

## II. Regulatory Requirements

This Policy Guidance is a non-binding general statement of policy articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Policy Guidance does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: June 26, 2017.

**Richard Cordray,**

*Director, Bureau of Consumer Financial Protection.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 744

#### Control Policy: End-User and End-Use Based

#### CFR Correction

■ In Title 15 of the Code of Federal Regulations, Parts 300 to 799, revised as of January 1, 2017, on page 498, in supplement number 4 to part 744, under United Arab Emirates, remove the entry for "Indira Mirchandani".

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Part 111

[Docket No. USCBP-2016-0059; CBP Dec. No. 17-05]

**RIN 1651-AB07**

#### Modernization of the Customs Brokers Examination

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

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with changes, the amendments proposed to the U.S. Customs and Border Protection (CBP) regulations concerning the customs broker's examination provisions. Specifically, this rule transitions the examination to a computer automated customs broker examination, adjusts the dates of the examination to account for the fiscal year transition period and payment schedule requirements, and increases the examination fee to cover the cost of delivering the exam.

**DATES:** Effective July 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Julia Peterson, Chief, Broker Management Branch, Office of Trade, U.S. Customs and Border Protection, (202) 863-6601, [julia.peterson@cbp.dhs.gov](mailto:julia.peterson@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides, among other things, 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, sets forth standards for the issuance of a broker's license and permit, and provides for disciplinary action against brokers that have engaged in specific infractions. This section also provides that an examination may be conducted to assess an applicant's qualifications for a license.

The regulations issued under the authority of section 641 are set forth in title 19 of the Code of Federal Regulations, part 111 (19 CFR part 111). Part 111 sets forth the regulations regarding, among other things, the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers. These regulations also include the qualifications required of applicants and the procedures for applying for licenses and permits, including examination procedures and requirements.

Currently, a customs broker's examination consists of a paper test booklet and a scannable answer sheet which is administered by the Office of Personnel Management (OPM). CBP supplements OPM's resources by providing CBP officials to proctor the examination and space to conduct the examination. There is a \$200 fee to take the examination. This fee, which has not changed since 2000, currently does not cover the administrative costs of the paper-based examination as the costs of administering the examination have

increased. At the same time that CBP is looking to update its fee to reflect the costs of administering the exam, OPM has informed CBP that it will no longer administer the paper-based examination and it is shifting all the examinations it administers to an electronic format.

On September 14, 2016, CBP published a document in the **Federal Register** (81 FR 63149) proposing to amend title 19 of the Code of Federal Regulations ("19 CFR") to modernize the customs broker's examination provisions. Specifically, CBP proposed amending the customs broker's examination provisions, which are contained in 19 CFR part 111, to permit automation of the examination. CBP proposed removing references to the "written" examination to accommodate the transition from the paper and pencil format to an electronic format; and proposed removing the requirement that CBP grade the examinations to permit officials at the Office of Personnel Management (OPM) or OPM contractors to grade the examinations. CBP proposed removing the reference to "Headquarters" to allow CBP offices nationwide to assist in preparing the examination. CBP also proposed moving the examination dates to the fourth Monday in April and October to allow more time between the start of the federal fiscal year and the October examination date. To cover the costs of administering the examination, plus the cost of automating the examination, CBP proposed to increase the fee. CBP proposed removing the special examination provision because it was unnecessary. Finally, to better reflect CBP's organizational structure, CBP proposed updating the information on whom to contact when an applicant either would miss an examination, or would file an appeal of examination results. CBP proposed these changes to benefit both applicants and CBP. For applicants, automation would standardize the testing environment and equipment for all examinations, and provide earlier notification of test scores. For CBP, automation would provide for a more efficient use of CBP staff and administrative resources. The notice of proposed rulemaking requested public comments. The public comment period closed on November 14, 2016.

#### Discussion of Comments

Eight comments were received in response to the notice of proposed rulemaking.

*Comment:* Six commenters sought clarification about the transition from a paper and pencil format to computer automated examinations as described in