

desired effective date of the transfer. Before commencing operations, the proposed successor must qualify as an importer of tobacco products in accordance with subpart K of this part. The importer must give notice of the transfer, and the proposed successor must apply for the permit, in sufficient time for examination and approval of the application before the desired date of the transfer. The predecessor importer must make a concluding report in accordance with § 41.206 and must surrender the permit with that report. The successor importer must make a first report in accordance with § 41.206.

§ 41.225 Change in officers, directors, or stockholders of a corporation.

Upon election or appointment (excluding successive reelection or reappointment) of any officer or director of a corporation operating as an importer of tobacco products, or upon any occurrence that results in a person acquiring ownership or control of more than ten percent in aggregate of the outstanding stock of such corporation, the importer must, within 30 days of that action, so notify the appropriate TTB officer in writing, giving the identity of the person. In the event that the acquisition of more than 10 percent in aggregate of the outstanding stock of the corporation results in a change of control of the corporation, the provisions of § 41.226 will apply. When there is any change in the authority furnished under § 41.196 for officers to act on behalf of the corporation, the importer must immediately so notify the appropriate TTB officer in writing.

§ 41.226 Change in control of a corporation.

When the issuance, sale, or transfer of the stock of a corporation operating as an importer of tobacco products results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate importer must, within 30 days after the change occurs, apply for a new permit on TTB F 5230.4. If the application is not timely made, the present permit will automatically terminate at the expiration of that 30-day period, and the importer must dispose of all tobacco

products on hand in accordance with this part, make a concluding report in accordance with § 41.206, and surrender the permit with that report. If the application for a new permit is timely made, the present permit will continue in effect pending final action with respect to the new application.

CHANGES IN LOCATION OR ADDRESS

§ 41.227 Change in location.

When an importer of tobacco products intends to relocate its principal business office, the importer must, before commencing operations at the new location, make application on TTB F 5230.5 for, and obtain, an amended permit.

§ 41.228 Change in address.

When any change occurs in the address, but not the location, of the principal business office of an importer of tobacco products as a result of action by local authorities, the importer must, within 30 days of such change, make application on TTB F 5230.5 for an amended permit.

Subpart M—Importation of Processed Tobacco

SOURCE: T.D. TTB-78, 74 FR 29416, June 22, 2009, unless otherwise noted.

QUALIFICATION REQUIREMENTS FOR IMPORTERS OF PROCESSED TOBACCO

§ 41.231 Persons required to qualify.

Except as otherwise provided in § 41.233, every person, before commencing business as an importer of processed tobacco, must apply for, and obtain, either a permit as an importer of processed tobacco or, if the person holds a TTB permit as an importer of tobacco products, an amendment to the existing permit authorizing the importation of processed tobacco under such permit, in accordance with the provisions of this subpart.

§ 41.232 Application for permit or amendment of existing permit.

(a) *Application for permit.* Any person who intends to engage in the business of importing processed tobacco, and who is not engaged in the business of

§41.233

importing tobacco products, must apply for a permit by completing and submitting TTB F 5230.4 in accordance with the instructions on that form. All documents required under this subpart to be furnished with the application must be included with the application when it is submitted. If the appropriate TTB officer determines that the application is incomplete and, for that reason, does not include sufficient information for TTB to make a decision on the application, and if the applicant has not provided the missing information within one year of a written request for it or within any shorter time period specified in the written request, the application will be deemed abandoned and the applicant will be notified in writing that no permit will be issued in response to the incomplete application. In the case of an application filed in accordance with §41.233, such notification will constitute the final action on the application and such party will no longer be able to continue as an importer of processed tobacco.

(b) *Application for amendment of existing permit.* Any person who holds a TTB permit as an importer of tobacco products may also qualify to engage in business as an importer of processed tobacco under the same permit by making application on TTB F 5230.5 for an amended permit and receiving TTB authorization.

[T.D. TTB-78, 74 FR 29416, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37304, June 21, 2012]

§41.233 Transitional rule.

(a) Any person who:

(1) On April 1, 2009, had already been engaged in business as an importer of processed tobacco; and

(2) Before June 30, 2009, submits an application for a permit or an amendment of an existing permit, as provided in §41.232, to engage in such business, may continue to engage in that business pending final action on the application.

(b) Pending final action on the application, all provisions of chapter 52 of the Internal Revenue Code of 1986 shall apply to the applicant in the same manner and to the same extent as if the applicant were a holder of a permit

27 CFR Ch. I (4-1-17 Edition)

as an importer of processed tobacco or an amended permit authorizing the importation of processed tobacco under chapter 52 and this subpart. Upon receipt of an application, the appropriate TTB officer will provide the applicant with a written acknowledgement that may be used for a limited period as confirmation of TTB authorization to engage in such business of an importer of processed tobacco.

§41.234 Corporate documents.

Every corporation that files an application for a permit as an importer of processed tobacco must furnish with its application for the permit required by §41.231 a true copy of the corporate charter or a certificate of corporate existence or incorporation executed by the appropriate officer of the State in which incorporated. The corporation must likewise furnish duly authenticated extracts of the stockholders' meetings, bylaws, or directors' meetings, listing the offices the incumbents of which are authorized to sign documents or otherwise act in behalf of the corporation in matters relating to 26 U.S.C. chapter 52, and regulations issued thereunder. The corporation must also furnish evidence, in duplicate, of the identity of the officers and directors and each person who holds more than ten percent of the stock of such corporation. Where any of the information required by this section has previously been filed with the appropriate TTB officer and such information is currently complete and accurate, a written statement to that effect will be sufficient for the purpose of this section.

§41.235 Articles of partnership or association.

Every partnership or association that files an application for a permit as an importer of processed tobacco must furnish with its application for the permit required by §41.231 a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the appropriate TTB officer

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 41.240

and such documents are currently complete and accurate, a written statement, in duplicate, to that effect by the partnership or association will be sufficient for the purpose of this section.

§ 41.236 Trade name certificate.

Every person that files an application for a permit as an importer of processed tobacco operating under a trade name must furnish with the application for the permit required by § 41.231 a true copy of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required, a written statement, in duplicate, to that effect by such person will be sufficient for the purpose of this section.

§ 41.237 Additional information.

(a) *General.* The appropriate TTB officer may require such additional information as deemed necessary to determine whether the applicant is entitled to obtain either a permit as an importer of tobacco products or, if holding a permit as an importer of processed tobacco, an amended permit authorizing the importation of processed tobacco, under this subpart. The applicant must, when required by the appropriate TTB officer, furnish as a part of the application for the permit or authorization such additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to a permit or an amended permit.

(b) *Business premises.* Every person that files an application for a permit required by § 41.231 as an importer of processed tobacco must furnish, with its application for the permit, the address to be used as the principal business office where the records and reports required by the subpart must be maintained pursuant to § 41.263. The applicant must also include the location (by physical address or other means if there is no physical address) of any premises used for the storage of processed tobacco imported or received. For permits issued prior to June 21, 2012, the permittee has 180 days from

June 21, 2012, to submit the information required under this paragraph.

[T.D. TTB-78, 74 FR 29416, June 22, 2009, as amended by T.D. TTB-104, 77 FR 37304, June 21, 2012]

§ 41.238 Investigation of applicant.

Appropriate TTB officers may inquire or investigate to verify the information in connection with an application for a permit. The investigation will ascertain whether the applicant is eligible for a permit. A permit may be denied if the applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(a) Is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter;

(b) Has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or

(c) Has failed to disclose any material information required or made any material false statement in the application therefor.

§ 41.239 Notice of contemplated disapproval.

If the appropriate TTB officer has reason to believe that the applicant is not entitled to a permit, the appropriate TTB officer will promptly give to the applicant notice of the contemplated disapproval of the application and opportunity for hearing thereon in accordance with part 71 of this chapter. If, after such notice and opportunity for hearing, the appropriate TTB officer finds that the applicant is not entitled to a permit, an order will be prepared stating the findings on which the application is denied.

§ 41.240 Issuance of permit.

If the application for the permit required under this subpart is approved,

§ 41.241

the appropriate TTB officer will issue the permit on TTB F 5200.24.

[78 FR 38573, June 27, 2013]

§ 41.241 Duration of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A permit issued under § 41.240 bearing an effective date of August 26, 2013 or later will be valid for a period of five years from the effective date shown on the permit. Provided a timely application for renewal is filed under § 41.242, the expiring permit will continue in effect until final action is taken by TTB on the application for renewal.

(b) *Permits with an effective date prior to August 26, 2013.* A person operating as an importer of processed tobacco that holds a permit bearing an effective date that is prior to August 26, 2013 and that wishes to continue operations as an importer of processed tobacco must apply for and receive a new permit issued under § 41.240. The person must file the application under § 41.232 within 150 days after August 26, 2013, or within 30 days prior to the expiration date shown on the existing permit form, whichever is later. If a person timely files an application but that application is not complete (that is, the applicant has not submitted information or documentation sufficient for TTB to take action on the permit), and if the applicant has not provided the missing information within one year of a written request for it or within any shorter time period specified in the written request, the permit application will be deemed abandoned and the applicant will be notified in writing that no permit will be issued in response to the incomplete application. Provided that a timely application is filed, the person may continue operations under the existing permit until TTB takes final action on the application for the new permit.

[78 FR 38573, June 27, 2013]

§ 41.242 Renewal of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A person operating as an importer of processed tobacco that holds a permit issued under § 41.240 bearing an effective date of August 26, 2013 or later, and that wishes to con-

27 CFR Ch. I (4–1–17 Edition)

tinue operations beyond the expiration of the permit, must apply for renewal of the permit within 30 days prior to expiration of the permit, in accordance with instructions provided with the renewal application form. Permits will be renewed only for those persons that have engaged in the importing of processed tobacco under the current permit during the one year period immediately prior to the date of the application to renew.

(b) *Permits with an effective date prior to August 26, 2013.* A person may not obtain renewal of a permit bearing an effective date prior to August 26, 2013. A person operating as an importer of processed tobacco that holds a permit bearing an effective date prior to August 26, 2013, and that wishes to continue in operations as an importer of processed tobacco, must apply for and receive a new permit for issuance under § 41.240 and in accordance with the rules contained in § 41.241(b).

[78 FR 38573, June 27, 2013]

§ 41.243 Retention of permit and supporting documents.

The importer of processed tobacco must retain the permit, together with the copy of the application and supporting documents returned with the permit, at the same place where the records required by this subpart are kept. The permit and supporting documents must be made available for inspection by any appropriate TTB officer upon request.

CHANGES AFTER ORIGINAL QUALIFICATION

§ 41.251 Change in name.

(a) *Change in individual name.* When there is a change in the name of an individual operating under a permit as an importer of processed tobacco, the importer must, within 30 days of such change, make application on TTB F 5230.5 for an amended permit.

(b) *Change in trade name.* When there is a change in a trade name used by an importer of processed tobacco in connection with operations authorized by the permit, the importer must, within 30 days of such change, make application on TTB F 5230.5 for an amended