applied for a permit. Further, customs transactions in that office must be performed by a licensed officer or an employee under the responsible supervision and control of the licensed officer.

(d) *Responsible supervision and control.* The term "responsible supervision and control" means that degree of supervision and control necessary to ensure

that the employee provides substantially the same quality of service in handling customs transactions that the licensed broker is required to provide. While the determination of what is necessary to maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which Customs will consider include, but are not limited to: The frequency of visits to offices of the licensee by the licensed broker(s); the training required of employees; the issuance of written instructions and guidelines to the employees; the volume and type of business of the licensee; the reject rate for the various customs transactions; the maintenance of current editions of the Customs Regulations, Harmonized Tariff Schedule of the United States, and Customs issuances; the availability of the licensed broker(s) for consultation with the employee(s), when necessary; the frequency of audits and reviews by the licensed broker(s) of the customs transactions handled by the employee(s); and any circumstance which indicates whether a licensed broker of the firm has a real interest in the firm's operations.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 86-161, 51 FR 30340, Aug. 26, 1986; T.D. 89-1, 53 FR 51255, Dec. 21, 1988]

**§ 111.12 Application for license.**

(a) *Submission of application and fee.* An application for a broker's license shall be submitted in duplicate to the director of the port where the applicant intends to do business. The application shall be under oath and executed on Customs Form 3124. The application shall be accompanied by the fee prescribed in § 111.96 of this part and one copy of the 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 at a port, evidence of the applicant's authority to use the name in each such State must accompany the application. An application for an individual license must be submitted not later than 30 days before the scheduled examination which

the applicant wishes to take. Applications may be accepted within 30 days before the scheduled examination in the port director's discretion. The port director may require the applicant to submit fingerprints on Standard Form 87 at the time of filing the application, or after the applicant obtains a passing score on the broker examination.

(b) *Posting notice of application.* Upon receipt of the application the port director shall post a notice that the application has been filed. The notice shall be posted conspicuously for at least 2 weeks in the customhouse at the headquarters port and at the subports where the applicant proposes to maintain an office. The notice shall give the name and address of the applicant and, if the applicant is a partnership, association, or corporation, the names of the members or officers thereof who are licensed as brokers. The notice shall invite written comments or information regarding the issuance of the license.

(c) *Withdrawal of application.* If the applicant advises before the date of an examination that he wishes to withdraw his application, the application shall be treated as withdrawn and the port director shall refund the application fee to the applicant.

[T.D. 70-134, 35 FR 9254, June 13, 1970, as amended by T.D. 74-200, 39 FR 27128, July 25, 1974; T.D. 78-99, 43 FR 13061, Mar. 29, 1978; T.D. 86-161, 51 FR 30341, Aug. 26, 1986; T.D. 93-18, 58 FR 15772, Mar. 24, 1993]

**§ 111.13 Examination of applicant for individual license.**

(a) *Examination.* The written examination shall be designated to determine the applicant's knowledge of Customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters and his fitness to render valuable service to importers and exporters. The examination will be prepared and graded in Headquarters, U.S. Customs Service.

(b) *Date and place of examination.* Examinations will be given on the first Monday in April and October. The port director shall give the applicant notice of the exact time and place where the examination will be given.

(c) *Special examination.* When a partnership, association, or corporation