public of the revocation will be given by publication in the Customs Bulletin.

[T.D. 86–161, 51 FR 30344, Aug. 26, 1986, as amended by T.D. 95–77, 60 FR 50019, Sept. 27, 1995]

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

§ 111.50 General.

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

[T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.51 Cancellation of license or permit.

(a) *Without prejudice.* The Commissioner may cancel a broker's license or permit ''without prejudice'' upon written application by the broker if the Commissioner determines that the application for cancellation was not made in order to avoid proceedings for the suspension or revocation of the license or permit. If he determines that the application for cancellation was made in order to avoid such proceedings, the Commissioner may cancel the license or permit ''without prejudice'' if authorized by the Secretary of the Treasury.

(b) *With prejudice.* The Commissioner 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 The effect of a cancellation ''with prejudice'' is in all respects the same as if the license or permit had been revoked for cause by the Secretary.

[T.D. 70–134, 35 FR 9254, June 13, 1970, as amended by T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.52 Voluntary suspension of license or permit.

The Commissioner may accept a broker's written voluntary offer of suspension for a specific period of time of the broker's license or permit under such terms and conditions as the parties may agree.

[T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.53 Grounds for suspension or revocation of license or permit or monetary penalty in lieu thereof.

Other than as set forth below, the appropriate Customs official may suspend, for a specific period of time, or revoke the license or permit of any broker or assess a monetary penalty in lieu of suspension or revocation, for 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 Customs, 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 filing of an application for a license under § 111.12, of any felony or misdemeanor which the appropriate Customs officer finds:

(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 (infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only);

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

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

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without the written approval of the Commissioner; or

(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.

[T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.54 Appropriate officer of the Customs.

Unless otherwise indicated in this part, the port director shall be the appropriate officer of the Customs within the scope of section 641(d)(2), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)). In the case of sickness or absence of the port director, another Customs officer designated by the port director shall be the appropriate officer of the Customs. If the office of port director is vacant or the port director is unable to designate a Customs officer, Headquarters shall designate a Customs officer to be the appropriate officer of the Customs.

[T.D. 75–58, 40 FR 11562, Mar. 12, 1975, as amended by T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.55 Investigation of complaints.

Every complaint or charge against a broker which may be the basis for disciplinary action shall be forwarded for investigation to the special agent in charge of the area in which the broker is located. The special agent in charge shall submit a report on the investigation to the director of the port and send a copy of it to the Commissioner.

§ 111.56 Review of report on investigation.

The port director shall review the report of investigation to determine if there is sufficient basis to recommend that charges be preferred against the broker. He shall then submit his recommendation with supporting reasons to the Commissioner for final determination together with a proposed statement of charges when recommending that charges be preferred.

§ 111.57 Determination by Commissioner.

(a) *Determination not to prefer charges.* If the Commissioner determines that charges will not be preferred, he shall notify the port director of his decision.

(b) *Determination to prefer charges.* If the Commissioner determines that charges will be preferred, he shall notify the port director of his determination and require that a proposed statement of charges be prepared for his review, if not previously submitted.

[T.D. 70–134, 35 FR 9254, June 13, 1970, as amended by T.D. 86–161, 51 FR 30344, Aug. 26, 1986]

§ 111.58 Content of statement of charges.

The statement of charges shall give a plain and concise, but not necessarily detailed, description of the facts claimed to constitute grounds for suspension or revocation of the license. The statement of charges also shall specify the sanction being proposed (e.g., suspension of the broker's license, or revocation of the license) 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 accused of the charges against him so that he is able to prepare his response shall 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 license may be alleged in the statement of charges in a single count in the alternative.

[T.D. 70–134, 35 FR 9254, June 13, 1970, as amended by T.D. 86–161, 51 FR 30344, 30345, Aug. 26, 1986]

§ 111.59 Preliminary proceedings.

(a) *Opportunity to participate.* The port director shall advise the broker of his opportunity to participate in preliminary proceedings with an opportunity to avoid formal proceedings against his license.

(b) *Notice of preliminary proceedings.* The port director shall serve upon the broker, as set forth in § 111.63, written notice that: