
ADVISORY COMMITTEE ON COMMERCIAL
OPERATIONS TO U.S. CUSTOMS AND BORDER
PROTECTION (COAC)
TRADE MODERNIZATION SUBCOMMITTEE
BROKER REGULATIONS WORKING GROUP

April 2016

19 CFR §111 REGULATION RECOMMENDATIONS

EXECUTIVE SUMMARY

On January 13, 2016, the COAC Trade Modernization Subcommittee announced the development of a new working group called the Broker Regulations Working Group. Building from previous efforts, the COAC Broker Regulations Working Group's purpose was to recommend appropriate actions to modernize 19 CFR 111, while also promoting transparency and collaboration among stakeholders with equities in 19 CFR 111. The recommendations are necessary to align the regulations with three significant circumstances: the 21st century's virtual operating environment, CBP's new structure under the Centers of Excellence and Expertise, and the new Automated Commercial Enterprise (ACE) capabilities.

The COAC Broker Regulations Working Group included 30 participants from the trade community, including the National Customs Broker and Forwarders Association of America (NCBFAA), express couriers, importers; and CBP representatives, including Centers of Excellence and Expertise (CEE) leadership, Office of Field Operations (OFO), the Office of Administration (OA), and the Office of International Trade (OT).

The group invested over 1300 hours in less than 90 days to draft over 50 recommendations that will update the regulations in ways that will enable brokers to work more efficiently. Review and recommendations focused on the following areas: the evolving role of the broker; confidentiality, cybersecurity and record retention; responsible supervision and control and employee reporting; and licensing, permits and continuing education. Because the Trade Facilitation and Trade Enforcement Act of 2015 went into force during the working group's appointment, they also provided recommendations to institute Section 116 of the Act: Broker Identification of Importers.

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OVERVIEW AND BACKGROUND

Since 2011, COAC has led engagement with industry stakeholders to identify the necessary and agreed upon changes to modernize 19 CFR §111, Customs Brokers’ regulations. CBP has led 10 webinars reaching at least 400 participants each, 32 roundtables, two working groups, and leads collaborative meetings to discuss potential regulatory changes with stakeholders. Since August 2013, COAC has issued 17 broker-related recommendations, many that directly impact the regulations.

In October 2015, COAC agreed to convene a workgroup consisting of all stakeholders impacted by changes to 19 CFR §111, including customs brokers, importers, express couriers, and sureties. This group will progress specifically on previous work accomplished to provide recommendations to COAC on the best approach to modernize 19 CFR §111.

In January 2016, the COAC Broker Regulations Working Group convened and identified the primary areas for collaboration to successfully present a comprehensive set of recommendations to COAC by the April 2016 meeting.

Throughout February 2016, the working group organized into four teams addressing changes to: (1) The Evolving Role of the Broker; (2) Confidentiality, Cybersecurity and Record Retention; (3) Responsible Supervision and Control & Employee Reporting; and (4) Continuing Education, Permits & Licensing. The teams were tasked with developing strategic and enduring recommendations to update or change sections of 19 CFR §111.

In March 2016, the working group met in-person to report on each team’s proposed regulation changes and reach consensus on each recommendation. Altogether, the group invested over 1300 hours in less than 90 days to draft over 50 recommendations that will update the regulations in ways that will enable brokers to work more efficiently.

2016 Broker Regulations Working Sessions		
January 2016	February 2016	March 2016
<ul style="list-style-type: none"> • Provide an overview of the future of the broker and how brokers will be impacted by technology and CBP reorganization. • Review 19 CFR §111 and previous COAC recommendations. • Discuss areas of the regulations ripe for modernization. • Identify areas of consensus and those for further exploration. 	<ul style="list-style-type: none"> • Organize into teams to brainstorm recommendations. • Evaluate proposed recommendations through potential costs/benefits, risks, challenges. • Evaluate cumulative impact of proposed recommendations to the Broker industry. • Prioritize recommendations, identify key stakeholder for engagement • Discuss next steps to validate stakeholder feedback 	<ul style="list-style-type: none"> • Present team findings and update recommendations. • Identify potential challenges to the recommendations. • Socialize proposed recommendations with legal and regulatory stakeholders. • Confirm desirability, feasibility and sustainability of recommendations. • Conduct final review of proposed recommendations to present at April 2016 COAC meeting.

TABLE 1: OVERVIEW OF WORKING GROUP OBJECTIVES

PROPOSED REGULATIONS FOR 19 CFR §111

The COAC Broker Regulations Working Group proposed the following recommendations for changes to 19 CFR §111. More detailed information on the specific regulation language changes and justifications may be found in the Appendix.

Regulation	Proposed Recommendation
<p>§111: Customs Brokers</p>	<ul style="list-style-type: none"> • Replace “district permit” and “national permit” with “the permit” or “permit” to better reflect the transition to a single permit framework that operates at the national level within the customs territory of the United States. • Remove specific fee dollar amounts from the main regulation of §111 and in its place reference §111.96 for specific information on the fees and their schedule. • Remove specific fee dollar amounts in §111.96 and reference a single source (i.e. CBP.gov, policy directive, etc.) where all broker-related fees can be posted in order for CBP to have greater flexibility in changing fee amounts, if needed.
<p>§111.1: Definitions</p>	<ul style="list-style-type: none"> • Incorporate Responsible Supervision and Control elements into the permit application/reporting process by requiring new applicants to address the 10 factors under the definition of Responsible Supervision and Control. • Include a definition of “confidential business information” in 19 CFR §111.1 to better reflect current business practices and operations.
<p>§111.2: License and District Permit Required</p>	<ul style="list-style-type: none"> • Concur with COAC recommendation 15057 to require brokers to have a single permit that allows them to conduct customs business at the national level within the customs territory of the United States. • Prepare for the transition to a single permit by asking CBP to identify brokers that currently do not have a National Permit and work with them to properly and effectively transition to a single permit that operates at a national level. • Enable licensed brokers that receive “the permit” to have sufficient authority to conduct customs business within customs territory of the United States.
<p>§111.13: Written Examination for Individual License</p>	<ul style="list-style-type: none"> • Conduct the examination on the fourth Monday in April and fourth Monday in October to enhance applicant participation and CBP exam proctoring. • Automate the exam, the process for notifying examinees of their exam results and the appeal process. • Increase the exam fee to offset CBP’s costs for administering an electronic exam. • Pursue a Notice of Proposed Rule Making (NPRM) at once to enable CBP to administer an electronic exam format in calendar year 2017. • Explore further enhancements to the broker exam such as automated access to resources like the Harmonized Tariff Schedule (HTS) and Explanatory Notes. • Explore conducting a broker exam that can be taken ‘on-demand’ rather than conducted twice a year. • Explore having the broker industry (e.g., NCBFAA) assist in developing broker exam questions in conjunction with CBP.

<p>§111.19: Permits</p>	<ul style="list-style-type: none"> • Eliminate the process for brokers to receive permit waivers as they will not be required under a single permit operating at the national level. • Ensure customs business may only be conducted within the customs territory of the United States with the issuance of a permit. • Update the 10 factors under Responsible Supervision and Control to better align with brokers' current business practices; specifically clarify language to: <ol style="list-style-type: none"> 1. The training required of the broker's employees engaged in customs business. 2. The issuances of written instructions and guidelines to the broker's employees engaged in customs business. 3. The volume and type of business of the broker. 4. The entry summary CBP initiated reject rate expressed as a percentage of the broker's overall business for the various customs transactions. 5. The maintenance of current electronic or other media editions of CBP Regulations, the Harmonized Tariff Schedule of the United States, and CBP issuances. 6. The availability of an adequate number of individually licensed brokers for necessary consultation with the broker's employees engaged in customs business. 7. The frequency of supervisory visits contact, (whether physical or virtual) of an individually licensed broker to another office that does not have a resident individually licensed broker. 8. The frequency of audits and reviews conducted under the supervision of an individually licensed broker of the customs transactions handled by employees of the broker and evidence of corrective action taken as a result of the audits and reviews. 9. The extent to which the individual who qualifies the permit is engaged in the customs business of the brokerage firm. 10. Any circumstance which indicates that an individually licensed broker has a real interest in the operations of a broker. • Provide guidance concerning the ten (10) factors demonstrating responsible supervision and control. Specifically, CBP should set forth best practices in a policy document, preferably in the Broker Handbook, including examples of how a broker, among other things, should: properly train employees; issue appropriate written instructions, guidelines and internal controls; maintain an adequate ratio of employees to a licensed broker based on factors such as the volume, type, diversity of business and commodities a broker handles etc.; engage in supervisory contact; and audit and review operations, etc. • Require brokers to provide satisfactory evidence of how he/she/the entity intends to exercise responsible supervision to obtain a permit which includes, but not limited to, a management/business plan outlining the use of the factors, list of physical offices, name and title of the licensed broker qualifying the permit; the list of other licensed brokers providing supervision and a list of employees conducting customs business. • Increase the permit fee to offset CBP's administrative costs.
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Regulation	Proposed Recommendation
	<ul style="list-style-type: none"> • Make enhancements to ACE for the broker to identify the name and primary point of contact associated with the broker’s permit.
<p>§111.21: Record of Transactions</p>	<ul style="list-style-type: none"> • Amend §111.21(a) and §111.23(b) to require electronic customs records be stored in an electronic format within the customs territory of the United States. The records must be available and retrievable by the broker upon request by CBP to the parties addressed in §111.24. Duplicate records may be stored in non-customs territory of the United States. • Duplicate records stored in non-customs territory of the United States must be available and retrievable by the broker upon request by CBP and parties as addressed in §111.24. • Revise 19 CFR §163 in accordance §111.21 recommendations.
<p>§111.23: Retention of Records</p>	<ul style="list-style-type: none"> • Require brokers to provide CBP with the contact information of the individual who is the designated contact in §111.21(c) as well as how and by whom the records are stored in the customs territory of the United States. This information is to be provided with the application of a new permit and through the triennial process. • Revise 19 CFR §163 in accordance §111.23 recommendations.
<p>§111.24: Records Confidential</p>	<ul style="list-style-type: none"> • Enable the broker to disclose confidential business information to third parties to facilitate the movement of merchandise, for collection purposes, to perform security screenings, to defend him/herself against a claim from the importer, or otherwise to conduct business within the broker’s scope of services consistent with the power of attorney.
<p>§111.28: Responsible Supervision</p>	<ul style="list-style-type: none"> • Streamline the employee reporting process through electronic submission and limit the required data elements to the employee name, social security number, date of birth, and current home address. • Modify the employee reporting timeframe requirements to harmonize reporting timelines and to allow for flexibility in reporting frequency. • Eliminate the requirement for a broker to report terminated employees. • Require the broker to, at a minimum, report employees involved in customs business, but allow the broker to report all employees if necessary. • Make enhancements to ACE that can better facilitate the electronic reporting of broker employee information (to include the system electronically determining if the broker is reporting new or terminated employees) and other broker-related functions.

Regulation	Proposed Recommendation
<p>§111.36: Relations with Unlicensed Persons</p>	<ul style="list-style-type: none"> • Amend §111.36 (a) to indicate that in all cases, the broker shall follow the importer’s documented instructions regarding customs business to include the transmission of bills for services, copies of the entry releases and summaries, and other documentation or data filed on the importer’s behalf. • Amend §111.36(c) to allow brokers to compensate freight forwarders for referring brokerage business without the conditions currently stated in the regulations. • Concur with COAC recommendation 13023 regarding obtaining a power of attorney directly from the importer. Recommend CBP implement immediately to meet requirements in the Trade Facilitation and Trade Enforcement Act of 2012 until it can be codified in regulation. • Streamline relations between brokers and importers by allowing the importers to directly interact with the broker and provide guidance on processing merchandise.
<p>§111.43 New Regulation: Collecting Importer Information</p>	<ul style="list-style-type: none"> • Concur with COAC recommendations 13024, 13061, and 13062 regarding updates to CBP Form 5106 data elements, limiting additional information from companies in good standing, and collecting such information as practical via ACE. • Require customs brokers to collect appropriate and accurate data for the CBP Form 5106 as practical, available and necessary for a broker to conduct due diligence on an importer’s, including foreign national’s business activity. • Enhance ACE capabilities to enable importers to provide the remainder of CBP Form 5106 data at the importer’s, as opposed to the broker’s, disposal and also to enable customs brokers to review information maintained by relevant Federal agencies for purposes of verifying the identities of importers.
<p>§111 New Regulation: Continuing Education</p>	<ul style="list-style-type: none"> • Concur with COAC recommendation 13010 requiring licensed brokers to have a minimum of 40 hours of continuing education during their triennial reporting period. However, the Working Group recommends allowing flexibility in qualifying continuing education credits with no restrictions/requirements on accredited continuing education. • POLICY RECOMMENDATION: Require a broker with a voluntarily suspended license to have a triennial period’s worth of continuing education completed as a prerequisite to re-activate his/her suspended license. Also, recommend that CBP institute a waiver for this requirement.
<p>Other COAC Considerations</p>	<ul style="list-style-type: none"> • Institute a Broker Management office reporting to CBP HQ, with full-time, dedicated personnel on a national level, with each broker assigned to one team for management purposes. • Create a separate working group to explore the role of the parties to better define what should be included in the definition of “customs business.” • Expand payment options for brokers and partners for broker-related fees to Pay.gov. • Review the information included in the triennial reporting process and identify ways to better facilitate and expand the reporting of the information. • Revise 19 CFR §163 in accordance §111.21 and §111.23 recommendations.

TABLE 2: COAC BROKER REGULATION WORKING GROUP RECOMMENDATIONS

CONTACT INFORMATION

For additional information on the 2016 COAC Broker Regulations Working Group, please contact Lenny Feldman at lfeldman@strtrade.com or Cindy Allen at cindy.allen@tradeforcemultiplier.com.

COAC BROKER REGULATION WORKING GROUP PARTICIPANTS

The participants for the COAC Broker Regulation Working Group are listed in Table 3.

Last Name	First Name	Office/Company
Feldman	Lenny	Sandler, Travis & Rosenberg, P.A.
Allen	Cindy	Trade Force Multiplier, LLC
Latham	Alexandra	Costco
Magnus	Amy	A.N. Deringer, Inc.
Bray	Heidi	FCA US, LLC
Veigel	Madeleine	Expeditors
Iacopella	Vincent	The Janel Group
Clark	Colleen	Roanoke Trade Services
Sekin	Darrell	DJS International Services
Trulik	Joe	FedEx Trade Networks
Van Wallaghen	John	UPS Supply Chain Solutions
Comstock	Mary Ann	Independent Consultant
Muoio	Mary Jo	OHL International
Ford	Michael	BDP International
Roser	Neto	Roser & Cowen
Neal	Kathy	Regal Beloit
Reynolds	Myra	John S. James, Co.
Boyce	Maria Luisa	U.S. Customs and Border Protection, Office of Trade Relations
Graham	Steven	U.S. Customs and Border Protection, Office of Trade Relations
Riley	Troy	U.S. Customs and Border Protection, Office of International Trade
Malmo	Jerry	U.S. Customs and Border Protection, Office of International Trade
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Skinner	Brad	U.S. Customs and Border Protection, Office of Field Operations
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Last Name	First Name	Office/Company
Brennan	Lynn	U.S. Customs and Border Protection, Office of Field Operations
Nielsen	Scott	U.S. Customs and Border Protection, Office of Field Operations
Bianchetta	Marla	U.S. Customs and Border Protection, Office of Field Operations
Ingalls	Bruce	U.S. Customs and Border Protection, Office of Administration
Freidin	Alex	Grant Thornton, LLP
Eder	Mike	Grant Thornton, LLP
Limeberry	Craig	Grant Thornton, LLP

TABLE 3: COAC BROKER REGULATION WORKING GROUP MEMBERS

APPENDIX: REGULATION JUSTIFICATION DOCUMENTS

Each regulation justification document contains proposed changes to the regulations. Some documents contain specific language changes, additions, and deletions. These are all highlighted in yellow.

19 CFR §111.1 DEFINITIONS; RESPONSIBLE SUPERVISION & CONTROL

Regulation	19 CFR §111.1 Definitions
Title of Regulation	Responsible Supervision & Control
<p>Specific language to be addressed (The original/current language in the regulation)</p>	<p>Responsible Supervision & 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.</p> <p>While the determination of what is necessary to perform and maintain responsible supervision & control will vary depending upon the circumstances in each instance, factors which CBP will consider include but are not limited to:</p> <ol style="list-style-type: none"> 1. The training required of employees of a broker. 2. The issuances of written instructions and guidelines to employees of the broker. 3. The volume and type of business of the broker. 4. The reject rate for the various customs transactions. 5. The maintenance of current editions of CBP Regulations, the Harmonized Tariff Schedule of the United States, and CBP issuances. 6. The availability of an individually licensed broker 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 a resident 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 district permit is involved in the operation of the brokerage. 10. Any circumstance which indicates that an individually licensed broker has a real interest in the operations of a broker.

Regulation	19 CFR §111.1 Definitions
Title of Regulation	Responsible Supervision & Control
Proposed new language of the regulation	<p>Responsible Supervision & 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.</p> <p>While the determination of what is necessary to perform and maintain responsible supervision & control will vary depending upon the circumstances in each instance, factors which CBP will consider include but are not limited to:</p> <ol style="list-style-type: none"> 1. The training required of employees of a broker 2. The issuances of written instructions and guidelines to employees of the broker 3. The volume and type of business of the broker 4. The entry summary of CBP initiated reject rate expressed as a percentage of the broker's overall business for the various customs transactions. 5. The maintenance of current editions of CBP Regulations, the Harmonized Tariff Schedule of the United States, and CBP issuances. 6. The availability of an adequate number of individually licensed brokers to adhere to the compliance standards and oversight of operation 7. The frequency of supervisory visits contact, (whether physical or virtual) of an individually licensed broker to another office that does not have a resident individually licensed broker 8. The frequency of audits and reviews conducted under the supervision of by an individually licensed broker of the customs transactions handled by employees of the broker and evidence of corrective action taken as a result of the audits and reviews 9. The extent to which the individually licensed broker who qualifies the district permit is involved in the operation of the brokerage; individual who qualifies the national permit is actively engaged in the operation customs business of the brokerage firm 10. Any circumstance which indicates that an individually licensed broker has a real interest in the operations of a broke

Regulation	19 CFR §111.1 Definitions
Title of Regulation	Responsible Supervision & Control
What was the decision-making process for creating this new language? Why does this regulation need to be changed/updated?	<p>The current definition of Responsible Supervision and Control was developed by a Customs Headquarters Taskforce on broker licensing and regulation, and published in T.D. 86-161 on August 26, 1986. The proposed changes were developed for the following reasons:</p> <ol style="list-style-type: none"> 1. The additional language is intended to clarify that reject rate is based on actual ABI entry summary rejects by entry and import specialists, not system rejects to indicate that the broker was exercising responsible supervision and control. 2. The additional language recognizes that reference documents and resources may now be available in electronic or other media, confirming the findings in HQ 115392. 3. The Broker Regulations Working Group customs brokers believe that responsible supervision and control must be exercised by a sufficient number of licensed brokers to oversee the customs business of the brokerage firm. We are not proposing a ratio of number of licensed brokers to broker employees, however a single license in a brokerage firm may not be sufficient due to the size of a firm. We added the language to convey that more than one license is likely required, depending upon the size of the brokerage firm. 4. The language changes reflect the opportunities to utilize modern management tools, new electronic methods and ways of work. 5. The additional language is intended to clarify that a licensed broker supervises audits and reviews, and the results of the audit or review may require corrective action. Many types of audits may be utilized, and the regulation should not be prescriptive in its requirements. 6. We believe that factor 9 must be adjusted to accommodate the permit, as the district permit should be abandoned. Brokerage firms should be free to design and set up their brokerage operations in the highly electronic, virtual environment brought about by ACE and Remote Location Filing. The individual who qualifies the permit must be actively engaged in the customs business of the brokerage firm.
What costs are involved with these proposed changes?	No measurable costs should be involved with the proposed changes.
What benefits are involved with these proposed changes?	The regulation changes promotes professionalism of the licensed customs broker, acknowledges the new virtual ways to perform work, and promotes the use of a sufficient number of licensed brokers in brokerage firms to ensure the firm maintains a highly compliant brokerage operation.

Regulation	19 CFR §111.1 Definitions
Title of Regulation	Responsible Supervision & Control
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	<p>Brokers will benefit from the clarifying language inserted into the 10 factors. The changes provide business management benefits for brokers. Brokers can organize their operations to meet their business needs, and this may lead to potential cost savings.</p> <p>CBP should continue the dialogue with brokers on the 10 factors and update the Broker Handbook with examples that illustrate the 10 factors at work. CBP will benefit from the dialogue through a better understanding of how compliant brokers manage their business and perform customs business.</p> <p>Importers and CBP benefit from service and performance improvements as a result of the broker being free to conduct business that best meets their needs with modern work techniques.</p>
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The regulation changes present a net positive change.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Performance measures using the 10 factors should be developed through consultation between CBP and the Customs brokerage community. The factors are still relevant in measuring the effectiveness of a broker in conducting customs business and are further strengthened with the proposed changes. We recommend that any developed thresholds or metrics for the 10 factors be published in the CBP Broker Handbook.

19 CFR §111.1 DEFINITIONS

Regulation	19 CFR §111.1
Title of Regulation	Definitions
Specific language to be addressed (The original/current language in the regulation)	<p>111.1 Definitions.</p> <p>District. “District” means the geographic area covered by a customs broker permit other than a national permit. A listing of each district, and the ports thereunder, will be published periodically.</p> <p>Permit. “Permit” means any permit issued to a broker under § 111.19.</p> <p>Region. “Region” means the geographic area covered by a waiver issued pursuant to § 111.19(d).</p>
Proposed new language of the regulation	<p>Remove all reference to “district” or “national” permit and just use “the permit.” With the use of the just “the permit”, there is no need to address geography or specific locations.</p> <p>Enable the broker to disclose confidential business information to third parties to facilitate the movement of merchandise, perform security screenings or reviews, for collection purposes, to address any claim or potential claim against him/herself from the importer, or otherwise to conduct business within the broker’s scope of services consistent with its power of attorney.</p> <p>Define “confidential business information” as including data, information or records that concern or relate to the production, sales, shipment, purchase, expenditures, payment, warehousing, inventory management or other information of commercial value or significance unless such information is otherwise available within the public domain.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	<p>District Permits create geographical barriers to conducting business. Only one permit will be required as opposed to individual permits for each district. The group discussed the evolution of the broker business and the ease on business practices if current and future brokers only need to apply for one, consistent permit.</p>
What costs are involved with these proposed changes?	<p>The costs associated with transitioning to a single permit are primarily conceptual, not monetary. Under a single permit system, both CBP and the broker incur new risk in exchange for geographic proximity. Risk increases because brokers will be empowered to operate almost exclusively in a virtual environment so the majority of their interaction with CBP will be virtual, a reflection of today’s business environment. Brokers incur risk because they are empowered to exercise greater discretion over their business models and may choose not to employ the same amount of licensed customs brokers that were previously required under the district permit regime.</p>
What benefits are involved with these proposed changes?	<p>Less cost for Industry, less processing for CBP. Treats a broker as a national account instead of geographical designation. Creates uniform treatments for the organization.</p> <p>Both CBP and brokers will reap benefits from the single permit system. CBP’s benefits will include a decrease in permit maintenance as the total</p>

Regulation	19 CFR §111.1
Title of Regulation	Definitions
	<p>amount of permits will reduce significantly. CBP can use these resources to focus greater attention on customer-focused operations to provide better service to the broker and improve enforcement.</p> <p>Brokers will benefit because they have greater discretion over their business models and also benefit from less permit maintenance and administration.</p>
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)	<p>All stakeholders are positively impacted in that the single permit system allows greater flexibility and discretion to the private sector and how to approach business models. CBP is positively impacted because the new system enables the agency to move beyond geographic enforcement and focus more on performance. Additional positive effects include reduced administrative work in reporting and keeping up with multiple permits. It would also reduce fees that brokerage firms have to pay for multiple permits. However, this change could possibly negatively impact importers and possibly CBP. Importers and brokerages may choose to employ fewer licensed brokers. This may result in reduced supervision and control. For example negative impact on the clerical entry work performed by brokers, and the interaction between brokers and importers in those areas of where brokers are providing advice and guidance to importers may be affected.</p>
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	<p>Overall, the single permit system nets a positive change as the increase in geographic and virtual flexibility outweighs the potential change in risk for both brokers and CBP.</p> <p>Positive Change for Industry and Positive Change for CBP by streamlining the permit process.</p>
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	<p>CBP's ability to track the number of permits in the broker community and take a census on the entire broker community. CBP will be able to easily track increases and decreases of permits.</p> <p>Also, change in (likely reduced) CBP administrative costs and change in the number of application fees that industry will pay.</p>

19 CFR §111.2: LICENSE AND DISTRICT PERMITS

Regulation	19 CFR §111.2
Title of Regulation	License and District Permit
Specific language to be addressed (The original/current language in the regulation)	<p>b) District permit—(1) General. Except as otherwise provided in paragraph (b)(2) of this section, a separate permit (see § 111.19) is required for each district in which a broker conducts customs business.</p> <p>(2) Exceptions to district permit rule—(i) National permits. A national permit issued to a broker under § 111.19(f) will constitute sufficient permit authority for the broker to act in any of the following circumstances:</p> <p>(A) Employee working in client's facility (employee implant). When a broker places an employee in the facility of a client for whom the broker is conducting customs business at one or more other locations covered by a district permit issued to the broker, and provided that the employee's activities are limited to customs business in support of that broker and on behalf of that client but do not involve the filing of entries or other documents with Customs, the broker need not obtain a permit for the district within which the client's facility is located;</p> <p>(B) Electronic drawback claims. A broker may file electronic drawback claims in accordance with the electronic filing procedures set forth in part 143 of this chapter even though the broker does not have a permit for the district in which the filing is made;</p> <p>(C) Electronic filing. A broker may electronically file entries for merchandise from a remote location, pursuant to the terms set forth in subpart E to part 143 of this chapter, and may electronically transact other customs business even though the entry is filed, or other customs business is transacted, within a district for which the broker does not have a district permit; and</p> <p>(D) Representations after entry summary acceptance. After the entry summary has been accepted by Customs, and except when a broker filed the entry as importer of record, a broker who did not file the entry, but who has been appointed by the importer of record, may orally or in person or in writing or electronically represent the importer of record before Customs on any issue arising out of that entry or concerning the merchandise covered by that entry even though the broker does not have a permit for the district within which those representations are made, provided that, if requested by Customs, the broker submits appropriate evidence of his right to represent the client on the matter at issue.</p> <p>(ii) Filing of drawback claims. A broker granted a permit for one district may file drawback claims manually or electronically at the drawback office that has been designated by Customs for the purpose of filing those claims, and may represent his client before that office in matters concerning those claims, even though the broker does not have a permit for the district in which that drawback office is located.</p>

Regulation	19 CFR §111.2
Title of Regulation	License and District Permit
Proposed new language of the regulation	<p>The regulation should be updated to address reference to “the permit.” The proposed language below addresses the reference to using “the permit.”</p> <p>Remove all reference to “district” or “national” permit and just use “the permit.” With the use of the just “the permit”, there is no need to address geography or specific locations.</p> <p>(b) Permit – A permit issued to a broker under 19 CFR 111.19 will constitute sufficient authority for the broker to conduct Customs business in all districts within the customs territory of the United States as defined in 19 CFR 101. A Permit is required for a broker to electronically file entries remotely pursuant to the terms set forth in Part 143 of this chapter.</p> <p>(2) A permit issued to a broker under §111.19(f) will constitute sufficient permit authority for the broker to act in any of the following circumstances:</p> <p>(A) Employee working in client's facility (employee implant).</p> <p>(B) Electronic drawback claims. A broker may file electronic drawback claims in accordance with the electronic filing procedures set forth in part 143 of this chapter.</p> <p>(C) Electronic filing. A broker may electronically file entries for merchandise from a remote location, pursuant to the terms set forth in subpart E to part 143 of this chapter.</p> <p>(D) Representations after entry summary acceptance. After the entry summary has been accepted by Customs, and except when a broker filed the entry as importer of record, a broker who did not file the entry, but who has been appointed by the importer of record, may orally or in person or in writing or electronically represent the importer of record before Customs on any issue arising out of that entry or concerning the merchandise covered by that entry, provided that, if requested by Customs, the broker submits appropriate evidence of his right to represent the client on the matter at issue.</p> <p>(ii) Filing of drawback claims. A broker granted a permit may file drawback claims manually or electronically at the drawback office that has been designated by Customs for the purpose of filing those claims, and may represent his client before that office in matters concerning those claims.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.

Regulation	19 CFR §111.2
Title of Regulation	License and District Permit
What costs are involved with these proposed changes?	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.
What benefits are involved with these proposed changes?	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Please see justifications for 111.1. Transition of the district permit to a single permit system applies to these changes as well.

19 CFR §111.13: WRITTEN EXAMINATION: BASIC REQUIREMENTS, DATE, AND PLACE OF EXAMINATION

Regulation	19 CFR §111.13b
Title of Regulation	Written examination for individual license; basic requirements, date, and place of examination
Specific language being addressed (The original/current language in the regulation)	In order to be eligible to take the written 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. Written examinations will be given on the first Monday 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 written examination must so advise the port director in writing at least 30 calendar days prior to the scheduled examination date and must remit the \$200 examination fee prescribed in §111.96(a) at that time. The port director will give notice of the exact time and place for the examination.
Proposed new language of the regulation	Written examinations will be given on the fourth Monday in April and October unless the regularly scheduled examination dates conflicts with a religious observance, or other foreseeable event and the agency publishes in the Federal Register an appropriate notice of a change in the examination date.
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	Frequent changes of examination date have occurred in recent years due to the end of fiscal year or budgetary restrictions or religious holidays require posting in the Federal Register. Moving the exam date to the fourth Monday will provide CBP with greater flexibility should there be delays in appropriating new fiscal year budgets or continuing resolutions (October exam) and avoid federal holidays.
What costs are involved with these proposed changes?	While the working group does not foresee any significant costs to the proposed changes, a minor cost is still limiting the exam to specific dates and not delivering it in an 'on-demand' format.
What benefits are involved with these proposed changes?	CBP will have greater flexibility to provide additional dates for the exam as well as more predictability of ensuring the exams can occur on the specific dates. This will also translate into similar benefits for the broker community.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed changed (both negatively and positively)*	Positive impact for CBP in that changing the exam dates will reduce unnecessary changes due to religious holidays in October and April; reduce Federal Register Notices (FRN) and exam changes; and potentially mitigate the risk of cancelling the exams due to lack of appropriated funds at the beginning of the fiscal year. There will be similar positive impacts to the brokers as they will have greater predictability and assurances the exam will take place on the specified dates.
<i>*Please justify each entity, do not just list them</i>	

Regulation	19 CFR §111.13b
Title of Regulation	Written examination for individual license; basic requirements, date, and place of examination
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The Working Group anticipates a net positive change due to potential savings in posting exam changes to the FRN as well as brokers and CBP staff altering their schedules to accommodate unanticipated exam date changes.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Potential performance objectives that can be identified include (1) fewer exam date changes; (2) reduced administrative costs not having to reschedule exams; and (3) more examinees being able to sit the exam.

19 CFR §111.13: WRITTEN EXAMINATION: BASIC REQUIREMENTS, SPECIAL EXAMINATION, AND FAILURE TO APPEAR FOR EXAMINATION

Regulation	19 CFR §111.13b, c, d
Title of Regulation	<p>Written examination for individual license; Basic Requirements</p> <p>Written examination for individual license; Special Examination</p> <p>Written examination for individual license; Failure to Appear for Examination</p>
Specific language to be addressed (The original/current language in the regulation)	<p>(b) Basic requirements, date, and place of examination. In order to be eligible to take the written 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. Written examinations will be given on the first Monday 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 written examination must so advise the port director in writing at least 30 calendar days prior to the scheduled examination date and must remit the \$200 examination fee prescribed in §111.96(a) at that time. The port director will give notice of the exact time and place for the examination.</p> <p>(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 written examination, CBP may authorize a special written 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 written examination for an individual for purposes of continuing the business of a sole proprietorship broker. A special written 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 an office in another district (see §111.19(d)) and the permit for that additional district would be revoked by operation of law under the provisions of 19 U.S.C. 1641(c)(3) and §111.45(b) before the next scheduled written examination. A request for a special written examination must be submitted to the port director in writing and must describe the circumstances giving rise to the need for the examination. If the request is granted, the port director will notify the prospective examinee of the exact time and place for the examination. If the individual attains a passing grade on the special written 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 \$200 examination fee prescribed in §111.96(a), and those additional costs must be reimbursed to CBP before the examination is given.</p> <p>(d) Failure to appear for examination. If a prospective examinee advises the port director at least 2 working days prior to the date of a regularly scheduled written examination that he will not appear for the examination, the port</p>

Regulation	19 CFR §111.13b, c, d
Title of Regulation	Written examination for individual license; Basic Requirements Written examination for individual license; Special Examination Written examination for individual license; Failure to Appear for Examination
	director will refund the \$200 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.
Proposed new language of the regulation	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. Furthermore, the Working Group recommends the fee to be raised to cover the administrative expenses of CBP moving the exam to an electronic format.
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	Eliminating the specific reference to the exam fee cost (i.e., \$200) will allow CBP the flexibility to change this fee (along with other user fees) without having to change existing regulations and issuing a FRN. The Working Group recommends either posting the specific fees as an Appendix to §111, posted to CBP.gov, policy directive, or other acceptable format. Moving the exam to an electronic format is easier to administer and can provide results to test takers quicker.
What costs are involved with these proposed changes?	CBP must ensure it posts the specific exam fee amount in a format that is easily acceptable by everyone and the broker community is educated on where to find the fee amounts, updates, or other important notices.
What benefits are involved with these proposed changes?	CBP will have greater flexibility to adjust the exam fee to cover any necessary administrative costs in an easier manner rather than through a formal regulation change process.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed changed (both negatively and positively)	Anticipate a positive impact for CBP in that it will reduce the amount of work associated with changes in the establishing the fee amount in regulation. Possible negative impact for the broker community as it may be perceived that CBP can more easily raise the exam fee on a more consistent basis.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	Anticipate a net positive change due to potential resource savings in not requiring new FRNs for changes to the fee. However, if the fee is now able to be changed on a more frequent basis, there could be potential increases in resource costs if cost/benefit analyses are needed to change the fee.
What performance objectives will we see as a result of these	CBP's ability to adjust exam fee monies that adequately cover the administrative costs of the exam. CBP may also be able to more effectively

Regulation	19 CFR §111.13b, c, d
Title of Regulation	Written examination for individual license; Basic Requirements Written examination for individual license; Special Examination Written examination for individual license; Failure to Appear for Examination
changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	cover the exam costs on an annual basis having the ability to more easily change the fee amount.

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19 CFR §111.19: PERMITS

Regulation	19 CFR §111.19
Title of Regulation	Permits
Specific language to be addressed (The original/current language in the regulation)	<p>(a) General. Each person granted a broker's license under this part will be concurrently issued a permit for the district in which the port through which the license was delivered to the licensee (see §111.15) is located and without the payment of the \$100 fee required by §111.96(b), if it is shown to the satisfaction of the port director that the person intends to transact customs business within that district and the person otherwise complies with the requirements of this part.</p> <p>(b) Submission of application for initial or additional district permit. A broker who intends to conduct customs business at a port within another district for which he does not have a permit, or a broker who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, and except as otherwise provided in paragraph (f) of this section, must submit an application for a permit in a letter to the director of the port at which he intends to conduct customs business. Each application for a permit must set forth or attach the following:</p> <p>(2) The address where the applicant's office will be located within the district and the telephone number of that office;</p> <p>(4) The name of the individual broker who will exercise responsible supervision and control over the customs business transacted in the district;</p> <p>(5) A list of all other districts for which the applicant has a permit to transact customs business;</p> <p>(c) Fees. Each application for a district permit under paragraph (b) of this section must be accompanied by the \$100 and \$138 fees specified in §111.96(b) and (c). In the case of an application for a national permit under paragraph (f) of this section, the \$100 fee specified in §111.96(b) and the \$138 fee specified in §111.96(c) must be paid at the port through which the applicant's license was delivered (see §111.15) prior to submission of the application. The \$138 fee specified in §111.96(c) also must be paid in connection with the issuance of an initial district permit concurrently with the issuance of a license under paragraph (a) of this section.</p> <p>(d) Responsible supervision and control—(1) General. The applicant for a district permit must have a place of business at the port where the application is filed, or must have made firm arrangements satisfactory to the port director to establish a place of business, and must exercise responsible supervision and control over that place of business once the permit is granted. Except as otherwise provided in paragraph (d)(2) of this section, the applicant must employ in each district for which a permit is granted at least one individual broker to exercise responsible supervision and control over the customs business conducted in the district.</p>

Regulation	19 CFR §111.19
Title of Regulation	Permits
	<p>(2) Exception to district rule. If the applicant can demonstrate to the satisfaction of CBP that he regularly employs at least one individual broker in a larger geographical area in which the district is located and that adequate procedures exist for that individual broker to exercise responsible supervision and control over the customs business conducted in the district, CBP may waive the requirement for an individual broker in that district. A request for a waiver under this paragraph, supported by information on the volume and type of customs business conducted, or planned to be conducted, and supported by evidence demonstrating that the applicant is able to exercise responsible supervision and control through the individual broker employed in the larger geographical area, must be sent to the port director in the district in which the waiver is sought. The port director will review the request for a waiver and make recommendations which will be sent to the Office of International Trade, CBP Headquarters, for review and decision. A written decision on the waiver request will be issued by the Office of International Trade and, if the waiver is granted, the decision letter will specify the region covered by the waiver.</p> <p>(f) <i>National permit.</i> A broker who has a district permit issued under paragraph (a) or paragraph (e) of this section may apply for a national permit for the purpose of transacting customs business in any circumstance described in §111.2(b)(2)(i). An application for a national permit under this paragraph must be in the form of a letter addressed to the Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229, and must:</p> <p>(1) Identify the applicant's broker license number and date of issuance;</p> <p>(2) Set forth the address and telephone number of the office designated by the applicant as the office of record for purposes of administration of the provisions of this part regarding all activities of the applicant conducted under the national permit. That office will be noted in the national permit when issued;</p> <p>(3) Set forth the name, broker license number, office address, and telephone number of the individual broker who will exercise responsible supervision and control over the activities of the applicant conducted under the national permit; and</p> <p>(4) Attach a receipt or other evidence showing that the fees specified in §111.96(b) and (c) have been paid in accordance with paragraph (c) of this section.</p> <p>(g) Review of the denial of a permit—(1) By the Assistant Commissioner. Upon the denial of an application for a permit under this section, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This</p>

Regulation	19 CFR §111.19
Title of Regulation	Permits
	<p>request must be received by the Assistant Commissioner within 60 calendar days of the denial.</p> <p>(2) By the Court of International Trade. Upon a decision of the Assistant Commissioner affirming the denial of an application for a permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Assistant Commissioner's decision.</p>
Proposed new language of the regulation	<p>The intent of these changes is to remove the waiver requirement and address “the permit.” The recommendations further ensure that business conducted by the broker is only conducted within the customs territory of the United States. §111.19 Permits</p> <p>(a) General. if it is shown to the satisfaction of the Assistant Commissioner of CBP Office of International Trade that the person intends to transact customs business within the customs territory of the United States and the person otherwise complies with the requirements of this part, the office of the Assistant Commissioner, Office of International Trade, will issue a permit to the applicant</p> <p>(b) Submission of application for initial permit. A broker who intends to conduct customs business within the Customs Territory of the United States must submit an application for a permit in a letter to the Assistant Commissioner, Office of International Trade. An application for a permit must set forth or attach the following:</p> <p>(2) The address where the applicant's office will be located within the customs territory of the United States, and the telephone number of that office;</p> <p>(4) The name and physical address of the individual licensed broker who will exercise responsible supervision and control over the customs business transacted under the permit;</p> <p>(5) The place where the applicant's brokerage records will be retained and the name of the applicant's designated recordkeeping contact (see §§111.21 and 111.23); and</p> <p>(c) Fees. The application for a permit under paragraph (b) of this section must be accompanied by the fees as prescribed in §§111.96(b) and (c). The fee prescribed in 111.96(c) must be paid in conjunction with the initial permit concurrently with the issuance of a license under paragraph (a) of this section.</p> <p>(d) Responsible supervision and control—General. The applicant for a permit must have a place of business within the customs territory of the United States where the application is filed, or must have made firm arrangements satisfactory to establish a place of business, and must exercise responsible supervision and control over that place of business once the permit is granted.</p>

Regulation	19 CFR §111.19
Title of Regulation	Permits
	<p>Except as otherwise provided in paragraph (d)(2) of this section, the applicant must employ at least one individual broker to exercise responsible supervision and control over the customs business conducted.</p> <p>(f) Review of the denial of a permit—(1) By the Assistant Commissioner. Upon the denial of an application for a permit under this section, the applicant may file with the Assistant Commissioner, in writing, a request that further opportunity be given for the presentation of information or arguments in support of the application by personal appearance, or in writing, or both. This request must be received by the Assistant Commissioner within 60 calendar days of the denial.</p> <p>(2) By the Court of International Trade. Upon a decision of the Assistant Commissioner affirming the denial of an application for a permit under this section, the applicant may appeal the decision to the Court of International Trade, provided that the appeal action is commenced within 60 calendar days after the date of entry of the Assistant Commissioner's decision.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	The COAC Broker Regulations Working Group determined that “the permit” is the future of the permitting scheme. The regulation needs to be re-written to accommodate the change brought about as a result of ACE and current business and governmental practices.
What costs are involved with these proposed changes?	The costs for removing the waiver requirement are minimal. Because CBP is transitioning to a single permit system, brokers will no longer need to justify the absence of a licensed broker in a particular region.
What benefits are involved with these proposed changes?	The change aligns with current business, CBP ACE environment, and how brokers will work under the single permit system. Modern technology enables brokers to conduct business without geographic restrictions, therefore, it is in all stakeholders’ best interests to allow them to do so. The removal of the waiver requirement empowers brokers to determine their own business models and conduct business as they see fit. The removal of the waiver also benefits CBP as CBP will no longer be required to monitor whether a broker maintains the appropriate geographically-restricted requirements and engage the broker more on performance issues.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed changed (both negatively and positively)	<p>All customs brokerage firms will be impacted by this change. Under the current regulatory regime, firms are required to have a waiver in those districts that they do not employ a licensed broker. Waivers are intended to enable brokers to operate under a preferred business model. The new simple permit system no longer supports district permits, so waivers are no longer necessary. Under no circumstances will a broker be allowed to operate without the new single permit, which again, demonstrates a waiver is no longer necessary.</p> <p>The positive effects of such a change to brokers would be reduced paper work in reporting and keeping up with multiple permits. It would also reduce fees that brokerage firms have to pay for multiple permits.</p>

Regulation	19 CFR §111.19
Title of Regulation	Permits
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The change to the regulations will present a net positive change to both the private sector as well as the governmental sector due to the streamlining of the permits process.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Because waivers are being discontinued, no performance metrics will be associated with them.

19 CFR §111.19: PERMITS; RESPONSIBLE SUPERVISION & CONTROL

Regulation	19 CFR §111.19(d)
Title of Regulation	Permits: Responsible Supervision & Control
Specific language to be addressed (The original/current language in the regulation)	<p>(d) Responsible supervision and control —</p> <p>(1) General. The applicant for a district permit must have a place of business at the port where the application is filed, or must have made firm arrangements satisfactory to the port director to establish a place of business, and must exercise responsible supervision and control over that place of business once the permit is granted. Except as otherwise provided in paragraph (d)(2) of this section, the applicant must employ in each district for which a permit is granted at least one individual broker to exercise responsible supervision and control over the customs business conducted in the district.</p> <p>(2) Exception to district rule. If the applicant can demonstrate to the satisfaction of CBP that he regularly employs at least one individual broker in a larger geographical area in which the district is located and that adequate procedures exist for that individual broker to exercise responsible supervision and control over the customs business conducted in the district, CBP may waive the requirement for an individual broker in that district. A request for a waiver under this paragraph, supported by information on the volume and type of customs business conducted, or planned to be conducted, and supported by evidence demonstrating that the applicant is able to exercise responsible supervision and control through the individual broker employed in the larger geographical area, must be sent to the port director in the district in which the waiver is sought. The port director will review the request for a waiver and make recommendations which will be sent to the Office of International Trade, CBP Headquarters, for review and decision. A written decision on the waiver request will be issued by the Office of International Trade and, if the waiver is granted, the decision letter will specify the region covered by the waiver.</p>
Proposed new language of the regulation	<p>(d) Responsible supervision and control —</p> <p>(1) General. The applicant for a national district permit must have a place of business in the United States, and customs business may only be conducted within the customs territory of the United States. U.S Customs & Border Protection will consider the issuance of a national permit when the firm provides satisfactory evidence as to how the firm intends to exercise responsible supervision and control. The following information will be required: a business / management plan outlining how the firm will comply with 19 CFR 111.1 Responsible Supervision & Control; a list of physical offices that will conduct customs business, the name and title of the licensed broker appointed to qualify the national permit; a list of other licensed brokers and employees who are conducting customs business as employees of the firm charged with exercising responsible supervision and control over the brokerage firms' business; a list of all employees who will conduct customs business as employees of the broker per 19 CFR 111.28(b); and any other evidence supporting the firms use of responsible supervision and control. at the port where the application is filed, or must have made firm arrangements satisfactory to the port director to establish a place of business, and must exercise responsible supervision and control over that place of business once</p>

Regulation	19 CFR §111.19(d)
Title of Regulation	Permits: Responsible Supervision & Control
	<p>the permit is granted. Except as otherwise provided in paragraph (d)(2) of this section, the applicant must employ in each district for which a permit is granted at least one individual broker to exercise responsible supervision and control over the customs business conducted in the district.</p> <p>(2) Exception to district rule. If the applicant can demonstrate to the satisfaction of CBP that he regularly employs at least one individual broker in a larger geographical area in which the district is located and that adequate procedures exist for that individual broker to exercise responsible supervision and control over the customs business conducted in the district, CBP may waive the requirement for an individual broker in that district. A request for a waiver under this paragraph, supported by information on the volume and type of customs business conducted, or planned to be conducted, and supported by evidence demonstrating that the applicant is able to exercise responsible supervision and control through the individual broker employed in the larger geographical area, must be sent to the port director in the district in which the waiver is sought. The port director will review the request for a waiver and make recommendations which will be sent to the Office of International Trade, CBP Headquarters, for review and decision. A written decision on the waiver request will be issued by the Office of International Trade and, if the waiver is granted, the decision letter will specify the region covered by the waiver.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	COAC has recommended that the district permitting system is outdated and ineffective and should be replaced by the permit. The addition of the requirement for a management or business plan to the regulations provides CBP the opportunity to better understand how the newly permitted broker will exercise responsible supervision & control over its' customs business.
What costs are involved with these proposed changes?	There are no perceived costs to these proposed changes, aside from the time a broker will need to invest drafting and finalizing the management plan. The amount of time will depend on the amount of detail the broker would like to include.
What benefits are involved with these proposed changes?	The benefit to the proposed changes is that CBP will have documented information from the newly permitted broker that they may follow up on to ensure the broker is complying with 111.19 and responsibly supervising its customs business.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed changed (both negatively and positively)?	New brokerage firms will be most impacted as they previously did not have to support how they intended to conduct their customs business. We believe this change will also lead to better uniformity that will come about when the Broker Management function which has resided in districts is further consolidated as entry specialists are assigned to the Centers.
Do the changes to this regulation present a	The changes present a net positive change: confirmation that customs business must be conducted in the United States, and that a new broker must

Regulation	19 CFR §111.19(d)
Title of Regulation	Permits: Responsible Supervision & Control
net positive change? Net Negative? Or Zero Sum? Please explain.	provide a management plan to CBP Broker Management on how the broker intends to exercise responsible supervision & control.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Performance measures can be established as CBP Broker Management takes in management plans through the permit application process. The elimination of the district permit requires brokerage firms to be very diligent and compliant in their work, as it is an all or nothing proposition if their permit is called into question for failure to exercise responsible supervision & control. The Broker Management Working Group recommends that CBP Broker Management work with the NCBFAA and other parties to develop a template for permit applications so clear, concise and relevant information is gathered in this process.

19 CFR §111.21: RECORD OF TRANSACTIONS

Regulation	19 CFR §111.21
Title of Regulation	Record of Transactions
Specific language to be addressed (The original/current language in the regulation)	(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.
Proposed new language of the regulation	<p>(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.</p> <p>(1) Storage of electronic customs data must be housed in an electronic format within the customs territory of the United States.</p> <p>(2) If the data referenced in (1) is compromised; replicated or back up data stored in non-customs territory of the United States must be available and retrievable by the broker upon request by CBP and parties as addressed in 111.24.</p>
What was the decision-making process for creating this new language? Why does this regulation need to be changed/updated?	<p>The decision-making process for creating this new language was initiated by a previous ruling whereby a broker requested clarity on how/where records need to be maintained, specifically so that brokers can benefit from virtual technology. In CBP’s efforts to update 19 CFR 111 to align it with current expectations and technology, CBP consulted with stakeholders, including the broker community, on multiple occasions who agreed the regulation should be updated to provide clear parameters for the virtual environment. The suggested language illustrates the parameters to which all stakeholders agreed.</p> <p>The current language of §111.21 is broad enough to encompass the current electronic environment but needs clarification on the geographic location where the electronic data (primary and replicated) should be maintained. The suggested language codifies in regulation the determination under a previous ruling that primary data (i.e., the original data) should be maintained within customs territory of the United States. This ensures the data remains subject to U.S. jurisdiction in the event CBP, or any other U.S. law enforcement agency, must take enforcement action.</p>
What costs are involved with these proposed changes?	<p>Because electronic data storage is often less expensive when held in other countries, brokers may be forced to pay a premium to maintain their records with a data storage firm that can guarantee the storage resides in the customs territory of the United States. A literal interpretation of the existing regulation could require brokers to maintain physical copies of all information; a requirement that conflicts with 19 USC 1641(f), which empowers brokers to maintain data “by any other electrically generated medium.”</p> <p>Alternatively, if the geographic requirement is not made explicit, the U.S. government may be unable to access a broker’s data in those instances where a broker has opted to maintain the data through a provider that does not</p>

Regulation	19 CFR §111.21
Title of Regulation	Record of Transactions
	necessarily disclose the server's geographic location. Data maintained outside of U.S. jurisdiction may be subject to foreign or international law and may conflict with U.S. law.
What benefits are involved with these proposed changes?	Brokers benefit from the new, explicit language to maintain records within the customs territory of the United States because the language makes clear the geographic requirement whereas previously, the language did not account for electronic data, allowing for wider interpretation. Brokers also benefit because the new language allows for virtual storage so long as the storage is maintained within the customs territory of the United States, which is a more economical option than maintaining physical records.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	Licensed brokers working as self-proprietors will be most impacted as they are required to maintain their records in accordance with this regulation. Positive impacts include clear guidance on allowable forms of electronic data storage, including cloud storage, which is often more economical than physical storage. Brokers that have previously maintained data through data storage providers that were outside customs territory of the United States may be negatively impacted because these providers may be priced lower than those providers that maintain data within customs territory of the United States. Importers that employ licensed brokers are subject to data storage requirements as importers and may be subject to separate requirements, therefore, they are not impacted.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The changes to this regulation present a net positive change because the regulation provides more clarity and protects brokers from establishing a record system that is outside of U.S. jurisdiction and protects importers from nefarious brokers. Though brokers may pay slightly more for a provider within the United States, having the data readily available and subject only to U.S. law (as opposed to foreign law) outweighs the incurred cost and added potential cost of penalty or license revocation.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Performance objectives that we expect to see as a result of this new regulatory framework will include improvement in broker compliance.

19 CFR §111.23: RETENTION OF RECORDS

Regulation	19 CFR §111.23
Title of Regulation	Retention of Records
Specific language to be addressed (The original/current language in the regulation)	<p>(a) Place of retention. A licensed customs broker may retain records relating to its customs transactions at any location within the customs territory of the United States in accordance with the provisions of this part and part 163 of this chapter. Upon request by CBP to examine records, the designated recordkeeping contact identified in the broker's applicable permit application, in accordance with §111.19(b)(6) of this chapter, must make all records available to CBP within 30 calendar days, or such longer time as specified by CBP, at the broker district that covers the CBP port to which the records relate.</p> <p>(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.</p>
Proposed new language of the regulation	<p>(a) Place and period of retention—(1) Place. Records must be retained by a broker in accordance with the provisions of this part and part 163 of this chapter within the broker’s system.</p> <p>(c) Designated Contact. The broker employee as designated in accordance under §111.21(c) shall be the party responsible for record maintenance.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	<p>CBP is moving to a virtual environment and brokers are not constrained to district/port location. COAC has previously recommended that CBP move to a permit and discontinue district permits. The current language in this regulation refers to records being retained in the broker office within the district/port. In conjunction with national permitting, it would not be necessary, nor feasible, to require records to be maintained in a certain location. Further, language regarding consolidation and notification of consolidating of records is outdated in an electronic environment.</p>
What costs are involved with these proposed changes?	<p>There may be a cost savings to brokers in that the system data will be (and currently is) migrated to one location.</p>
What benefits are involved with these proposed changes?	<p>Streamlines the broker’s business processes and achieves greater oversight of the information. Reduces the administrative burden on CBP by removing the requirement to adjudicate the waiver requests.</p>
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed changed	<p>Brokers, importers and CBP.</p>

Regulation	19 CFR §111.23
Title of Regulation	Retention of Records
(both negatively and positively)	
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	Net Positive for all parties (cost savings, time savings)
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Decrease in CBP workload, decrease amount of time for brokers

19 CFR §111.24: RECORDS CONFIDENTIAL

Regulation	19 CFR §111.24
Title of Regulation	Records Confidential
Specific language to be addressed (The original/current language in the regulation)	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 the Field Director, Office of International Trade, Regulatory Audit, the special agent in charge, the port director, or other duly accredited officers or agents of the United States, except on subpoena by a court of competent jurisdiction.
Proposed new language of the regulation	The records referred to in this part and pertaining to the business of the clients serviced by the broker are to be considered confidential. The broker must not disclose the confidential business information connected with the records to any persons. However, upon request by their surety on a particular entry, and the Field Director, Office of International Trade, Regulatory Audit, the special agent in charge, the port director, or other duly accredited officers or agents of the United States, the broker must disclose the information requested to the requesting party. The foregoing prohibition is understood not to preclude the broker from disclosing such confidential business information to other third parties to perform security screenings, to facilitate the delivery of the importer's merchandise, for collection purposes or to defend itself against a claim from the importer.
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	<p>Certain information applicable to an importer's transaction must be shared by a broker with other parties in the supply chain for arranging delivery of goods. When a broker arranges for cargo insurance and a surety bond, information must be shared with those parties as they are financially bound in the transaction.</p> <p>The relationship between an importer and its customs broker is a commercial, business to business relationship and CBP should not decide what information is considered confidential. The contract or power of attorney between the broker and importer should define confidential vs public information.</p>
What costs are involved with these proposed changes?	<p>By removing the regulatory requirement that broker records remain confidential, the risks that those records will not remain confidential increases substantially, particularly from those brokers that may not exercise due diligence in their contracts with clients.</p> <p>Maintaining the confidentiality regulation, however, increases costs to the broker and importer because it prevents the broker from being able to share information with other partners in the importer's supply chain</p>
What benefits are involved with these proposed changes?	<p>Rewording the regulation to allow for brokers to determine confidentiality with their clients enables both parties to define the level of appropriateness regarding the sharing of information with the importers' other supply chain partners.</p> <p>The new regulation also alleviates CBP's burden to determine what is confidential. Importers benefit as it's their decision to determine what they hold as confidential.</p>

Regulation	19 CFR §111.24
Title of Regulation	Records Confidential
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	<p>Customs brokers will have the ability to release information based on the agreements with their importer clients.</p> <p>Sureties will have stronger capability to receive essential information related to the handling of claims and assessment of risk.</p> <p>CBP and other government agencies will benefit by having the authority to obtain crucial information as needed.</p>
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	Freeing the broker to negotiate confidentiality with the client outweighs the risk that some brokers may not practice due diligence in retaining client data confidentiality. Data confidentiality is so sensitive that brokers who cannot uphold contract agreements on this issue will likely be forced to remove themselves from the market.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Brokers and their clients may see an increase in productivity because brokers will be able to share information with the clients' supply chain partners more easily.

19 CFR §111.28: RESPONSIBLE SUPERVISION

Regulation	19 CFR §111.28 (b)
Title of Regulation	Responsible Supervision
Specific language to be addressed (The original/current language in the regulation)	<p>(b) Employee information –</p> <p>(1) Current employees –</p> <p>(i) General. Each broker must submit, in writing, to the director of each port at which the broker intends to transact customs business, a list of the names of persons currently employed by the broker at that port. The list of employees must be submitted upon issuance of a permit for an additional district under §111.19, or upon the opening of an office at a port within a district for which the broker already has a permit, and before the broker begins to transact customs business as a broker at the port.</p> <p>For each employee, the broker also must provide the social security number, date and place of birth, current home address, last prior home address, and, if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker. After the initial submission, an updated list, setting forth the name, social security number, date and place of birth, and current home address of each current employee, must be submitted with the status report required by §111.30(d).</p> <p>(ii) New employees. In the case of a new employee, the broker must submit to the port director the written information required under paragraph (b)(1)(i) of this section within 10 calendar days after the new employee has been employed by the broker for 30 consecutive days.</p> <p>(2) Terminated employees. Within 30 calendar days after the termination of employment of any person employed longer than 30 consecutive days, the broker must submit the name of the terminated employee, in writing, to the director of the port at which the person was employed.</p> <p>(3) Broker's responsibility. Notwithstanding a broker's responsibility for providing the information required in paragraph (b)(1) of this section, in the absence of culpability by the broker, Customs will not hold him responsible for the accuracy of any information that is provided to the broker by the employee.</p>
Proposed new language of the regulation	<p>(b) Employee information –</p> <p>(1) Current employees –</p> <p>(i) General. Each broker must submit, in writing, to the director of each port at which the broker intends to transact customs business, a list of the names of persons currently employed by the broker that conduct customs business as defined in §111.1 at that port. The list of employees must be submitted upon issuance of a national permit for an additional district under §111.19, or upon the opening of an office at a port within a district for which the broker already has a permit, and before the broker begins to transact customs business as a permitted broker at the port.</p> <p>For each employee, the broker also must provide the employee name, social security number, date and place of birth, date of hire and current home address, last prior home address, and, if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current</p>

Regulation	19 CFR §111.28 (b)
Title of Regulation	Responsible Supervision
	<p>employment with the broker. Additionally, optional reporting elements may also be provided: Work Telephone Number and Work Email Address, and Customs Broker License Number. After the initial submission, an updated list, setting forth the name, social security number, date and place of birth, and current home address of each current employee, must be submitted with the status report required by §111.30(d). When employment changes occur (new hires or terminated employees), the broker must submit an updated list of employees who conduct customs business, in the prescribed electronic system within 30 days of the changes.</p> <p>(ii) New employees. In the case of a new employee, the broker must submit to the port director the written information required under paragraph (b)(1)(i) of this section within 30 to calendar days after the new employee has been employed by the broker for 30 consecutive days.</p> <p>(iii) The broker must report its' employees that conduct customs business as defined in §111.1. As an option, the broker may choose to report all of its' employees (whether the individual employees conduct customs business or not) to ease the burden or simplify the employee reporting process.</p> <p>(2) Terminated employees. Within 30 calendar days after the termination of employment of any person previously reported to CBP, the broker must submit an updated list of employees in the prescribed electronic system, effectively removing the terminated employee's name. the name of the terminated employee, in writing, to the director of the port at which the person was employed.</p> <p>(3) Broker's responsibility. Employee reporting must be provided by the broker in the prescribed electronic system designed for that purpose. Notwithstanding a broker's responsibility for providing the information required in paragraph (b)(1) of this section, in the absence of culpability by the broker, Customs will not hold him responsible for the accuracy of any information that is provided to the broker by the employee.</p>
What was the decision-making process for creating this new language? Why does this regulation need to be changed/updated?	<p>Currently broker employee reporting is a manual, paper process. CBP is collecting information that they do not appear to be utilizing. The regulation changes allow both brokers and CBP to take advantage of electronic methods of broker employee tracking, and on a national scale.</p> <p>In addition, the language change clarifies that the only employees that must be reported are those who conduct customs business.</p>
What costs are involved with these proposed changes?	Upgrades are needed for ACE Broker Reporting Functionality. Currently ACE does not keep a change record for employee reporting. CBP would benefit from an ACE software upgrade so new employees are recognized as needing investigation. A separate report of terminated employees should be a separate ACE report from the regular employee reporting system.
What benefits are involved with these proposed changes?	Electronic reporting should lead to more accurate and timely reporting. Electronic reporting capabilities allow customs brokerage firms to develop a system to regularly upload a current employee list from their HR databases. Electronic reporting may also benefit CBP as they will have more visibility to movement of employees from firm to firm. Reporting an individual

Regulation	19 CFR §111.28 (b)
Title of Regulation	Responsible Supervision
	employee's broker license number will allow CBP to assess whether there are sufficient licensed employees to exercise responsible supervision and control.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	Customs brokers will benefit as the reporting requirements will more closely sync to a broker's HR data repository, allowing for more automated reporting via ACE. CBP will benefit from knowing the number of licensed brokers employed by a brokerage firm. The broker should be the only one who can change their employee record. It is important that employee reporting be undertaken only by the broker (not CBP). Both CBP and the brokerage community will benefit from the accuracy of the data, and the visibility as to the number of employees and the number of licensed parties employed by the broker, demonstrating there are a sufficient number of licensed brokers employed by the broker to exercise responsible supervision and control.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The working group believes the changes represent a net positive change because the new regulations explicitly provide for the necessary information to be reported on each employee through a modern system. Without this change, a literal interpretation of the regulation will continue to require paper reporting – an inefficient system for both the broker and CBP.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Performance objectives that will be achieved with the regulation change and more importantly, the upgrade to ACE functionality: electronic employee reporting will be more accurate and timely for both parties. A measurement of responsible supervision and control can be gauged by CBP with the employee list including brokers' license numbers.

19 CFR §111.36: RELATIONS WITH UNLICENSED PERSONS

Regulation	19 CFR §111.36
Title of Regulation	Relations With Unlicensed Persons
Specific language to be addressed (The original/current language in the regulation)	<p>(a) Employment by unlicensed person other than importer When a broker is employed for the transaction of customs 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 importer has in writing waived transmittal of the copy of the entry or bill for services rendered.</p> <p>(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 chargers 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 charges to be collected by or through the broker; (3) No part of the agreement of compensation between the broker and the forwarder, nor any action taken pursuant to the agreement, forbids or prevents direct communication between the importer or other party in interest and the broker; and (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.</p>
Proposed new language of the regulation	<p>(a) In all cases, the broker shall follow the importer's written instructions regarding the transmission of bills for services and copies of the entry and other documentation or data filed on the importer's behalf.</p> <p>(c) A broker may compensate a freight forwarder for referring brokerage business. A broker shall only receive a Power of Attorney from the importer of record or another U.S. licensed customs broker.</p>
What was the decision-making process for creating this new language? Why does this regulation needed to be changed/updated?	The proposed regulatory language for both Sec 111.36(a) and (c) clarifies the relationship between the broker and importer. Because brokers work on behalf of importers, the group determined that nothing should come between the broker and importer. This, along with the proposed changes to 111.24, Confidentiality, will enable brokers to operate more efficiently with the importer and the importer's supply chain partners.
What costs are involved with these proposed changes?	Freight forwarders who are accustomed to representing importers to brokers will experience some decrease in efficiency because brokers are not empowered to work directly with importers, rather than working through a freight forwarder.
What benefits are involved with these proposed changes?	Brokers have a fiduciary relationship to the importer, therefore, no other entity should communicate with the broker or importer on the other's behalf.

Regulation	19 CFR §111.36
Title of Regulation	Relations With Unlicensed Persons
	The proposed language benefits both the broker and importer and that benefit outweighs the cost to the freight forwarder.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	Brokers and importers are positively impacted because they will benefit from a direct line of communication that, in the case of a broker operating through a freight forwarder, did not previously exist. Under this proposal, the importer has better control of the transaction by having stronger visibility and direct communication with the broker. Freight forwarders may be negatively impacted because they will no longer be allowed to pass communication between the broker and importer. This may impact the freight forwarder's efficiency; however, it will improve the efficiency between the broker and importer.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	The changes represent a net positive change because they strengthen the relationship between the broker and importer.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	Because brokers will have a direct line of communication with importers, they can offer direct advice to the importer on transactions. This advice may result in an increase in importer compliance and an increase in broker efficiency. An increase in compliance could also result in a decrease in CBP enforcement action.

19 CFR §111.43: NEW - COLLECTING IMPORTER INFORMATION

Regulation	19 CFR §111.43 (New)
Title of Regulation	Broker Identification of Importers
Specific language to be addressed (The original/current language in the regulation)	<p>Language for the new regulations is based on the Section 116 of the Trade Reauthorization Bill. The language references information that is required by the broker to collect. Below is the language from the Reauthorization Bill being referenced:</p> <p>(b) STUDY AND REPORT REQUIRED.—Not later than the date that is 180 days after the date of the enactment of this Act, the Commissioner shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing recommendations for—</p> <p>(1) determining the most timely and effective way to require foreign nationals to provide customs brokers with appropriate and accurate information, comparable to that which is required of United States nationals, concerning the identity, address, and other related information relating to such foreign nationals necessary to enable customs brokers to comply with the requirements of section 641(i) of the Tariff Act of 1930 (as added by subsection (a) of this section); and</p> <p>(2) establishing a system for customs brokers to review information maintained by relevant Federal agencies for purposes of verifying the identities of importers, including nonresident importers, seeking to import merchandise into the United States.</p>
Proposed new language of the regulation	<p>To reasonably verify the identity of the importer, a customs broker shall collect the information that an importer, including a non-resident importer, must provide pursuant to 19.C.F.R. 24.5.</p> <p>To verify the authenticity of such information the customs broker will take reasonable steps, for instance by reviewing publically available open source information regarding the importer’s business and as appropriate, by reviewing the physical address of the importer particularly in the case of small or privately held companies and/or for individuals.</p> <p>In cases where the review calls into question the authenticity of the information, the broker will conduct a further review inquiry, as practical, to identify the importer. A customs broker shall maintain the records of the information collected to verify the identity of the importer consistent with appropriate recordkeeping guidelines.</p>

<p>What was the decision-making process for creating this new language? Why does this regulation need to be changed/updated?</p>	<p>Section 116 of The Trade Facilitation and Trade Enforcement Act of 2015 amended the Tariff Act of 1930 (19 USC 1641) to require the Secretary to “prescribe regulations setting forth the minimum standards for customs brokers and importers, including nonresident importers, regarding the identity of the importer that shall apply in connection with the importation of merchandise into the United States.”</p> <p>With the new legislation and anticipated roll out of the new Form 5106, the working group determined that brokers can collect as much information as the importer is willing to provide, verify that information through open sources, and maintain the information on file. Beyond requesting the importer’s information and open source research, brokers do not have sufficient authority to further vet the importer.</p> <p>Also, 19 CFR 24.5, filing identification number, set forth requirements so that Form 5106 is the appropriate place to list the information the importer of record must provide to the broker. CBP Form 5106 should include the following: Legal name of individual or corporation; type of entity; address; EIN if corporation; responsible party; name and phone; email address; a customs assigned number in lieu of social security for individuals.</p>
<p>What costs are involved with these proposed changes?</p>	<p>From the broker’s perspective, costs include the time the broker must take to collect the information from the importer and the additional time to verify the collected information via open sources. From CBP’s perspective, costs will include any costs associated with reprogramming/enhancing the ACE portal to collect and transmit the collected information from the broker, including the costs associated with establishing a unique identifier for transmittal. Costs to the broker could be reduced by enabling the importer to transmit the information directly to CBP.</p>
<p>What benefits are involved with these proposed changes?</p>	<p>Benefits include a potential reduction in risk to CBP and importers related to the reduction of the use of shell importer numbers. Benefit to the broker is the increased confidence that the importer is legitimate. A big benefit will be the potential reduction in identity theft for officers of corporations and identity theft for individuals.</p>
<p>What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)</p>	<p>Overall, we anticipate a net positive impact to importers, brokers, and CBP. Importers a positive impact. We also see a positive impact on the brokers. No need for the broker to keep confidential and personal sensitive information in their system.</p>
<p>Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.</p>	<p>The working group believes this would be a net positive addition because the additional information increases confidence in the importer’s transactions.</p>

<p>What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.</p>	<p>CBP would see an increase in data integrity from the importer. This objective would follow Section 114, the Assignment of the Employer Identification Number and Section 116, Customs Broker Identification of Importers.</p>
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19 CFR §111.96: FEES

Regulation	19 CFR §111.96(a)
Title of Regulation	Fees
<p>Specific language to be addressed (The original/current language in the regulation)</p>	<p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>
<p>Proposed new language of the regulation</p>	<p>Remove reference to specific fee dollar amounts. References to actual fee amounts will be placed in a policy directive and posted a single source such as CBP.gov.</p>

Regulation	19 CFR §111.96(a)
Title of Regulation	Fees
What was the decision-making process for creating this new language? Why does this regulation need to be changed/updated?	The working group intends remove reference to the specific exam fee of \$200 from the regulations so that the process to update fee amounts is less cumbersome and can adjust with inflation. Instead of submitting a new regulatory change whenever the exam fee changes, this proposed change allows for easier publication of fees for exams without going through a formal regulatory submission process.
What costs are involved with these proposed changes?	The costs will only be realized in an increase or decrease of the current fee. The costs of the regulatory change are minimal. Modern technology allows for immediate communication with brokers so that CBP can publish fee changes via electronic capabilities. CBP will save time, labor and cost by removing the explicit exam fee from the regulation and notifying brokers of it via other means.
What benefits are involved with these proposed changes?	Ability to post the fee through policy directive, rather than updating the regulations. All parties benefit as CBP can publish fee changes faster and via methods with more widespread audiences. CBP also saves the cost of the regulatory change – primarily time and labor.
What sectors of the brokerage community – i.e. – brokers, importers, CBP, freight forwarders, etc. - will be most impacted by this proposed change (both negatively and positively)?	Positive impact for all stakeholders in that the change will reduce the amount of work associated with changes in the fee and make the information more widely available faster.
Do the changes to this regulation present a net positive change? Net Negative? Or Zero Sum? Please explain.	Net Positive Change due to saving time with the reduction of posting in the Federal Register.
What performance objectives will we see as a result of these changes? (For instance: an increase in imports, a decrease in permits.) Please elaborate on why each performance objective is relevant and how it will affect the broker business.	None.