

§ 143.4

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 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

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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.

§ 143.8 Appeal of suspension or revocation.

If the participant files a written appeal with the Assistant Commissioner, Information and Technology, within 10 days following the date of the written notice of action to suspend or revoke participation as provided in §§ 143.6 and 143.7, the suspension or revocation of participation shall not take effect until the appeal is decided, except in those cases where the Director, Trade Compliance, or the Director, User Support Services Division, respectively,

determines that participation was obtained through fraud or the misstatement of a material fact, or that continued participation would pose a potential risk of significant harm to the integrity and functioning of the system. The Customs officer who receives the appeal shall stamp the date of receipt of the appeal and the stamped date is the date of receipt for purposes of the appeal. The Assistant Commissioner shall inform the participant of the date of receipt and the date that a response is due under this paragraph. The Assistant Commissioner shall render his decision to the participant, in writing, stating his reasons therefor, by letter mailed within 30 working days following receipt of the appeal, unless this period is extended with due notification to the participant.

Subpart B—Appraisement Entry

§ 143.11 Merchandise eligible for appraisement entry.

(a) *Without Commissioner's approval.* An application for entry by appraisement may be approved by the port director without securing the approval of the Commissioner of Customs for any of the following merchandise:

(1) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(2) Merchandise recovered from a wrecked or stranded vessel;

(3) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(4) Articles sent by persons in foreign countries as gifts to persons in the United States;

(5) Tools of trade of a person arriving in the United States;

(6) Personal effects of citizens of the United States who have died in a foreign country; and

(7) Any of the following articles, which are deemed in accordance with section 498(a)(10), Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(10)), to be articles the value of which cannot be declared:

(i) Articles which are secondhand;