

§ 111.76 Reopening the case.

(a) *Grounds for reopening.* Provided that no appeal is filed in accordance with § 111.75, a person whose license or permit has been suspended or revoked, or against whom a monetary penalty has been assessed in lieu of suspension or revocation, may make written application in duplicate to the Assistant Commissioner to reopen the case and have the order of suspension or revocation or monetary penalty assessment set aside or modified on the ground that new evidence has been discovered or on the ground that important evidence is now available which could not be produced at the original hearing by the exercise of due diligence. The application must set forth the precise character of the evidence to be relied upon and must state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) *Procedure.* The Assistant Commissioner will forward the application, together with his recommendation for action thereon, to the Secretary of Homeland Security, or his designee. The Secretary may grant or deny the application to reopen the case and may order the taking of additional testimony before the Assistant Commissioner. The Assistant Commissioner will notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the Assistant Commissioner will set a time and place for the hearing and give due written notice of the hearing to the applicant. The procedures governing the new hearing and recommended decision of the hearing officer will be the same as those governing the original proceeding. The original order of the Secretary will remain in effect pending conclusion of the new proceedings and issuance of a new order under § 111.77.

§ 111.77 Notice of vacated or modified order.

If, pursuant to § 111.76 or for any other reason, the Secretary of Homeland Security, or his designee, issues an order vacating or modifying an earlier order under § 111.74 suspending or revoking a broker's license or permit, or assessing a monetary penalty, the Assistant Commissioner will notify the

broker in writing and will publish a notice of the new order in the FEDERAL REGISTER and in the Customs Bulletin.

§ 111.78 Reprimands.

If a broker fails to observe and fulfill the duties and responsibilities of a broker as set forth in this part but that failure is not sufficiently serious to warrant initiation of suspension or revocation proceedings, Headquarters, or the port director with the approval of Headquarters, may serve the broker with a written reprimand. The reprimand, and the facts on which it is based, may be considered in connection with any future disciplinary proceeding that may be instituted against the broker in question.

§ 111.79 Employment of broker who has lost license.

Five years after the revocation or cancellation "with prejudice" of a license, the ex-broker may petition the Assistant Commissioner for authorization to assist, or accept employment with, a broker. The petition will not be approved unless the Assistant Commissioner is satisfied that the petitioner has refrained from all activities described in § 111.42 and that the petitioner's conduct has been exemplary during the period of disability. The Assistant Commissioner will also give consideration to the gravity of the misconduct which gave rise to the petitioner's disability. In any case in which the misconduct led to pecuniary loss to the Government or to any person, the Assistant Commissioner will also take into account whether the petitioner has made restitution of that loss.

§ 111.80 [Reserved]**§ 111.81 Settlement and compromise.**

The Assistant Commissioner, with the approval of the Secretary of Homeland Security, or his designee, may settle and compromise any disciplinary proceeding which has been instituted under this subpart according to the terms and conditions agreed to by the parties including, but not limited to, the assessment of a monetary penalty in lieu of any proposed suspension or revocation of a broker's license or permit.