

Islands). The proposed rule would amend existing regulations, due to changes in the industry, by updating the watch assembly requirements for purposes of the duty refund. We also propose amending the regulations to reflect the new designations that were created with the addition of the Department of Homeland Security.

**DATES:** Written comments must be received on or before September 2, 2003.

**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 Pub. L. 97-446 (96 Stat. 2331) (1983), as amended by section 602 of Pub. L. 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 Pub. L. 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 which 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. Pub. L. 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

We propose amending the definitions for Creditable wages and Non-91/5 watches and watch movements, subpart A § 303.2(a)(13) and (14) respectively, to allow wages to be creditable towards the duty refund for watches containing preassembled movements provided (1) that the producer is unable to purchase the movements unassembled and (2) that it completes in the insular possession all other assembly operations required to make the movement into a watch (see discussion, below).

The watch and jewelry program was designed to spur local employment by giving producers benefits based upon creditable wages paid to permanent residents of the insular possessions. For purposes of determining whether wages are creditable, the Departments' current regulations require producers to purchase unassembled movements so that the movement assembly process will take place in the insular possessions. However, it has come to the Departments' attention that due to recent changes in the watch industry, it has become increasingly difficult, if not impossible, for producers to purchase the desired movements in an unassembled condition. Adoption of our proposed rule will afford producers greater flexibility in dealing with such market realities. Thus, the effect of the proposed revision will be to give producers the ability to continue to choose those movements best suited to their particular needs without losing the duty refund benefit, thereby allowing producers to continue to provide meaningful and substantial work for permanent residents in the insular possessions. Notwithstanding the

proposed revision to the regulations, assembly operations required to be performed in the insular possession for purposes of the duty refund would still include casing, assembling the dial on the movement, adding the battery to the movement, setting the hands, cutting the stem and assembling the crown, attaching the clasps, buckles and bands and performing all quality control operations. Our proposal would not affect the watch assembly requirements of the Bureau of Customs and Border Protection (formerly the U.S. Customs Service). If those requirements are not satisfied, the producer must pay applicable duties.

In order for wages to be considered creditable for watch assembly operations which incorporate preassembled movements, we also propose amending subpart A § 303.5(b)(6) to require producers who completely assemble watches in the insular possessions, with the exception of the movement, to maintain documentation that demonstrates that the preassembled movement the insular producer purchased could not have been purchased in an unassembled condition. This documentation must be available, along with other relevant company records, for review during the annual audit and verification of the data from the Annual Application (Form ITA-334P). Producers would still be required to meet the Bureau of Customs and Border Protection and the Departments' assembly requirements for purposes of the duty exemption.

Pursuant to section 403 of the Homeland Security Act of 2002 (Pub. L. 107-296) (2002), the U.S. Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security ("DHS"). Under the DHS' Reorganization Plan (Nov. 25, 2002), this transfer became effective as of March 1, 2003. The former Customs Service has now been redesignated as the Bureau of Customs and Border Protection. As a result of this reorganization, we propose amending 15 CFR Part 303 by replacing "U.S. Customs Service" throughout the regulations with its new designation, "Bureau of Customs and Border Protection". We also propose replacing "Department of the Treasury" wherever it occurs in the regulations with "Department of Homeland Security" which is now the appropriate designation for purposes of the insular watch and jewelry program.

### Administrative Law Requirements

Regulatory Flexibility Act. In accordance with the Regulatory