

discusses the replacement of the reference to “voting shares.”

Comment: The proposed definition of related parties only refers to voting shares of corporations and does not address other voting interests such as joint ventures, partnerships, limited partnerships, limited liability companies, or any other legal structure now or hereafter existing. Such situations should be considered, and all possible business entities should be addressed, by the regulations.

Response: Even though CBP believes that the 50 percent ownership standard should be retained as stated above, CBP also recognizes that in today’s business environment relationships may be forged between companies that fall outside of the traditional corporate parent/subsidiary structure. Accordingly, in the regulatory text adopted in this final rule document, references to parent, subsidiary, and sister corporations are replaced with the more generic terms “business entity” and “related business entity or entities,” with “business entity” defined as “an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes.” In addition, because voting shares are not the exclusive basis for determining the ownership level in a business, the references to “more than 50 percent of the voting shares” have been replaced in the final regulatory text with more general references to “more than a 50 percent ownership interest.”

Comment: CBP should adopt a regulation to allow those entities transacting customs business on behalf of related affiliates to certify to CBP, upon request, that the entity exercises “responsible supervision and control” over the affiliate’s customs activity.

Response: CBP is uncertain as to the purpose behind this suggestion. The exercise of responsible supervision and control is a concept that applies to licensed customs brokers, upon whom that duty falls whenever they engage in customs brokerage activities. A broker can be sanctioned by CBP for failing to exercise responsible supervision and control. Since compliance departments will not be required to have broker licenses in cases covered by this new regulatory provision, the suggestion of this commenter does not appear to be relevant to the present exercise. For this reason, CBP declines to adopt the suggested certification procedure.

Conclusion

Based on the comments received and the analysis of those comments as set forth above, CBP believes that the

proposed regulatory amendments should be adopted as a final rule with the changes discussed above.

Executive Order 12866

This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. CBP believes that the amendments will have only a minimal impact on overall customs broker operations because they do not authorize the preparation of documents and the filing of documents with CBP, which constitute the bulk of customs business services provided by brokers. CBP also believes that the amendments will provide positive economic and related benefits to other members of the import community. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, Bureau of Customs and Border Protection. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 111

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

Amendments to the Regulations

- For the reasons stated in the preamble, part 111 of the Customs Regulations (19 CFR part 111) is amended 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 23, Harmonized Tariff Schedule of the United States), 1624, 1641.

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- 2. In § 111.1:
 - a. The definition of “customs business” is amended by adding at the end of the last sentence before the period the words “and does not include a corporate compliance activity”; and
 - b. A new definition of “corporate compliance activity” is added in

appropriate alphabetical order to read as follows:

§ 111.1 Definitions.

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Corporate compliance activity. “Corporate compliance activity” means activity performed by a business entity to ensure that documents for a related business entity or entities are prepared and filed with Customs using “reasonable care”, but such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a “business entity” is an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes, and the term “related business entity or entities” encompasses a business entity that has more than a 50 percent ownership interest in another business entity, a business entity in which another business entity has more than a 50 percent ownership interest, and two or more business entities in which the same business entity has more than a 50 percent ownership interest.

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Robert C. Bonner,
Commissioner, Customs and Border Protection.
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DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 4439]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act

AGENCY: Department of State
ACTION: Final rule.

SUMMARY: The Department is amending its regulations to add two new nonimmigrant symbols to the nonimmigrant classification table. The amendments are necessary to implement recently enacted legislation. On November 2, 2002, the President signed into law the “Border Commuter Student Act of 2002”. This legislation creates two new nonimmigrant visa classifications (F3 and M3) for citizens and residents of Mexico or Canada who seek to commute into the United States for the purpose of attending an approved F or M school. This rule adds these new classifications to the