

the territorial address of the insular producer or at another location having the advance approval of the Departments.

(2) All refund requests made pursuant to the certificates shall be entered on the reverse side of the certificate.

(3) Certificates shall be returned by registered, certified or express carrier mail to the Departments when:

(i) A refund is requested which exhausts the entitlement on the face of the certificate,

(ii) The certificate expires, or

(iii) The Departments request their return with good cause.

(4) Certificate entitlements may be transferred according to the procedures described in (c) of this section.

(c) *The use and transfer of certificate entitlements.* (1) Insular producers issued a certificate may request a refund by executing Form ITA-361P (see §303.2(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.

(3) The insular producer may transfer a portion of all of its certificate entitlement to another party by entering in block C of Form ITA-361P the name and address of the party.

(4) After a Form ITA-361P transferring a certificate entitlement to a party other than the certificate holder has been authenticated by the Department of Commerce, the form may be exchanged for any consideration satisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian for disposition (see paragraph (b) above).

(5) All disputes concerning the use of an authenticated Form ITA-361P shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA-361P shall be considered an "interested party" within the meaning of §303.13 of this part.

[49 FR 17740, Apr. 25, 1984, as amended at 50 FR 43568, Oct. 28, 1985; 56 FR 9621, Mar. 7, 1991; 61 FR 55885, Oct. 30, 1996; 66 FR 34812, July 2, 2001; 70 FR 67648, Nov. 8, 2005; 72 FR 16714, Apr. 5, 2007]

### § 303.13 Appeals.

(a) Any official decision or action relating to the allocation of duty-exemptions or to the issuance or use of production incentive certificates may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule.

(b) Petitions shall bear the name and address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. They shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Import Administration, International Trade

### § 303.14

### 15 CFR Ch. III (1–1–12 Edition)

Administration, Washington, D.C. 20230, Attention: Statutory Import Programs Staff. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition;

(2) A short statement of the interest of the petitioner;

(3) A statement of the facts as seen by the petitioner;

(4) The petitioner's argument as to the points of law, policy of fact. In cases where policy error is contended, the alleged error together with the policy the submitting party advocates as the correct one should be described in full;

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) The Secretaries shall communicate their decision which shall be final, to the petitioner by registered mail.

(e) If the outcome of any petition materially affects the amount of the petitioner's allocation and if the Secretaries' consideration of the petition continues during the calculation of the annual allocations, the Secretaries shall set aside a portion of the affected territorial share in an amount which, in their judgment, protects the petitioner's interest and shall allocate the remainder among the other producers.

[49 FR 17740, Apr. 25, 1984, as amended at 56 FR 9622, Mar. 7, 1991; 72 FR 16714, Apr. 5, 2007]

#### **§ 303.14 Allocation factors, duty refund calculations and miscellaneous provisions.**

(a) *The allocation formula.* (1) Except as provided in (a)(2) of this section, the territorial shares (excluding any amount set aside for possible new entrants) shall be allocated among the several producers in each territory in accordance with the following formula:

(i) Fifty percent of the territorial share shall be allocated on the basis of the net dollar amount of economic contributions to the territory consisting of the dollar amount of creditable wages, up to an amount equal to 65% of

the contribution and benefit base for Social Security as defined in the Social Security Act for the year in which the wages were earned, paid by each producer to territorial residents, plus the dollar amount of income taxes (excluding penalty and interest payments and deducting any income tax refunds and subsidies paid by the territorial government), and

(ii) Fifty percent of the territorial share shall be allocated on the basis of the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States.

(2) If there is only one producer in a territory, the entire territorial share, excluding any amount set aside for possible new entrants, may be allocated without recourse to any distributive formula.

(b) *Minimum assembly requirements and prohibition of preferential supply relationship.* (1) No insular watch movement or watch may be entered free of duty into the customs territory of the United States unless the producer used 30 or more discrete parts and components to assemble a mechanical watch movement and 33 or more discrete parts and components to assemble a mechanical watch.

(2) Quartz analog watch movements must be assembled from parts knocked down to the maximum degree possible for the technical capabilities of the insular industry as a whole. The greatest degree of disassembly specified, for each manufacturer's brand and model, by any producer in any territory purchasing such brands and models shall constitute the disassembly required as a minimum for the industry as a whole.

(3) Watch movements and watches assembled from components with a value of more than \$300 for watch movements and \$3000 for watches shall not be eligible for duty-exemption upon entry into the U.S. Customs territory. Value means the value of the merchandise plus all charges and costs incurred up to the last point of shipment (i.e., prior to entry of the parts and components into the territory).

(4) No producer shall accept from any watch parts and components supplier advantages and preferences which