

(c) ABI service bureaus, that is, an individual, partnership, association or corporation which provides communications facilities and data processing services for brokers and importers, but which does not engage in the conduct of customs business as defined in § 111.1(c) of this chapter.

[T.D. 90-92, 55 FR 49884, Dec. 3, 1990, as amended by T.D. 97-82, 62 FR 51771, Oct. 3, 1997; T.D. 01-14, 66 FR 8767, Feb. 2, 2001]

#### § 143.2 Application.

A prospective participant in ABI shall submit a letter of intent to the port director closest to his principal office, with a copy to the Assistant Commissioner, Information and Technology, or designee. The letter of intent shall set forth a commitment to develop, maintain and adhere to the performance requirements and operational standards of the ABI system in order to ensure the validity, integrity and confidentiality of the data transmitted. The letter of intent must also contain the following, as applicable:

(a) A description of the computer hardware, communications and entry processing systems to be used and the estimated completion date of the programming;

(b) If the participant has offices in more than one location, the location of each office and the estimated start-up date for each office listed;

(c) The name(s) of the participant's principal management and contact person(s) regarding the system;

(d) If the system is being developed or supported by a data processing company, the data processing company's name and the contact person;

(e) The software vendor's name and the contact person; and

(f) The participant's entry filer code and average monthly volume.

#### § 143.3 Action on application.

(a) *Approval.* Permission to use ABI will be granted by the Assistant Commissioner, Information and Technology, or his designee, only to those applicants who are not delinquent or otherwise remiss in their transactions with Customs and are in compliance with the ABI system performance procedures and standards as described in § 143.5 of this subpart. If there is any

cause to question the qualifications or fitness of the applicant to participate in ABI, the application may be referred for investigation and report. The investigation may include, but need not be limited to:

(1) The accuracy of the information provided in the letter of intent;

(2) The business integrity of the applicant;

(3) The character and reputation of an individual applicant or a member of a partnership or an officer of an association or corporation; and

(4) The character and reputation of the software vendor.

(b) *Denial.* If permission to use ABI is denied to an applicant by the Assistant Commissioner, Information and Technology, or his designee, written notice, including the grounds for the denial, will be given to him and to the port director. The applicant may appeal the denial in the manner prescribed in § 143.8 of this subpart and those procedures for handling an appeal shall apply.

#### § 143.4 Confidentiality of data.

The electronic data received and exchanged by a service bureau shall be considered confidential, and the service bureau shall maintain the accuracy of data received in the process of formatting and transmitting such data on behalf of a filer, and shall not disclose this data or any information connected therewith to any persons other than the filer or Customs (see § 111.24 of this chapter).

#### § 143.5 System performance requirements.

The performance requirements and operational standards for electronic data filing are detailed in Customs Publication 552, Customs And Trade Automated Interface Requirements (CATAIR), which is updated periodically. The User Support Services Division, Customs Headquarters, upon request, shall provide each prospective participant with a copy of this publication. Each prospective participant must demonstrate that his system can interface directly with the Customs computer and ensure accurate submission of required data. Such demonstration will include intensive testing of

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the participant's system and monitoring of its performance in accordance with Publication 552.

### **§ 143.6 Failure to maintain performance standards.**

ABI participants must adhere to the performance requirements and operational standards of the ABI system and maintain a high level of quality in the transmission of data, as defined in Customs Publication 552 (CATAIR) and Customs directives and policy statements, in order to participate in ABI.

(a) *Probational status.* A participant who does not adhere to the requirements and standards of the ABI system or maintain a high level of quality as described above may be placed on probational status. The participant will be notified, electronically and in writing, by the Director, User Support Services Division, of any action to place the participant on probation. The notice will specifically set forth the grounds for the proposed probation, and advise the participant that he will have 15 days from the date of the notice to show cause why the probationary period should not take effect. If the participant fails to respond within the allotted time, or fails to show to the satisfaction of the Director, User Support Services Division, that the probationary period should not take effect, the Director will notify the participant of the effective date of the probationary period. The length of the probationary period may, in the discretion of the Director, User Support Services Division, be extended up to a maximum of 90 days, if the participant's performance remains below standard, but, except for immediate revocation under § 143.7, participation will not be suspended or revoked until the probationary period has lasted a minimum of 30 days. The participant's performance will be closely monitored during this time, which will include working with the participant and providing any necessary guidance to assist the participant in bringing his performance back to standard.

(b) *Suspension following probationary period.* If deficiencies are not corrected within the probationary period, the participant will be suspended from

operational status. The participant will be notified, electronically and in writing, by the Director, User Support Services Division, of any action to suspend participation. The notice will specifically set forth the grounds and effective date for the suspension, and the right to appeal the suspension to the Assistant Commissioner, Information and Technology, within 10 days following the date of the written notice of suspension (see § 143.8).

(c) *Reinstatement following suspension.* To obtain reinstatement to operational status, a suspended participant must submit a letter to the Director, User Support Services Division, stating that the deficiencies for which the suspension was invoked have been corrected. If, after the participant has demonstrated compliance with the system performance requirements and operational standards specified in § 143.5 of this part, if required, the Director is satisfied that the deficiencies have been corrected, the participant will be reinstated.

### **§ 143.7 Revocation of ABI participation.**

(a) *Fraud or misstatement of material fact.* If it is determined at any time that participation in the system was obtained through fraud or the misstatement of a material fact, the Director, Trade Compliance, will immediately revoke ABI participation.

(b) *Risk of significant harm to system.* If the participant's continued use of ABI would pose a potential risk of significant harm to the integrity and functioning of the system, the Director, User Support Services Division, will immediately revoke ABI participation.

(c) *Notification to participant.* The participant will be notified, electronically and in writing, by the applicable Director, of the revocation. The notice will specifically set forth the grounds and effective date of revocation, and the right to appeal the revocation to the Assistant Commissioner, Information and Technology, within 10 days following the date of the written notice of revocation.