

(3) A producer, in the judgment of the Secretaries, has failed to make a meaningful contribution to the territory for a period of two or more consecutive calendar years, when compared with the performance of the duty-free watch assembly industry in the territory as a whole. This comparison shall include the producer's quantitative use of its allocations, amount of direct labor employed in the assembly of watches and watch movements, and the net amount of corporate income taxes paid to the government of the territory. If the producer fails to satisfy the Secretaries as to why such action should not be taken, the firm's allocation shall be reduced or cancelled, whichever is appropriate under the show-cause order. The eligibility of a firm whose allocation has been cancelled to receive further allocations may also be terminated.

(b) The Secretaries may also issue a show-cause order to reduce or cancel a producer's allocation or production incentive certificate (see §303.12, below), as appropriate, or to declare the producer ineligible to receive an allocation or certificate if it violates any regulation in this part, uses a form, license, permit, or certificate in an unauthorized manner, or fails to provide information or data required by these regulations or requested by the Secretaries or their delegates in the performance of their responsibilities.

(c) If a firm's allocation is reduced or cancelled, or if a firm voluntarily relinquishes a part of its allocation, the Secretaries may:

(1) Reallocate the allocation involved among the remaining producers in a manner best suited to contribute to the economy of the territory;

(2) Reallocate the allocation or part thereof to a new entrant applicant; or

(3) Do neither of the above if deemed in the best interest of the territories and the established industry.

[49 FR 17740, Apr. 25, 1984, as amended at 61 FR 55885, Oct. 31, 1996]

§ 303.9 Restrictions on the transfer of duty-exemptions.

(a) The sale or transfer of a duty-exemption from one firm to another shall not be permitted.

(b) The sale or transfer of a business together with its duty-exemption shall

be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and representations, as appropriate, that:

(1) If the transferee is a subsidiary of or in any way affiliated with any other company engaged in the production of watch movements components being offered for sale to any territorial producer, the related company or companies will continue to offer such watch and watch movement components on equal terms and conditions to all willing buyers and shall not engage in any practice, in regard to the sale of components, that competitively disadvantages the non-affiliated territorial producers *vis-a-vis* the territorial subsidiary;

(2) The sale or transfer price for the business together with its duty-exemption does not include the capitalization of the duty-exemption *per se*;

(3) The transferee is neither directly or indirectly affiliated with any other territorial duty-exemption holder in any territory;

(4) The transferee will not modify the watch assembly operations of the duty-exemption firm in a manner that will significantly diminish its economic contributions to the territory.

(c) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to their satisfaction that the certifications and representations contained in paragraph (b) of this section have been or are being met.

(d) Any transferee who is either unwilling or unable to make the certifications and representations specified in paragraph (b) of this section shall secure the Departments' approval in advance of the sale or transfer of the business together with its duty-exemption. The request for approval shall specify which of the certifications specified in paragraph (b) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' disapproval of the sale or transfer.

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