

**Commercial Operations, Revenue and  
Entry (CORE)  
Broker Management Branch  
*Detailed Changes to 19 CFR 111*  
External Webinar  
October 27, 2022**



**U.S. Customs and  
Border Protection**



# Agenda

1. Introduction
2. Regulation Status Update
3. Overview of Changes to Customs Broker Regulations
4. Resources for Customs Brokers
5. Q&A





# Broker Management Branch (BMB) Introduction

- ❖ Melba Hubbard, *Branch Chief*
- ❖ Hannah Arnold, *International Trade Specialist*
- ❖ Heather Cheshire, *Program Manager*
- ❖ Marcia Clark, *International Trade Specialist*
- ❖ Jeannine Delgado, *International Trade Specialist*
- ❖ Chris Ha, *International Trade Specialist*
- ❖ Kimberly Mack, *International Trade Specialist*
- ❖ Mariana Santibanez-Doyle, *International Trade Specialist*

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# Modernization of Customs Broker Regulations: Status Update

## Regulation development timeline


















# Modernization of Customs Broker Regulations: Overview of Changes

On October 18, 2022, CBP published 87 FR 63267 - Modernization of the Customs Broker Regulations and 87 FR 63262 - Elimination of Customs Broker District Permit Fee.

The new regulations are designed to reflect the contemporary business environment and enable customs brokers to meet the challenges of the modern operating environment while preserving robust trade operations.












## Changes include:

-  New definition of “Processing Center”;
-  Establish a national permit structure;
-  Customs business within U.S. customs territory and knowledgeable point of contact;
-  Broker fee changes;
-  Broker exam and license changes;
-  Cyber security and records requirements;
-  Responsible supervision and control requirements;
-  Employee Information and reporting;
-  False Information;
-  Broker/client relationship; and
-  Broker reporting and the Automated Commercial Environment (ACE)



# Modernization of Customs Broker Regulations: Overview of Changes 87 FR 63267 (1 of 11)

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## New definition of “processing Center” 19 CFR 111.1

- ✓ Processing Center means the broker management operations of a Center of Excellence and Expertise (Center) that process applications for a broker's license, applications for a national permit for an individual, partnership, association, or corporation, as well as submissions required in Part 111 for an already-licensed broker
- ✓ Center personnel (Broker Management Officers (BMO)) at any of the 41 BMO port locations will continue to process applications and other submissions, based on the location through which the broker received/will receive the license and national permit



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## Establish a national permit structure 19 CFR 111.2(b), 111.19

- ✓ CBP eliminates the broker districts and district permits and transitions brokers to a single national permit
- ✓ Current district permit holders without a national permit are being transitioned to a national permit before the final rule effective date
- ✓ The national permit allows the broker to conduct customs business on a national scope
- ✓ The national permit eliminates permit waivers and simplifies permit management
- ✓ Responsibility for issuance and management of the national permit shifts to the processing Centers
- ✓ Permit application fee is no longer waived when the permit application is submitted concurrently with the license application



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## Customs business within U.S. customs territory and knowledgeable point of contact requirement 19 CFR 111.3












- ✓ CBP’s practice of requiring customs business to be conducted within the customs territory of the United States is now codified in the regulation
- ✓ Brokers conducting customs business must designate and maintain a knowledgeable point of contact to be available to CBP during and outside of normal operating hours to respond to customs business issues (24/7 POC)





# Modernization of Customs Broker Regulations: Overview of Changes 87 FR 63267 (4 of 11)

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## Broker fee changes 19 CFR 111.12 and 111.96(a)

- ✓ CBP increases the license application fee from \$200 per application to \$300 for individual license applications and \$500 for organization license applications to recover some of the costs associated with the processing of applications and to better align the processing expenses between the application types
- ✓ CBP allows for electronic submission of broker applications and fees if a CBP EDI system exists (currently in practice for the broker exam fee and application as well as the triennial fee and report)



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## Broker exam and license changes












19 CFR 111.13, 111.14, 111.18

- ✓ CBP may provide exam results to examinees electronically
- ✓ CBP may accept exam appeals and issue appeal decisions electronically
- ✓ CBP may provide alternatives to on-site testing such as remote proctor testing
- ✓ An applicant who has been denied a license must address how deficiencies which resulted in the denial have been remedied when submitting a new application
- ✓ Scope of the background investigation now includes financial responsibility and accuracy of statements made in the interview
- ✓ Scope of the background investigation also includes any association with individuals or groups that may present a risk to the security or revenue collection of the U.S. Government



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## Cyber security and records requirements 19 CFR 111.21, 111.23

- ✓ Brokers must maintain original records, including electronic records, within the U.S. customs territory
- ✓ Brokers must notify CBP Office of Information Technology Security Operations Center (SOC) when there has been a breach of electronic or physical broker records and provide the compromised importer of record numbers
- ✓ Revisions to records confidentiality allow brokers to share client information with third parties when authorized in writing by the client



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## Responsible supervision & control (RS&C) requirements 19 CFR 111.28(a), 111.19(b)(8)

- ✓ CBP has increased responsible supervision and control factors listed in regulation from 10 to 13
- ✓ CBP may consider the listed responsible supervision and control factors to the extent any are relevant to a specific broker when determining what is necessary to perform and maintain responsible supervision and control
- ✓ A sole proprietorship, partnership, association or corporation must employ a sufficient number of licensed brokers, the number of which may depend on multiple factors, such as the size of the broker entity, the skills and abilities of the employees and supervising employees, and the complexity and similarity of tasks
- ✓ At the time of permit application, brokers must provide a supervision plan for exercising responsible supervision and control over its customs business, which will be unique to each broker and depend, among other things, on the size of a brokerage, the complexity of the customs business, and the types of transactions handled



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## Employee information and reporting 19 CFR 111.28(b)












- ✓ Brokers must report new and terminated employees within 30 days of start of employment and after termination of employment, respectively
- ✓ CBP eliminates the requirement to report an employee's prior employer(s) and prior home address(s) when reporting new employees
- ✓ CBP eliminates the requirement to submit an employee report with the triennial status report





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## False information 19 CFR 111.32

- ✓ Brokers must not give, solicit or procure the giving of any information or testimony that brokers knew or should have known was false or misleading in any matter pending before DHS or to any representative of DHS
- ✓ Brokers must document and report to CBP when brokers cease business with the client as a result of determining that the client is intentionally attempting to use brokers to defraud the U.S. Government or commit a criminal act against the U.S. Government



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## Broker/client relationship 19 CFR 111.36

- ✓ Brokers must execute a customs power of attorney directly with the importer of record or drawback claimant, and not via a freight forwarder or other (unlicensed) third party, to transact customs business for that importer of record or drawback claimant
- ✓ Brokers must advise the client on the proper corrective actions required in case of noncompliance, an error or an omission on the client's part, and retain a record of their communication with the client



# Modernization of Customs Broker Regulations: Overview of Changes 87 FR 63267 (11 of 11)

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## Broker reporting and the Automated Commercial Environment (ACE)

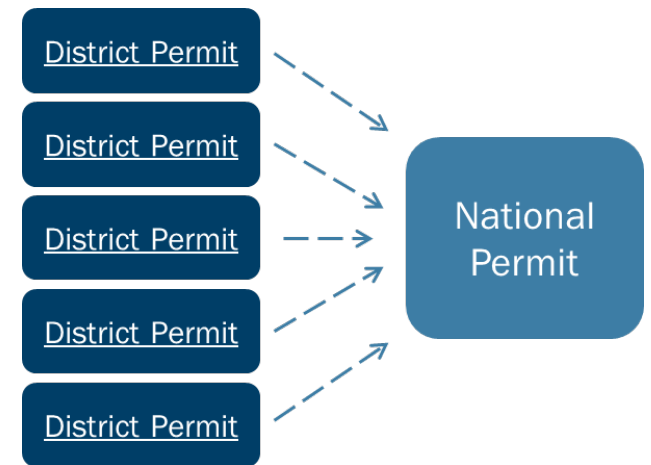
- ✓ CBP modernizes regulations to allow brokers to transmit the following information through an ACE portal account:
  - ✓ New and terminated employee information
  - ✓ Office of record address and recordkeeping location information
  - ✓ Recordkeeping point of contact information
  - ✓ Knowledgeable 24/7 point of contact information
- ✓ If the broker does not have an ACE portal account, the information must be submitted to the processing Center
- ✓ CBP allows electronic submission options for exam applications, license and permit applications, triennial status reports (TSR) and all associated fees
  - ✓ TSR and Exam applications developed in eCBP
  - ✓ License and permit applications and user fees future development



# National Permit Transition Process

## The BMOs have created approximately 370 national permits for brokers operating with only a district permit

- ✓ CBP HQ will activate the national permits for this pool of brokers on the effective date of the Final Rule
- ✓ Current district permits will remain active until the Final Rule effective date and ACE National Permit programming is in place
- ✓ The BMO will notify the license qualifier for each transitioned broker that his/her pending national permit has been created and give an opportunity to provide CBP with amended address and permit qualifier information
- ✓ Upon Final Rule effective date, national permit applications will be accepted and processed through the processing Center
- ✓ Upon Final Rule effective date, submitted but unprocessed first-time district permit applications must be amended to meet the new national permit application requirements





# CERT Testing Information

- ✓ National broker permit functionality was deployed to CERT for testing on October 18, 2022 – CSMS # 53677809
- ✓ A draft version of the Batch and Block CATAIR updated to support the transition to national permit was posted to CBP.gov – CSMS # 53677669
- ✓ All references in the CATAIR to “Remote”, “Remotely Filed”, etc. are removed and replaced with “Preparer”
- ✓ Please contact your Client Representative if you have any questions about testing in CERT





# Modernization of Customs Broker Regulations: Resources for Brokers on Changes in 87 FR 63267

BMB updated Customs Broker and 19 CFR 111 Dedicated Webpages at CBP.gov to include information on Customs Broker Modernization Regulations Final Rules, including:

- Customs Broker Guidance for the Trade Community (CBP Publication No. 2016-0922)
- Side-by-Side Regulation Comparison Chart
- Factsheets: Key Changes to Customs Broker Modernization Regulations, Responsible Supervision & Control
- 19 CFR 111 Final Rule Dedicated Frequently Asked Questions
- National Permit Transition Process
- Webinars/Trainings
- Other Resources: Example Considerations for Responsible Supervision & Control Factors
- Power of Attorney Job Aid
- Issued CSMS messages



Questions?