

9. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

10. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

#### IV. Document Availability

11. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

12. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

13. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or e-mail at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov).

#### List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirement.

By direction of the Commission.

**Kimberly D. Bose**,  
Secretary.

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Part 111

[Docket No. USCBP-2008-0059]

RIN 1651-AA74

#### Customs Broker License Examination Individual Eligibility Requirements

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the requirements that an individual must satisfy in order to take the written examination for an individual broker's license, as administered by Customs and Border Protection ("CBP"). This proposed rule would require that to take the written examination, an individual would be required to be a U.S. citizen on the date of examination who has attained the age of 21 prior to the date of examination and is not an officer or employee of the United States Government. The proposed amendments would more closely align the requirements for taking the written examination with the requirements an individual must satisfy in order to obtain a customs broker's license. As a result, this proposed rule would facilitate the overall customs broker licensing process by helping to ensure that those taking the examination are not automatically precluded from obtaining a license by reason of age, citizenship status, or employment.

**DATES:** Comments must be received on or before July 28, 2008.

**ADDRESSES:** You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2008-0059.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the

"Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., (5th Floor), Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Alfred S. Morawski, Chief, Broker Compliance Branch, Office of International Trade, (202) 863-6505.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

##### Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or partnership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others. Section 641 also sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, § 641 states that the Secretary of the Treasury may conduct an examination to determine such applicant's qualifications for a license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as necessary to protect importers and the revenue of the

United States and to carry out the provisions of § 641.

On November 25, 2002, the President signed the Homeland Security Act of 2002, (6 U.S.C. 101 *et seq.*, Public Law 107-296) (the “HSA”), establishing the Department of Homeland Security. Pursuant to § 403(1) of the HSA, the United States Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security effective March 1, 2003. In addition, pursuant to § 1502 of the HSA, the “Customs Service” was renamed as the “Bureau of Customs and Border Protection.” Subsequently, on April 23, 2007, a Notice was published in the **Federal Register** (72 FR 20131) to inform the public that the name of the Bureau of Customs and Border Protection had been changed by the Department of Homeland Security to “U.S. Customs and Border Protection (CBP),” effective March 31, 2007.

Treasury Order No. 100-16 (*see* Appendix to 19 CFR part 0) delegated to the Department of Homeland Security the authority to prescribe the rules and regulations relating to customs brokers.

The regulations issued under the authority of § 641 are set forth in part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers. These rules include the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 (19 CFR 111.11) sets forth the basic requirements for obtaining a broker’s license. Paragraphs (a)(1) through (a)(4) of § 111.11 provide that, in order to obtain a customs broker’s license, an individual must be: A citizen of the United States upon applying for the license and not an officer or employee of the United States; attain the age of 21 prior to the date of application for such license; be of good moral character; and, obtain a passing grade on the written examination within a 3-year period before submission of the application.

The regulations relating to the written examination for an individual customs broker’s license are set forth in § 111.13 (19 CFR 111.13). Paragraph (b) of § 111.13, pertaining to the date and place of the examination, provides that an individual intending to take the examination must advise the appropriate port director in writing at least 30 calendar days prior to the scheduled examination date and remit the \$200 examination fee prescribed in paragraph (a) of § 111.96. There are no additional requirements in § 111.13 that

must be fulfilled in order for an individual to sit for the customs broker’s license examination.

### Explanation of Amendments

This document proposes to amend § 111.13 in order to more closely align the basic requirements an individual must satisfy in order to take the written examination for a broker’s license with the basic requirements an individual must satisfy in order to actually obtain an individual broker’s license. In order to be eligible to take the written examination under the proposed amendments, an individual would be required to be a citizen of the United States on the date of examination and not an officer or employee of the United States Government, and to attain the age of 21 prior to the date of examination. By more closely aligning the requirements for taking the examination with the requirements for obtaining a license, the proposed amendments would facilitate the overall licensing process by helping to ensure that those sitting for the examination are not automatically precluded from obtaining a license by reason of age, citizenship status, or employment. For example, under the current regulations, an individual could take and pass the examination but not be eligible to obtain a license because he or she has not attained the age of 21, is not a U.S. citizen, or is employed by the U.S. Government. The proposed amendments would prevent this from occurring and, as a result, such an individual would be spared the time and expense of preparing for and taking the examination. CBP would also benefit as the proposed rule would prevent unnecessary expenditures of resources in administering the examination with respect to individuals who are ineligible to obtain a license.

In addition, it is noted that limiting the examination to U.S. citizens is a reasonable security measure that conforms to the existing citizenship requirement for obtaining a license. Moreover, by barring U.S. Government employees from taking the examination, the proposed amendments would help to eliminate the appearance of any conflict of interest or unfair advantage that might be associated with their employment in connection with taking the examination.

This document also proposes non-substantive amendments to § 111.13(a), (c), and (e) to reflect the nomenclature changes effected by the transfer of CBP to the Department of Homeland Security.

### Inapplicability of Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities because the proposed rule would merely result in more closely aligning the requirements for taking the written examination for an individual customs broker’s license with the requirements for actually obtaining a customs broker’s license. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. In addition, this document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

### Signing Authority

This document is being issued by CBP in accordance with § 0.1(b)(1) of the CBP regulations (19 CFR 0.1(b)(1)).

### List of Subjects

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

### Proposed Amendments to the CBP Regulations

It is proposed to amend part 111 of title 19 of the Code of Federal Regulations (19 CFR part 111) as set forth below.

### PART 111—CUSTOMS BROKERS

1. The general authority citation for part 111 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

2. In § 111.13:

- a. Paragraph (a) is amended by removing the words “Customs Headquarters” and adding, in their place, the words “Customs and Border Protection Headquarters”;
- b. Paragraph (b) is amended by revising the heading and adding a new first sentence;
- c. Paragraph (c) is amended by removing the word “Customs” each place it appears and adding, in its place, the term “CBP”; and
- d. Paragraph (e) is amended by removing the word “Customs” in the first sentence and adding, in its place, the term “CBP”.

The revision reads as follows:

**§ 111.13 Written examination for individual license.**

\* \* \* \* \*

(b) *Basic requirements, date, and place of examination.* In order to be eligible to take the written examination, an individual must be a citizen of the United States on the date of examination and not an officer or employee of the United States Government, and attain the age of 21 prior to the date of examination. \* \* \*

\* \* \* \* \*

Dated: May 21, 2008.

**Jayson P. Ahern,***Acting Commissioner, U.S. Customs and Border Protection.*

[FR Doc. E8-11732 Filed 5-23-08; 8:45 am]

BILLING CODE 9111-14-P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-136020-07]

RIN 1545-BG96

**Treatment of Property Used To Acquire Parent Stock in Certain Triangular Reorganizations Involving Foreign Corporations****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 367(b) of the Internal Revenue Code (Code) regarding certain triangular reorganizations. The regulations implement rules described in Notice 2006-85 and Notice 2007-48. The regulations primarily affect corporations engaged in certain triangular reorganizations involving one or more foreign corporations. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by August 25, 2008.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-136020-07), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-136020-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue,

NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-136020-07).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, Daniel McCall, (202) 622-3860; concerning submissions of comments, requests for a public hearing, and/or to be placed on the building access list to attend a hearing, contact Richard Hurst ([Richard.A.Hurst@irs.counsel.treas.gov](mailto:Richard.A.Hurst@irs.counsel.treas.gov)) or (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 367(b) of the Code and certain triangular reorganizations. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and the proposed regulations.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the fact that the regulations will primarily affect large multi-national corporations that engage in triangular reorganizations subject to the regulations. The regulations apply to triangular reorganizations, involving one or more foreign corporations, to the extent that, in connection with the reorganization, the acquiring corporation purchases, in exchange for property, all or a portion of the stock used to acquire the stock or assets of the target corporation. Therefore, the IRS and Treasury Department expect only a de minimis number of small business entities to be subject to the regulations. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these proposed regulations is Daniel McCall of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by adding new entries in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 1.367(a)-3(b)(2)(i)(C) also issued under 26 U.S.C. 367(a) and (b). \* \* \*

Section 1.367(b)-14 also issued under 26 U.S.C. 367(b). \* \* \*

**Par. 2.** Section 1.367(a)-3 is amended by adding new paragraph (b)(2)(i)(C) to read as follows:

**§ 1.367(a)-3 Treatment of transfers of stock or securities to foreign corporations.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(C) [The text of this proposed amendment to § 1.367(a)-3(b)(2)(i)(C) is the same as the text of § 1.367(a)-3T(b)(2)(i)(C) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

**Par. 3.** Section 1.367(b)-14 is added to read as follows: