

the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately \$60 an hour. Parts cost approximately \$158 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$79,750. This figure is based on the assumption that no owner/operator of the affected airplanes has relocated the gascolator and electric fuel pump.

Maule has informed the FAA that enough parts have been distributed to accomplish the relocation on 2 of the affected airplanes. Assuming that each owner/operator that received parts has accomplished the proposed relocation, the cost impact upon the public would be reduced by \$1,276 from \$79,750 to \$78,474.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

**Maule Aerospace Technology, Inc.:** Docket No. 95-CE-22-AD. Applicability: The following airplane models and serial numbers, certificated in any category, that have Dual Exhaust System 5230F installed:

Model	Serial Numbers
M-4-210 .....	1001 through 1045.
M-4-210C .....	1001C through 1080C.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplanes from the applicability of this AD.

**Compliance:** Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent an airplane engine fire caused by the close proximity of the fuel gascolator and electric fuel pump to the exhaust system, accomplish the following:

(a) Relocate the gascolator and fuel pump from above the air egress to the left-side of the airplane in accordance with Maule Service Bulletin No. 10, dated September 16, 1994.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Maule Aerospace Technology, Inc., Lake Maule, Route 5, Box 318, Moultrie, Georgia 31768; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on July 5, 1995.

**Henry A. Armstrong,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 102

RIN 1515-AB19; RIN 1515-AB34

#### Rules for Determining the Country of Origin of a Good for Purposes of Annex 311 of the North American Free Trade Agreement; Rules of Origin Applicable to Imported Merchandise

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** On May 5, 1995, Customs published in the **Federal Register** a notice of proposed rulemaking that set forth proposed amendments to the interim Customs Regulations, published in the **Federal Register** on January 3, 1994, as T.D. 94-4, which established the rules for determining when the country of origin of a good is one of the parties to the North American Free Trade Agreement for purposes of Annex 311 of that Agreement and republished, with some modifications, proposed amendments to the Customs Regulations to set forth uniform rules governing the determination of the country of origin of imported merchandise, which had also been published in the **Federal Register** on January 3, 1994. This document sets forth additional proposed amendments to the T.D. 94-4 interim regulations that were omitted from the May 5, 1995, notice of proposed rulemaking. Final action on the additional proposals set forth in this document will be included in the final action taken on the T.D. 94-4 interim regulations as discussed in the May 5, 1995, document.

**DATES:** Comments must be received on or before August 28, 1995.

**ADDRESSES:** Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court,

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

in addition to the proposed changes to the T.D. 94-4 interim regulations contained in the May 5, 1995, proposed rule document, the background section of that May 5, 1995, document is applicable for purposes of this document except where otherwise required by a change set forth herein. Comments submitted in response to this document will be accepted and considered only to the extent that they address specific proposals set forth herein; comments submitted in regard to matters raised in the May 5, 1995, proposed rule document that are not related to a specific proposal contained herein will remain subject to the public comment period specified in that earlier document. The additional proposed changes set forth in this document are discussed below.

#### Additional Proposed Changes to the Interim Texts

##### *Subheadings 3808.10 and 3808.20-3808.90 (Insecticides, Fungicides, Herbicides, Rodenticides, and Pesticides)*

The interim rule for subheading 3808.10 allows a change to this subheading from any other subheading, except from subheading 1302.14, 2916.19 or 2917.19. On the other hand, the interim rule for subheadings 3808.20 through 3808.90 allows a change to these subheadings from any other subheading, including any subheading within the group. Except in the case of mixtures of two or more active ingredients of Chapter 28 or 29, the production process for goods of heading 3808 involves standardized dilution. The bulk insecticide, fungicide, herbicide, rodenticide, or pesticide of Chapter 28 or 29, *i.e.*, the active ingredient, is diluted with inert ingredients or solvents and packaged for retail sale. However, the essential character of these products of heading 3808 is imparted by the bulk organic chemical compounds of Chapter 28 or 29. Therefore, it is proposed to revise the rules for subheadings 3808.10, 3808.20, 3808.30 and 3808.90 to disallow changes, to products of heading 3808 consisting of only one active ingredient, from insecticides, fungicides, herbicides, rodenticides, or pesticides of Chapter 28 or 29 (the rule for disinfectants of subheading 3808.40 would remain the same as in the interim texts). This proposed change makes clear that Customs is maintaining its longstanding position that origin changes will not result from the mere dilution, with inert ingredients, of these chemicals which are classified in bulk, undiluted form in Chapter 28 or 29,

whether or not the standardized dilution is coupled with packaging for retail sale. See, *e.g.*, HRL 555604 dated March 29, 1990. In fact, operations consisting of "mere dilution with water or another substance that does not materially alter the characteristics of the material" and "simple \* \* \* packaging without more than minor processing", are already identified under interim § 102.17 as non-qualifying operations, and thus any tariff shifts resulting solely from the operations described above would not confer origin. Hence, these proposed changes merely clarify and make more predictable the origin results that would be reached in the tariff shift circumstances described above.

In addition, in the case of a mixing of different types of active ingredients of Chapter 28 or 29 which become a product of subheading 3808.30 or 3808.90, it is further proposed to revise the rules for these subheadings to also allow a change from any other subheading in cases where a Chapter 28 or 29 ingredient of domestic origin constitutes no less than 40 percent by weight of the total Chapter 28 or 29 chemical compound.

#### *New Chapter 72 Note*

It is proposed to add a Note to the Chapter 72 rules to allow a change of origin as a result of cold reduction (cold rolling) of hot-rolled, flat-rolled steel products. Cold reduction is a cold-working process which causes a significant reduction in the thickness of hot-rolled, flat-rolled products and which changes the crystalline structure of the steel product by elongating it. As consistently expressed in rulings issued over the past 10 years, it is the position of Customs that this operation results in a substantial transformation of the hot-rolled, flat-rolled steel product. Thus, under the foregoing circumstances, notwithstanding the specific tariff shift rules for these goods, when cold-rolled steel is produced from cold reduction of hot-rolled, flat-rolled steel, the country of origin of the steel product will be the country in which the cold reduction (cold rolling) process occurred.

#### Comments

Before adopting the proposed amendments as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days

between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

#### Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

#### Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

#### Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

#### List of Subjects in 19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

#### Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend part 102, Customs Regulations (19 CFR part 102), as set forth below.

#### PART 102—RULES OF ORIGIN

1. The authority citation for part 102 is revised to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624, 3314.

2. In § 102.20, the table is amended by removing the entry for HTSUS 3808.20-3808.90 under Section VI, by adding a Chapter 72 Note under Section XV, and by adding and revising the following HTSUS entries in numerical order to read as follows:

#### § 102.20 Specific rules by tariff classification.

* * * * *	* * * * *
HTSUS	Tariff shift and/or other requirements
* * * * *	* * * * *
3808.10	A change to subheading 3808.10 from any other subheading, except from subheading 1302.14 or from any insecticide of Chapter 28 or 29.

HTSUS	Tariff shift and/or other requirements
3808.20	A change to subheading 3808.20 from any other subheading, except from fungicides of Chapter 28 or 29.
3808.30	A change to subheading 3808.30 from any other subheading, except from herbicides, antisprouting products and plant-growth regulators of Chapter 28 or 29; or A change to a mixture of subheading 3808.30 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes no less than 40 percent by weight of the total active ingredients.
3808.40	A change to subheading 3808.40 from any other subheading.
3808.90	A change to subheading 3808.90 from any other subheading, except from rodenticides and other pesticides of Chapter 28 or 29; or A change to a mixture of subheading 3808.90 from any other subheading, provided that the mixture is made from two or more active ingredients and a domestic active ingredient constitutes no less than 40 percent by weight of the total active ingredients.

\* \* \* \* \*

**Chapter 72 Note:** Notwithstanding the specific rules of this chapter, hot-rolled flat-rolled steel which is cold-reduced (by cold rolling) shall be treated as a good of the country in which the cold-rolled steel is produced.

\* \* \* \* \*

**George J. Weise,**  
*Commissioner of Customs.*

Approved: June 19, 1995.

**John P. Simpson,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 95-17064 Filed 7-11-95; 8:45 am]  
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**19 CFR Part 162**

RIN 1515-AB72

**Search Warrants**

**AGENCY:** U.S. Customs Service, Department of the Treasury.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations by removing a regulation limiting the authority of Customs officers to whom search warrants are issued. The current regulation restricts such officers from removing letters, documents and other

records in certain circumstances. The regulation is inconsistent with the current state of the law.

**DATES:** Comments must be received on or before September 11, 1995.

**ADDRESSES:** Written comments (preferably in triplicate) may be submitted to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, 1099 14th Street NW., Suite 4000, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Lars-Erik Hjelm, Office of the Chief Counsel (202-927-6900).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 162.14, Customs Regulations (19 CFR 162.14) provides that Customs officers to whom a search warrant is issued may not remove letters, other documents and records, unless such letters, other documents and records are instruments of crime which are seized pursuant to a lawful arrest. The authority for this regulation, which has been in effect since at least 1915, is 19 U.S.C. 1595. Until 1986, section 1595 only authorized Customs to obtain warrants for merchandise.

In 1986, section 1595 was expanded to allow Customs to seize “\* \* \* any document \* \* \* which is evidence of a violation of \* \* \* any law enforced or administered by the United States Customs Service.” Public Law 99-570, October 27, 1986.

Another statute indicating that the authority of Customs officers with warrants to seize documents has expanded is 19 U.S.C. 1589a(2). This statute makes it clear that Customs officers have authority for any warrant, including a Federal Rules of Criminal Procedure Rule 41 warrant. A Rule 41 warrant can be issued for documents constituting evidence of crimes. See Public Law 98-573, October 30, 1984; Fed. R. Crim. Proc. Rule 41. The sources cited clearly indicate Congress’ intent to provide Customs with the authority to search for and seize documentary evidence.

The Supreme Court has made it clear that officers may seize incriminating evidence in plain view during the course of a lawful search. See *United States v. Thompson*, 495 F. 2d 165 (D.C. Cir. 1974); *United States v. Michaelian*, 803 F. 2d 1042 (9th Cir. 1986). Also see *Horton v. California*, 496 U.S. 128 (1990), in which the Supreme Court held that the Fourth Amendment does

not prohibit the warrantless seizure of evidence in plain view even though the discovery of the evidence was not inadvertent. Although inadvertence is a characteristic of most legitimate plain-view searches, it is not a necessary condition.

**Proposal**

Inasmuch as § 162.14, Customs Regulations, no longer reflects the state of the law regarding the search and seizure authority of Customs officers, Customs intends to delete § 162.14 from the Customs Regulations.

**Comments**

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Suite 4000, 1099 14th Street NW., Washington, DC.

**Authority:** This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 66, 1624.

The Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and based upon the information set forth above, it is certified that the proposed change in the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed change is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

This document does meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

**Drafting Information**

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

**George J. Weise,**  
*Commissioner of Customs.*

Approved: June 20, 1995.

**John P. Simpson,**  
*Deputy Assistant Secretary of the Treasury.*  
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