

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 Secretary will remain in effect pending conclusion of the new proceedings and issuance of a new order under § 111.77.

§ 111.77 Notice of vacated or modified order.

If, pursuant to § 111.76 or for any other reason, the Secretary of Homeland Security, or his designee, 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 Assistant Commissioner will notify the broker in writing and will publish a notice of the new order in the FEDERAL REGISTER and in the Customs Bulletin.

§ 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 port director 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.

§ 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 Assistant Commissioner for authorization to assist, or accept employment with, a broker. The petition will not be approved unless the Assistant Commissioner 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 Assistant Commissioner 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 Assistant Commissioner will also take into account whether the petitioner has made restitution of that loss.

§ 111.80 [Reserved]

§ 111.81 Settlement and compromise.

The Assistant Commissioner, with the approval of the Secretary of Homeland Security, or his designee, 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.

Subpart E—Monetary Penalty and Payment of Fees

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

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

§ 111.92 Notice of monetary penalty.

(a) *Pre-penalty notice.* If assessment of a monetary penalty under § 111.91 is contemplated, Customs 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

§ 111.93

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]

§ 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.

Customs will follow the procedures set forth in part 171 of this chapter in considering any petition for relief filed under §111.93. After Customs 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,

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within 60 calendar days of the date of the written decision. If payment or arrangements for payment are not timely made, Customs will refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 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 \$200 to defray the costs to Customs in processing the application. Each individual who intends to take the written examination provided for in §111.13 must pay a \$200 examination fee before taking the examination. An individual who submits an application for a license must also pay a fingerprint check and processing fee; the port director will inform the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks and the Customs fingerprint processing fee, the total of which must be paid to Customs before further processing of the application will occur.

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

(c) *User fee.* Payment of an annual user fee of \$138 is required for each permit, including a national permit under §111.19(f), granted to an individual, partnership, association, or corporate broker. The user fee is payable when an initial district permit is issued concurrently with a license under §111.19(a), or in connection with the filing of an application for a permit under §111.19 (b) or (f), and for each subsequent calendar year at the port through which the broker was granted the permit or

at the port referred to in § 111.19(c) in the case of a national permit. The 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 permit or is issued an initial district permit under § 111.19, the full \$138 user fee must be remitted with the application or when the initial district permit is issued, regardless of the point during the calendar year at which the application is submitted or the initial district permit is issued. If a broker fails to pay the annual user fee by the published due date, the appropriate port director will notify the broker in writing of the failure to pay and will revoke the permit to operate. The notice will constitute revocation of the permit.

(d) *Status report fee.* The status report required under § 111.30(d) must be accompanied by a fee of \$100 to defray the costs of administering the reporting requirement.

(e) *Method of payment.* All fees prescribed under this section must be paid by check or money order payable to the United States Customs Service.

[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]

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