

1301 Constitution Avenue NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street NW., Suite 4000, Washington, DC

**FOR FURTHER INFORMATION CONTACT:** Sandra Gethers, Office of Regulations and Rulings (202-482-6980).

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 3, 1994, Customs published T.D. 94-4 in the **Federal Register** (59 FR 110) setting forth interim regulations to establish rules for determining the country of origin of a good for purposes of Annex 311 of the North American Free Trade Agreement (NAFTA). The United States, Canada and Mexico entered into the NAFTA on December 17, 1992, and the provisions of the NAFTA were adopted by the United States with the enactment of the North American Free Trade Agreement Implementation Act, Public Law 103-182, 107 Stat. 2057. T.D. 94-4 stated that the interim regulations were effective on January 1, 1994, and also provided for a 90-day public comment period which was subsequently extended to July 5, 1994, by a notice published in the **Federal Register** on March 11, 1994 (59 FR 11547). On February 3, 1994, a notice was published in the **Federal Register** (59 FR 5082) setting forth corrections to the interim regulations contained in T.D. 94-4.

On January 3, 1994, Customs also published a document in the **Federal Register** (59 FR 141) which proposed to amend the Customs Regulations to set forth uniform rules governing the determination of the country of origin of imported merchandise; this notice of proposed rulemaking represented a refinement and replacement of an earlier proposal published in the **Federal Register** on September 25, 1991 (56 FR 48448). This January 3, 1994, document proposed: (1) To amend § 102.0 of the interim regulations published as T.D. 94-4 so that those interim regulations would apply not only for the purposes stated in Annex 311 of the NAFTA but would also apply in the broader context of country of origin determinations "for purposes of the Customs and related laws and the navigation laws of the United States"; and (2) to amend various provisions within parts 4, 10, 12, 134 and 177 of the Customs Regulations (19 CFR parts 4, 10, 12, 134 and 177) to ensure that the rules contained in interim part 102 would control wherever language

requiring a country of origin determination appears in those other regulatory provisions. Thus, under this notice of proposed rulemaking the interim rules set forth in T.D. 94-4 would apply wherever a provision of the Customs and related laws or the navigation laws or a regulation thereunder uses language such as "new and different article of commerce", "wholly the growth, product, or manufacture", "product of", or "substantial transformation" for purposes of establishing the criteria for country of origin of a good. The notice of proposed rulemaking provided for a 90-day public comment period which was subsequently extended to July 5, 1994, by a notice published in the **Federal Register** on March 10, 1994 (59 FR 11225).

Since the January 3, 1994, notice of proposed rulemaking presented the same regulatory scheme as the rules contained in T.D. 94-4, each document referred to the other and stated that public comments submitted in response to either document would be considered in connection with the review of both documents. The notice of proposed rulemaking further indicated that the background section and interim part 102 regulatory texts set forth in T.D. 94-4 were applicable to it. Thus, it was intended that the two documents be read together so that, following public notice and comment procedures, one final rule document could be derived from the interim and proposed rule documents, consistent with the overall goal of promulgating uniform rules of origin for Customs and related purposes.

Based on a review of the comments received in response to the interim and proposed rule documents published in the **Federal Register** on January 3, 1994, and as a result of independent internal review of the interim and proposed texts, Customs determined (1) that some clarification and further explanation of the intent behind the proposed uniform rule concept should be provided and (2) that some changes should be made to the interim and proposed texts and that those changes should be the subject of public notice and comment procedures before proceeding to the final rule stage in this matter; the interim texts as published in T.D. 94-4 (and as subsequently corrected) were to remain in effect pending completion of such final rule action. In addition, Customs concluded that public comments should be solicited regarding the appropriate use of a delayed effective date for any final rule that results from the interim and proposed rules, including any new proposed changes thereto.

Accordingly, on May 5, 1995, Customs published in the **Federal Register** (60 FR 22312) a document that (1) provided supplemental background information regarding the proposed uniform rule concept, (2) set forth proposals to amend the interim regulatory texts contained in T.D. 94-4 published at 59 FR 110 and corrected at 59 FR 5082, (3) republished (and thus replaced) all of the proposed regulatory amendments published at 59 FR 141 on January 3, 1994, with certain changes thereto, and (4) invited public comments on the appropriate effective date for a final rule on this matter. This May 5, 1995, document stated that it was the intention of Customs to address in that document only those comments submitted in response to the January 3, 1994, notices that involved substantive changes to the interim or proposed texts requiring further public comment procedures; other such previously submitted comments would be addressed in an appropriate final rule or other document to be published at a later date. Comments would be accepted and considered in response to that document only in regard to (1) the proposed changes to the interim regulatory texts as discussed and set forth therein, (2) all other proposed regulatory amendments as discussed and set forth therein which represented a substantive change to the proposals published on January 3, 1994, and (3) the final rule delayed effective date issue. Therefore, comments which concerned other issues involved in the January 3, 1994, documents, or which did not otherwise relate to the new proposals set forth in the May 5, 1995, document, would not be accepted and considered by Customs. The May 5, 1995, document also stated that, for purposes of that document, the background sections of the January 3, 1994, interim and proposed rule documents were applicable except where otherwise required by a change set forth in that document.

After publication of the May 5, 1995, notice of proposed rulemaking, additional issues came to the attention of Customs that warrant publication of additional proposed changes to the interim regulatory texts published in T.D. 94-4, with opportunity for public comment thereon. Final action on the additional proposals set forth herein will be reflected in the single final rule document intended, as stated in the May 5, 1995, document, to cover both the T.D. 94-4 interim regulations and the proposals set forth in the May 5, 1995, document. Since the present document sets forth proposals that are