

T-212 HEDEN, OH to Midwest, OH [New]

HEDEN, OH WP (Lat. 39°16'45" N., long. 84°02'02" W.)
 Midwest, OH (MXQ) VOR/DME (Lat. 39°25'47" N., long. 83°48'04" W.)

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T-213 Louisville, KY to Richmond, IN [New]

Louisville, KY (IU) VORTAC (Lat. 38°06'13" N., long. 85°34'39" W.)
 GAMKE, IN WP (Lat. 38°47'02" N., long. 85°15'14" W.)
 MILAN, IN WP (Lat. 39°21'22" N., long. 85°19'01" W.)
 Richmond, IN (RID) VORTAC (Lat. 39°45'18" N., long. 84°50'20" W.)

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T-215 Lexington, KY to GAMKE, IN [New]

Lexington, KY (HYK) VORTAC (Lat. 37°57'59" N., long. 84°28'21" W.)
 GAMKE, IN WP (Lat. 38°47'02" N., long. 85°15'14" W.)

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T-217 Lexington, KY to Springfield, OH [New]

Lexington, KY (HYK) VORTAC (Lat. 37°57'59" N., long. 84°28'21" W.)
 BOSTR, OH WP (Lat. 38°53'08" N., long. 84°04'58" W.)
 HEDEN, OH WP (Lat. 39°16'45" N., long. 84°02'02" W.)
 Springfield, OH (SGH) VOR/DME (Lat. 39°50'12" N., long. 83°50'42" W.)

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Issued in Washington, DC, on June 28, 2005.

Edith V. Parish,

Acting Manager, Airspace and Rules.

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DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

15 CFR Part 303

[Docket No. 050613157-5157-01]

RIN 0625-AA68

Office of Insular Affairs; Changes in the Insular Possessions Watch, Watch Movement and Jewelry Programs

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Departments of Commerce and the Interior (the Departments) propose amending their regulations governing watch duty-exemption allocations and the watch and jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana

Islands). The proposed rule would amend the regulations by making technical changes required by passage of the Miscellaneous Trade and Technical Corrections Act of 2004; extending the duty refund benefits to include the value of usual and customary health insurance, life insurance and pension benefits; raising the ceiling on the amount of jewelry that qualifies for the duty refund benefit; allowing new insular jewelry producers to assemble jewelry and have such jewelry treated as an article of the insular possessions for up to 18 months after the jewelry company commences assembly operations; allowing duty refund certificate holders to secure a duty refund on any articles that are imported into the customs territory of the United States by the certificate holder duty paid; providing a more comprehensive definition of "unit;" adjusting the amount of watch repairs that are eligible for the duty refund; providing compensation to insular watch producers if tariffs on watches and watch movements are reduced; and clarifying which wages are eligible for purposes of determining the duty refund and identifying which records are needed for the audit.

DATES: Written comments must be received on or before August 5, 2005.

ADDRESSES: Address written comments to Faye Robinson, Acting Director, Statutory Import Programs Staff, FCB, Suite 4100W, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482-3526, same address as above.

SUPPLEMENTARY INFORMATION: The insular possessions watch industry provision in Section 110 of Public Law 97-446 (96 Stat. 2331) (1983), as amended by Section 602 of Public Law 103-465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States ("HTSUS"), as amended by Public Law 94-241 (90 Stat. 263) (1976) requires the Secretary of Commerce and the Secretary of the Interior ("the Secretaries"), acting jointly, to establish a limit on the quantity of watches and watch movements that may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands ("CNMI"). After the Departments have verified the data submitted on the annual application (Form ITA-334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with 15 CFR 303.14 and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Public Law 106-36 (113 Stat. 127) (1999) authorizes the issuance of a duty-

refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory. The value of the certificate is based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. See also 19 CFR 7.2(a). In order to be considered a product of such territories, the jewelry must meet the U.S. Customs Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

Proposed Amendments

Section 1562 of Public Law 108-429 (2004) amended Public Law 97-446, Public Law 103-465 and Public Law 106-36. The proposed rule would make the necessary technical changes to reflect the new authority for the insular watch and jewelry programs. Changes would be made to Authority, 15 CFR 303.1(a), 303.2(a)(1), 303.12(c)(2), 303.15(a), and 303.16(a)(1).

Pursuant to Public Law 108-429, we propose changing the definitions of "creditable wages" by amending 15 CFR 303.2(a)(13) and 15 CFR 303.16(a)(9) to include the value of usual and customary health insurance, life insurance and pension benefits. We also propose changing the definition of creditable wages to include the difference between the duty rates for watches and watch movements that were in effect on January 1, 2001 and any new lower duty rates that takes place in the future. This provision in Public Law 108-429 would only be applicable if there were duty reductions on watches and watch movements. We further propose reapportioning the percentage of watch and watch movement repair wages that will be creditable towards the duty-refund. We propose raising the percentage of repairs that are eligible for benefits in response to a request we received which pointed

out that repair work is very labor intensive and more time consuming than regular watch assembly. The producer requesting the change explained that there is a shortage of watchmakers in the United States and therefore companies are starting to send watches abroad to be repaired. The proposed change is intended to capture part of this market because there are currently experienced watchmakers in the U.S. Virgin Islands who are unemployed and looking for work. Increasing employment and providing meaningful work for permanent residents of the insular possessions is the cornerstone of the watch and jewelry programs.

In an effort to further clarify which wages are eligible for the duty refund, we propose adding a new Section 303.2(a)(14); redesignating the current Sections 303.2(a)(14) through (a)(16) as Sections 303.2(a)(15) through (a)(17), respectively; adding a new Section 303.16(a)(10); and redesignating current Sections 303.16(a)(10) and 303.16(a)(11) as Sections 303.16(a)(11) and 303.16(a)(12), respectively, to further clarify which wages are not creditable. We also propose, as requested by a producer, to clarify the term "year" in current Sections 303.2(a)(16) and 303.16(a)(11) to clear up any possible confusion.

We also propose amending Sections 303.2(b)(4), 303.2(b)(5), 303.12(c)(1), 303.16(b)(2), 303.16(b)(3), and 303.19(c)(1). These sections currently allow the duty refund certificate holder a refund of duties on watches, watch movements and parts therefor, except discrete watch cases and any article containing a material which is the product of a country to which column 2 rates of duty apply. Pursuant to Public Law 108-429, we propose allowing the refund of duties on any articles that are imported into the customs territory of the United States duty paid by the certificate holder unless the articles contain a material to which column 2 rates of duty apply.

Further, we propose amending Sections 303.20(b)(ii), (b)(iii) and (b)(iv) by raising the ceiling on the number of duty-free units of jewelry entering the United States each year that qualify for duty refund benefits under the program. Currently, a maximum of 750,000 units of jewelry a year qualifies for duty refund benefits. The proposed change, pursuant to Public Law 108-429, would allow a maximum of 10,000,000 units a year to qualify for the duty refund benefit as long as the limit on available program funds is not exceeded and all the units are entered free of duty in accordance with the regulations.

Another proposed change, pursuant to Public Law 108-429, would amend Section 303.20(a)(2) to allow new program jewelry producers up to an 18 month exemption from meeting the substantial transformation requirements and the other provisions normally required for duty-free entry into the United States. Starting on the day the new producer commences jewelry manufacturing or jewelry assembly, the jewelry producer would have up to 18 months for any article of jewelry provided for in heading 7113, HTSUS, that is assembled in an insular possession, to be treated as a product of the insular possession. This proposed change is intended to allow a new producer adequate time to train employees in the skills necessary to meet the substantial transformation requirements.

The proposed rule would also amend Section 303.16(a)(7) by expanding the definition of a "unit" of jewelry so that the term unit more accurately represents the way some heading 7113, HTSUS, jewelry is sold in the industry.

The proposed rule would also amend Sections 303.5(b)(5) and 303.17(b)(4) to clarify that all records pertaining to shipment documents and proof of residency, as required, must be maintained and made available for the verification of data. We also propose adding new Sections 303.5(b)(8) and 303.17(b)(9) which would require the collection and maintenance of information pertaining to health insurance, life insurance and pension benefits for each employee in order that the benefit information can be verified and the duty refunds, based on the verified data, be issued in accordance with Public Law 108-429. Further, in accordance with Public Law 108-429, we proposed adding a new Section 303.5(b)(9) in the event that the HTSUS tariffs on watches and watch movements are reduced. If such tariffs were reduced, we would need records pertaining to the annual value and quantities of the duty-free shipments of watches and watch movements into the United States by individual HTSUS tariff numbers along with information about components contained in the watches and watch movements. This information would be collected on an annual basis.

Administrative Law Requirements

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the

proposed rule, if promulgated as final, would not have a significant economic impact on a substantial number of small entities. There are currently four insular watch program companies and four insular program jewelry companies. All these companies would be considered small entities. The majority of proposed changes are being made to reflect the new statutory requirements contained in Public Law 108–429. The changes include extending the watch and jewelry programs to the year 2015; extending the duty refund benefit to include the value of usual and customary health insurance, life insurance and pension benefits; raising the ceiling on the number of units of jewelry that qualifies for the duty refund benefit; allowing new insular jewelry producers to assemble jewelry and have the jewelry be treated as an article of the insular possessions for up to 18 months after the jewelry company commences assembly operations; allowing duty refund certificate holders to secure a refund of duties on any articles that entered the customs territory of the United States with the duty having been paid by the certificate holder; providing a more comprehensive definition of “unit;” adjusting the amount of watch repairs that are eligible for the duty refund; providing compensation to insular watch producers if tariffs on watches and watch movements are reduced; and clarifying which wages are eligible for the duty refund and which records must be kept for audit purposes. Adoption of this proposed rule would afford producers greater flexibility in dealing with market realities, thereby giving them the ability to take further advantage of opportunities that are suited to their particular needs without losing the duty refund benefit. Also, increasing the ceiling on the amount of jewelry units eligible for the duty refund will be beneficial to the program because it will allow findings companies (re: companies that produce jewelry and jewelry components such as earring backs, links, etc.) to take advantage of the program, thereby increasing employment. Findings companies normally produce millions of units a year and without this ceiling increase, findings companies would not consider moving to the insular possessions. The proposed changes would have an overall positive economic benefit to watch and jewelry producers by providing greater program benefits which will be a further incentive for new companies to locate in the insular possessions. In addition, the proposed changes are intended to make companies more competitive with the

expectation that this will result in increased sales and employment.

The proposed changes would require companies to provide information on their employees’ health insurance, life insurance and pension benefits for the annual application (form ITA–334P) and have such information available for the annual audit. Also, if tariffs on watches and watch movements are reduced, then companies would have to provide annual aggregate information by individual HTSUS watch tariff numbers for the following components contained therein: The quantity and value of watch cases, the quantity of movements, the quantity and value of each type of strap, bracelet or band, and the quantity and value of batteries shipped free of duty into the United States. If discrete watch movements are shipped free of duty into the United States, then the companies would need to submit the annual aggregate quantity by individual HTSUS movement tariff numbers and the quantity and value of the batteries, if included in the movement. This information would normally be part of the each company’s records. Consequently, a producer would merely need to provide the data on fringe benefits on the annual application and to retain the records for review during the audit. We estimate that the cost of supplying the documentation as needed would be no more than \$40 a year. The reporting and recordkeeping requirements in this proposed rule would increase the total burden hours per company by approximately two hours a year to account for retrieval of the information for the audit and inclusion of the aggregate data on the annual application. Therefore, there would be little economic impact, because this information would be part of a company’s normal recordkeeping.

This proposed rule would not have a significant economic impact on a substantial number of small entities. Although the rule effects a significant number of small entities, it would only impose minimal economic impact. The rule would only increase reporting or record keeping requirements by approximately 2 hours per year per company. Further, the proposed changes will not duplicate, overlap or conflict with other laws or regulations. Finally, the proposed changes would result in an overall positive economic benefit to the watch and jewelry producers. Consequently, these proposed changes are not expected to meet the RFA criteria of having a “significant” economic effect on a “substantial number” of small entities, as stated in 5 U.S.C. 603 *et seq.*

Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act. This proposed rulemaking contains revised collection of information requirements that have been submitted to the Office of Management and Budget (OMB) for review and approval. The rule would require further paperwork to be collected due to the passage of Public Law 108–429 which extends the duty refund benefit to include the value of usual and customary health insurance, life insurance and pension benefits and provides compensation to insular watch producers if tariffs on watches and watch movements are reduced. The documentation for the health insurance, life insurance and pension benefits, would be required for the annual audit of information and would be needed to complete the annual application, form ITA–334P, which will be revised. Also, if tariffs on watches and watch movements were reduced, then companies would have to provide annual aggregate information by individual HTSUS watch tariff numbers for the following components contained therein, *i.e.*, the quantity and value of watch cases, the quantity of movements, the quantity and value of each type of strap, bracelet or band, and the quantity and value of batteries shipped free of duty into the United States. If discrete watch movements are shipped free of duty into the United States, producers would have to provide the annual aggregate quantity of movements by individual HTSUS tariff numbers, and the value and quantity of the batteries, if included in the movement. This information would be required for the annual audit of information and would be needed to complete the annual application, form ITA–334P, if tariff on watches and watch movements were reduced. We estimate the burden to be no more than two hours a year to include the information on form ITA–334P and have it available for the audit. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625–0040. Public comment is sought regarding: whether the proposed collection of information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and the ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of

information technology. Send comments regarding the burden estimate or any other aspect of the collection of information to U.S. Department of Commerce, ITA Information Officer, Washington, DC 20230 and the Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Att: OMB Desk Officer), or email

David_Rostker@omb.eop.gov.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with the collection of information unless it displays a currently valid OMB Control Number.

E.O. 12866. It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, the Departments propose to amend 15 CFR Part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAMS

1. The authority citation for 15 CFR Part 303 is revised to read as follows:

Authority: Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991; Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106-36, 113 Stat. 167; Pub. L. 108-429, 118 Stat. 2582.

2. The first sentence of § 303.1(a) is amended by removing “and amended by Public Law 103-465, enacted 8 December 1994.” and adding “amended by Public Law 103-465, enacted 8 December 1994 and amended by Public Law 108-429 enacted 3 December 2004.” in its place.

3. Section 303.2 is amended as follows:

A. Section 303.2(a)(1) is amended by removing “.” at the end of the sentence and adding “, Public Law 108-429, enacted on 3 December 2004, 118 Stat. 2582.” in its place.

B. Section 303.2(a)(13) is revised as set forth below.

C. In Section 303.2, paragraphs (a)(14) through (a)(16) are redesignated as paragraphs (a)(15) through (a)(17), and a new paragraph (a)(14) is added as set forth below.

D. Newly designated paragraph (a)(17) is amended by removing “(i.e., be

physically present for at least 183 days per year)” and adding “(i.e., be physically present for at least 183 days within a continuous 365 day period)” in its place.

E. The heading and the first sentence of paragraph (b)(4) are revised as set forth below.

F. The heading of paragraph (b)(5) is revised as set forth below.

§ 303.2 Definitions and forms.

(a) * * *

(13) Creditable wages, creditable fringe benefits and creditable duty differentials eligible for the duty refund benefit include, but are not limited to, the following:

(i) Wages up to an amount equal to 65 percent of the contribution and benefit base for Social Security, as defined in the Social Security Act for the year in which wages were earned, paid to permanent residents of the insular possessions employed in a firm's 91/5 watch and watch movement program.

(A) Wages paid for the repair of watches up to an amount equal to 85 percent of the firm's total creditable wages.

(B) Wages paid to watch and watch movement assembly workers involved in the complete assembly of watches and watch movements which have entered the United States duty-free and have complied with the laws and regulations governing the program.

(C) Wages paid to watch and watch movement assembly workers involved in the complete assembly of watches, excluding the movement, only in situations where the desired movement can not be purchased unassembled and the producer has documentation establishing this.

(D) Wages paid to those persons engaged in the day-to-day assembly operations on the premises of the company office, wages paid to administrative employees working on the premises of the company office, wages paid to security employees and wages paid to servicing and maintenance employees if these services are integral to the assembly and manufacturing operations and the employees are working on the premises of the company office.

(E) Wages paid to persons engaged in both creditable and non-creditable assembly and repair operations may be credited proportionally provided the firm maintains production, shipping and payroll records adequate for the Departments' verification of the creditable portion.

(F) Wages paid to new permanent residents who have met the requirements of permanent residency in

accordance with the Departments' regulations, along with meeting all other creditable wage requirements of the regulations, which must be documented and verified to the satisfaction of the Secretaries.

(ii) The combined creditable amount of individual health and life insurance per year, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, may not exceed 100 percent of the “weighted average” yearly federal employee health insurance, which is calculated from the individual health plans weighted by the number of individual contracts in each plan. The yearly amount is calculated by the Office of Personnel Management and includes the “weighted average” of all individual health insurance costs for federal employees throughout the United States. The maximum life insurance allowed within this combined amount is \$50,000 for each employee.

(A) The combined creditable amount of family health and life insurance per year, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, may not exceed 120 percent of the “weighted average” yearly federal employee health insurance, which is calculated from the family health plans weighted by the number of family contracts in each plan. The yearly amount is calculated by the Office of Personnel Management and includes the “weighted average” of all family health insurance costs for federal employees throughout the United States. The maximum life insurance allowed within this combined amount is \$50,000 for each employee.

(B) The creditable pension benefit, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, is up to 3 percent of the employee's wages unless the employee's wages exceed the maximum annual creditable wage allowed under the program (*see* paragraph (a)(13)(i) of this section). An employee earning more than the maximum creditable wage allowed under the program will be eligible for only 3 percent of the maximum creditable wage.

(iii) If tariffs on watches and watch movements are reduced, then companies would be required to provide the annual aggregate data by individual HTSUS watch tariff numbers for the following components contained therein: The quantity and value of watch cases, the quantity of movements, the quantity and value of each type of strap, bracelet or band, and the quantity and value of batteries shipped free of

duty into the United States. If discrete watch movements are shipped free of duty into the United States, then the annual aggregate quantity by individual HTSUS movement tariff numbers would also be required along with the value of each battery if it is contained within. These data would be used to calculate the annual duty rate before each HTSUS tariff reduction, and the annual duty rate after the HTSUS tariff reduction. The amount of the difference would be creditable toward the duty refund. The tariff information would only be collected and used in the calculation of the annual duty-refund certificate and would not be used in the calculation of the mid-year duty-refund.

(14) Non-creditable wages and non-creditable fringe benefits. Wages ineligible for the duty refund benefit wages include, but are not limited to, the following:

(i) Wages over 65 percent of the contribution and benefit base for Social Security, as defined in the Social Security Act for the year in which wages were earned paid to permanent residents of the territories employed in a firm's 91/5 watch and watch movement program.

(A) Wages paid for the repair of watches in an amount over 85 percent of the firm's total creditable wages.

(B) Wages paid for the assembly of watches and watch movements which are shipped outside the customs territory of the United States; wages paid for the assembly of watches and watch movements that do not meet the regulatory assembly requirements; or wages paid for the assembly of watches or watch movements that contain HTSUS column 2 components.

(C) Wages paid for the complete assembly of watches, excluding the movement, when the desired movement can be purchased unassembled, if the producer does not have adequate documentation, demonstrating to the satisfaction of the Secretaries, that the movement could not be purchased unassembled whether or not it is entering the United States.

(D) Wages paid to persons not engaged in the day-to-day assembly operations on the premises of the company office; wages paid to any outside consultants; wages paid outside the office personnel, including but not limited to, lawyers, gardeners, construction workers, and accountants; wages paid to employees not working on the premises of the company office; and wages paid to employees who do not qualify as permanent residents in accordance with the Departments' regulations.

(E) Wages paid to persons engaged in both creditable and non-creditable assembly and repair operations if the producer does not maintain production, shipping and payroll records adequate for the Departments' verification of the creditable portion.

(ii) Any costs, for the year in which the wages were paid, of the combined creditable amount of individual health and life insurance for employees over 100 percent of the "weighted average" yearly individual health insurance costs for all federal employees. The cost of any life insurance over the \$50,000 limit for each employee.

(A) Any costs, for the year in which the wages were paid, of the combined creditable amount of family health and life insurance for employees over 120 percent of the "weighted average" yearly family health insurance costs for all federal employee. The cost of any life insurance over the \$50,000 limit for each employee.

(B) The cost of any pension benefit per employee over 3 percent of the employee's creditable wages unless the employee's wages exceed the maximum annual creditable annual maximum creditable wage allowed under the program (see paragraph (a)(13)(i) of this section). Employees earning over the maximum creditable wage allowed under the program would have a creditable annual pension benefit of up to 3 percent of the maximum creditable wage and wages over 3 percent of the maximum creditable wage would not be creditable.

* * * * *

(b) * * *

(4) ITA-360P "Certificate of Entitlement to Secure the Refund of Duties on Articles that Entered the Customs Territory of The United State Duty Paid." This document authorizes an insular watch producer to request the refund of duties on imports of articles that entered the customs territory of the United States duty paid, up to the specified value of the certificate. * * *

(5) ITA-361P "Request for Refund of Duties on Articles that Entered the Customs Territory of the United States Duty Paid." * * *

* * * * *

4. Section 303.5(b)(5) is revised to read as set forth below and paragraphs (b)(8) and (b)(9) are added to read as set forth below.

§ 303.5 Application for annual allocation of duty-exemptions.

* * * * *

(b) * * *

(5) Customs, bank, payroll, production records, and all shipping records including the importer of record

number and proof of residency, as requested;

* * * * *

(8) All records pertaining to health insurance, life insurance and pension benefits for each employee; and

(9) If HTSUS tariffs on watches and watch movements are reduced, records of the annual aggregate data by individual HTSUS watch tariff numbers for the following components contained therein would be required: The quantity and value of watch cases; the quantity of movements; the quantity and value of each type of strap, bracelet or band; and the quantity and value of batteries shipped free of duty into the United States. In addition, if applicable, records of the annual aggregate quantity of discrete watch movements shipped free of duty into the United States by HTSUS tariff number.

* * * * *

5. Section 303.12 (c)(1) and (2) are revised to read as follows:

§ 303.12 Issuance and use of production incentive certificates.

* * * * *

(c) The use and transfer of certificate of entitlements. (1) Insular producers issued a certificate may request a refund by executing Form ITA-361P (see § 303.2(b)(5) and the instructions on the form). After authentication by the Department of Commerce, Form ITA-361P may be used to obtain duty refunds on articles that entered the customs territory of the United States duty paid except for any article containing a material which is the product of a country to which column 2 rates of duty apply. Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

(2) Regulations issued by the Bureau of Customs and Border Protection, U.S. Department of Homeland Security, govern the refund of duties under Public Law 97-446, as amended by Public Law 103-465 and Public Law 108-429. If the Departments receive information from the Bureau of Customs and Border Protection that a producer has made

unauthorized use of any official form, they shall cancel the affected certificate.

* * * * *

6. Section 303.15(a) is amended by removing “.” at the end of the sentence and adding “, and Public Law 108–429, enacted on 3 December 2004.” in its place.

7. Section 303.16 is amended as follows:

A. Section 303.16(a)(1) is amended by removing “.” at the end of the last sentence and adding “, and Public Law 108–429, enacted on 3 December 2004.” in its place.

B. Section 303.16(a)(7) is revised to read as set forth below.

C. Section 303.16(a)(9) is revised to read as set forth below.

D. Paragraphs (a)(10) and (a)(11) are redesignated as paragraphs (a)(11) and (12), and a new paragraph (a)(10) is added as set forth below.

E. Newly designated paragraph (a)(12) is amended by removing “(i.e., be physically present for at least 183 days per year)” and adding “(i.e., be physically present for at least 183 days within a continuous 365 day period year)” in its place.

F. Paragraph (b)(2) is revised to read as set forth below.

G. The heading of paragraph (b)(3) is revised to read as set forth below.

§ 303.16 Definitions and forms.

(a) * * *

(7) Unit of Jewelry means a single article (e.g., ring, bracelet, necklace), pair (e.g., cufflinks), gram for links which are sold in grams and stocked in grams, and other subassemblies and components in the customary unit of measure they are stocked and sold within the industry.

* * * * *

(9) Creditable wages and creditable fringe benefits eligible for the duty refund benefit include, but are not limited to, the following:

(i) Wages up to an amount equal to 65 percent of the contribution and benefit base for Social Security, as defined in the Social Security Act for the year in which wages were earned, paid to permanent residents of the insular possessions employed in a firm’s manufacture of HTSUS heading 7113 articles of jewelry which are a product of the insular possessions and have met the Bureau of Customs and Border Protection’s criteria for duty-free entry into the United States, plus any wages paid for the repair of non-insular HTSUS heading 7113 jewelry up to an amount equal to 50 percent of the firm’s total creditable wages.

(A) Wages paid to persons engaged in the day-to-day assembly operations at

the company office, wages paid to administrative employees working on the premises of the company office, wages paid to security operations employees and wages paid to servicing and maintenance employees if these services are integral to the assembly and manufacturing operations and the employees are working on the premises of the company office.

(B) Wages paid to permanent residents who are employees of a new company involved in the jewelry assembly and jewelry manufacturing of HTSUS heading 7113 jewelry for up to 18 months after such jewelry company commences jewelry manufacturing or jewelry assembly operations in the insular possessions.

(C) Wages paid when a maximum of two producers work on a single piece of HTSUS heading 7113 jewelry which entered the United States free of duty under the program. Wages paid by the two producers will be credited proportionally provided both producers demonstrate to the satisfaction of the Secretaries that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the customs territory of the United States, and the producers maintained production and payroll records sufficient for the Departments’ verification of the creditable wage portion (see § 303.17(b)).

(D) Wages paid to persons engaged in both creditable and non-creditable assembly and repair operations may be credited proportionally provided the firm maintains production, shipping and payroll records adequate for the Departments’ verification of the creditable portion.

(E) Wages paid to new permanent residents who have met the requirements of permanent residency in accordance with the Departments’ regulations along with meeting all other creditable wage requirements of the regulations, which must be documented and verified to the satisfaction of the Secretaries.

(ii) The combined creditable amount of individual health and life insurance per year, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, may not exceed 100 percent of the “weighted average” yearly federal employee health insurance, which is calculated from the individual health plans weighted by the number of individual contracts in each plan. The yearly amount is calculated by the Office of Personnel Management and includes the “weighted average” of all individual health insurance costs for federal employees throughout the

United States. The maximum life insurance allowed within this combined amount is \$50,000 for each employee.

(A) The combined creditable amount of family health and life insurance per year, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, may not exceed 120 percent of the “weighted average” yearly federal employee health insurance, which is calculated from the family health plans weighted by the number of family contracts in each plan. The yearly amount is calculated by the Office of Personnel Management and includes the “weighted average” of all family health insurance costs for federal employees throughout the United States. The maximum life insurance allowed within this combined amount is \$50,000 dollars for each employee.

(B) The creditable pension benefit, for each full-time permanent resident employee who works on the premises of the company office and whose wages qualify as creditable, is up to 3 percent of the employee’s wages unless the employee’s wages exceed the maximum annual creditable wage allowed under the program (see paragraph (a)(9)(i) of this section). An employee earning more than the maximum creditable wage allowed under the program will be eligible for only 3 percent of the maximum creditable wage.

(10) Non-creditable wages and non-creditable fringe benefits. Wages ineligible for the duty refund benefit include, but are not limited to, the following:

(i) Wages over 65 percent of the contribution and benefit base for Social Security, as defined in the Social Security Act for the year in which wages were earned, paid to permanent residents of the territories employed in a firm’s 91/5 heading 7113, HTSUS, jewelry program.

(A) Wages paid for the repair of jewelry in an amount over 50 percent of the firm’s total creditable wages.

(B) Wages paid to employees who are involved in assembling HTSUS heading 7113 jewelry beyond 18 months after such jewelry company commences jewelry manufacturing or jewelry assembly operations in the insular possessions if the jewelry does not meet the Bureau of Customs and Border Protection’s substantial transformation requirements and other criteria for duty-free enter into the United States.

(C) Wages paid for the assembly and manufacturing of jewelry which is shipped to places outside the customs territory of the United States; wages paid for the assembly and manufacturing of jewelry that does not

meet the regulatory assembly requirements; or wages paid for the assembly and manufacture of jewelry that contain HTSUS column 2 components.

(D) Wages paid to those persons not engaged in the day-to-day assembly operations on the premises of the company office, wages paid to any outside consultants, wages paid to outside the office personnel, including but not limited to, lawyers, gardeners, construction workers and accountants; wages paid to employees not working on the premises of the company office and wages paid to employees who do not qualify as permanent residents in accordance with the Departments' regulations.

(E) Wages paid to persons engaged in both creditable and non-creditable assembly and repair operations if the producer does not maintain production, shipping and payroll records adequate for the Departments' verification of the creditable portion.

(ii) Any costs, for the year in which the wages were paid, of the combined creditable amount of individual health and life insurance for employees over 100 percent of the "weighted average" yearly individual health insurance costs for all federal employees. The cost of any life insurance over the \$50,000 limit for each employee.

(A) Any costs, for the year in which the wages were paid, of the combined creditable amount of family health and life insurance for employees over 120 percent of the "weighted average" yearly family health insurance costs for all federal employee. The cost of any life insurance over the \$50,000 limit for each employee.

(B) The cost of any pension benefit per employee over 3 percent of the employee's creditable wages unless the employee's wages exceed the maximum annual creditable annual maximum creditable wage allowed under the program (see paragraph (a)(9)(i) of this section). Employees earning over the maximum creditable wage allowed under the program would have a creditable annual pension benefit of up to 3 percent of the maximum creditable wage and wages over 3 percent of the maximum creditable wage would not be creditable.

* * * * *

(b) * * *

(2) ITA-360P "Certificate of Entitlement to Secure the Refund of Duties on Articles that Entered the Customs Territory of The United State Duty Paid." This document authorizes an insular jewelry producer to request the refund of duties on imports of

articles that entered the customs territory of the United States duty paid, with certain exceptions, up to the specified value of the certificate. Certificates may be used to obtain duty refunds only when presented with a properly executed Form ITA-361P.

(3) ITA-361P "Request for Refund of Duties on Articles that Entered the Customs Territory of the United States Duty Paid." * * *

* * * * *

8.-9. Section 303.17 is amended by revising paragraph (b)(6); by redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(8) and (b)(9); and by adding a new paragraph (b)(7) to read as follows:

§ 303.17 Annual jewelry application.

* * * * *

(b) * * *

(6) Customs, bank, payroll, production records, and all shipping records including the importer of record number and proof of residency, as requested;

(7) All records pertaining to health insurance, life insurance and pension benefits for each employee;

* * * * *

10. Section 303.19(c)(1) is revised to read as follows:

§ 303.19 Issuance and use of production incentive certificates.

* * * * *

(c) The use and transfer of certificate entitlements. (1) Insular producers issued a certificate may request a refund by executing Form ITA-361P (see § 303.16 (b)(3)) and the instruction on the form). After authentication by the Department of Commerce, Form ITA-361P may be used to obtain duty refunds on article that entered the customs territory of the United States duty paid. Duties on an article which is the product of a country with respect to column 2 rates of duty apply may not be refunded Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

* * * * *

10a. Section 303.20(a)(2) is revised to read as follows:

§ 303.20 Duty refund.

* * * * *

(a) * * *

(2) Eighteen month exemption. Any article of jewelry provided for in HTSUS heading 7113, assembled in the insular possessions by a new entrant jewelry manufacturer shall be treated as a product of the insular possessions if such article is entered into the customs territory of the United States no later than 18 months after such producer commences jewelry manufacturing or jewelry assembly operations in the insular possessions.

* * * * *

11. Section 303.20 is further amended as follows:

A. Paragraph (b)(1)(ii) is amended by removing "450,000" and adding "3,533,334" in its place.

B. Paragraph (b)(1)(iii) is amended by removing "600,000" and adding "6,766,667" in its place.

C. Paragraph (b)(1)(iv) is amended by removing "750,000" and adding "10,000,000" in its place.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Nikolao I. Pula,

Director for Insular Affairs, Department of the Interior.

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FEDERAL TRADE COMMISSION

16 CFR Part 23

Guides for the Jewelry, Precious Metals, and Pewter Industries

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Request for public comment.

SUMMARY: The Commission is seeking comment on whether the platinum section of the FTC's Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 CFR part 23, should be amended to provide guidance on how to mark or describe non-deceptively products containing between 500 and 850 parts per thousand pure platinum and no other platinum group metals.

DATES: Written comments must be received on or before September 28, 2005.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Jewelry Guides, Matter No. G711001" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text