

Service to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed forty-eight hours, in order to permit assumption of custody by the Service.

(5) *Financial responsibility for detention.* No detainer issued as a result of a determination made under this chapter shall incur any fiscal obligation on the part of the Service, until actual assumption of custody by the Service, except as provided in paragraph (a)(4) of this section.

Date: March 2, 1988.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 88-5767 Filed 3-21-88; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-ANE-26; Amdt. 39-5860]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation (Formerly Detroit Diesel Allison) Allison Model 250-C30 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Allison Model 250-C30 series engines. The AD requires daily post flight check of Gas Producer Support Pressure Oil Tube Assembly P/N 23037410 or P/N 6892825 until P/N 23037410 is replaced with Tube Assembly P/N 23038235, or P/N 6892825 is replaced with Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235. These replacements are required not later than April 15, 1988, and July 1, 1988, respectively. The AD is needed to prevent possible loss of engine oil during operation and subsequent in-flight shutdown.

DATES: Effective—March 30, 1988.

Compliance required as prescribed in body of AD, unless already accomplished.

Incorporation by Reference—Approved by the Director of the Federal Register as of March 30, 1988.

ADDRESSES: The applicable Commercial Engine Bulletin (CEB) may be obtained from Allison Gas Turbine Division,

General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of the CEB is contained in the Rules Docket, Office of Regional Counsel, Federal Aviation Administration, New England Region, Attn: Rules Docket No. 87-ANE-26, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: There have been reports of the Gas Producer Support Pressure Oil Tube Assembly, P/N 6892825, which supplies oil to the number 8 bearing, cracking on certain model 250-C30 series engines. This condition on occasions has resulted in loss of engine oil/pressure and the necessity for a pilot initiated in-flight shutdown. An initial Tube Assembly replacement, P/N 23037410, had a dimensional problem and is being superseded by P/N 23038235.

Since this condition is likely to exist or develop on other engines of the same type design, an AD is being issued which requires daily post flight check of the Gas Producer Support Pressure Oil Tube Assembly, P/N 23037410 or P/N 6892825, until P/N 23037410 is replaced with Tube Assembly P/N 23038235 or P/N 6892825 is replaced with a new number 8 Bearing Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235. These replacement actions are required not later than April 15, 1988, and July 1, 1988, respectively.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this proposed regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures

(44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Allison Gas Turbine Division, General Motors Corporation (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250-C30 Series engines installed in, but not limited to, Sikorsky Model S-76A, Bell Model 206L-3, Bell Model 206L-1, modified to incorporate the Allison 250-C30 engine, Aerospatiale Model AS-350D "ASTAR" modified to incorporate the Allison 250-30M engine, and McDonnell Douglas Helicopter Company (Hughes) Model 369F and 369FF aircraft.

The following engine models and turbine serial numbers are affected:

Engine model	Turbine serial number
250-C30	CAT 90001 thru 90683, 95001 thru 95600.
250-C30S	CAT 90001 thru 90683, 95001 thru 95600.
250-C30M	CAT 95001 thru 95600.
250-C30P	CAT 95001 thru 95600, 97501 thru 97550.
250-C30L	CAT 95001 thru 95600, 97501 thru 97550.
250-C30R(T703-AD-700).	AT 19001 thru 19140.

Except: Existing model 250-C30 series engines which have incorporated Part II or III of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent.

Compliance is required as indicated, unless already accomplished.

To prevent possible cracks of the Gas Producer Support Pressure Oil Tube Assembly, P/N 6892825, or P/N 23037410, from progressing to where a loss of engine oil could cause an in-flight shutdown, accomplish the following:

(a) Following the last flight of each day after the effective date of this AD, until compliance with paragraph (b) or (c) is accomplished, check for oil leaks and, if a leak is found remove before further flight the Gas Producer Support Pressure Oil Tube Assembly, P/N 23037410 or P/N 6892825, in accordance with Part I of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent.

Note.—The checks required above may be performed by the pilot and must be recorded in accordance with FAR Section 43.9.

(b) Replace Gas Producer Support Pressure Oil Tube Assembly P/N 23037410 with P/N 23038235 or FAA approved equivalent in accordance with Part II of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, not later than April 15, 1988.

(c) Replace Gas Producer Support Pressure Oil Tube Assembly P/N 6892825 with number 8 Bearing Pressure Oil Fitting Assembly, P/N 23035275, and Tube Assembly, P/N 23038235, or FAA approved equivalents in accordance with Part III of Allison Commercial Engine Alert Bulletin 250-C30, CEB-A-72-3165, dated August 31, 1987, or FAA approved equivalent, not later than July 1, 1988.

(d) Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FAR) 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

(f) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office may adjust the compliance time specified in this AD.

Allison Commercial Engine Alert Bulletin 250-C30 CEB-A-72-3165 dated August 31, 1987, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, Indiana 46206-0420. This document also may be examined at the office of Regional Counsel, Federal Aviation Administration, Attn: Rules Docket No. 87-ANE-26, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective March 30, 1988.

Issued in Burlington, Massachusetts, on February 17, 1988.

Gary W. Tucker,

Acting Director, New England Region.

[FR Doc. 88-6146 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASO-21]

Designation of Transition Area; Nashville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Nashville, Georgia, transition area to accommodate instrument flight rule (IFR) operations at the Berrien County Airport. This action lowers the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure has been developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

EFFECTIVE DATE: 0901 UTC, May 1, 1988.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On January 6, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating the Nashville, Georgia, transition area (53 FR 2503). This action will provide additional controlled airspace in the vicinity of the Berrien County Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Nashville, Georgia, transition area and lowers the base of controlled airspace in the vicinity of the Berrien County Airport from 1,200 feet to 700 feet above the surface.

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Nashville, Georgia [New]

That airspace extending upward from 700 feet above the surface within a six-mile radius of the Berrien County Airport (latitude 31°12'45" N, longitude 83°13'40" W).

Issued in East Point, Georgia, on March 8, 1988.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 88-6147 Filed 3-21-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 10, 18, 24, 122, 123, and 162

[T.D. 88-12]

Air Commerce Regulations

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

ACTION: Final rule.

SUMMARY: As part of the general revision of the Customs Regulations,

Customs is revising its rules relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft. This revision sets forth the general Customs requirements applicable to all air commerce. It is presented in a new format and includes changes or additions in language to clarify various provisions and to make some minor substantive changes.

EFFECTIVE DATE: April 21, 1988.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Larry L. Burton, Carrier Rulings Branch (202-566-5706).

Operational Aspects: Glenn Ross, Office of Inspection and Control (202-566-5607).

SUPPLEMENTARY INFORMATION:

Background

Customs has undertaken to review and revise selected parts of the Customs Regulations contained in Chapter I, Title 19, Code of Federal Regulations (19 CFR Ch. I), with the objective of reducing and/or eliminating, to the fullest extent possible, obsolete and unnecessary regulatory requirements. This action was mandated by the Regulatory Flexibility Act, and by the Treasury Department Regulatory Flexibility Review Plan which appeared in the *Federal Register* on April 14, 1982 (47 FR 16033). As stated in a notice published by Customs in the *Federal Register* on June 10, 1983 (48 FR 26831), Part 6, Customs Regulations (19 CFR Part 6), is one of those which has been scheduled for revision under the Treasury plan. Before making this revision, Customs published a notice in the *Federal Register* on July 26, 1985 (50 FR 30455), describing the changes to be made and inviting public comments. The comments and our analysis are contained in this document.

The revised Part 6, redesignated as Part 122, sets forth all air commerce regulations administered by Customs in a clearly stated new format, which incorporates both current provisions and substantive changes. The major changes from the long-standing air commerce regulations are deletion of the requirements that American-flag aircraft report foreign repairs and pay duty (a change resulting from a provision of the Trade Agreements Act of 1979), and the inclusion of a subpart dealing with requirements relating to aircraft liquor kits. The revision also contains regulatory amendments concerning overflight exemptions and reporting requirements which was published as T.D. 86-72 in the *Federal Register* of March 31, 1986 (51 FR 11004), and T.D. 87-42 published in the *Federal Register* on March 30, 1987 (52 FR 10047).

requirements for access to Customs security areas published as T.D. 86-174 in the *Federal Register* on September 12, 1986 (51 FR 32448), and elimination of the now defunct international airport at Portal, North Dakota.

Additionally, amendments necessitated by the revision of the Customs bond structure published as T.D. 84-213 in the *Federal Register* on October 19, 1984 (49 FR 41152), have been incorporated into this revision.

We are aware of the impact of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570), upon the penalty provisions of the air commerce regulations. Potentially extensive amendments are beyond the scope of this general revision and clarification of existing provisions. Accordingly, any necessary amendments in this regard will be subject of a separate document.

Revised Part 122 is divided into 17 subparts. Following is information concerning the origins of the various sections as well as a discussion of the major changes in each of the subparts.

Section 122.0 is new and sets forth in general terms the scope and geographic applicability of the revised part.

Subpart A—General Definitions and Provisions

1. Section 122.1(a) substitutes the statutory definition of "aircraft" from 49 U.S.C. 1301(5) for the present narrower definition of "civil aircraft."

2. Section 122.1(b) is unchanged from § 6.1(e).

3. Section 122.1(c) revises § 6.1(g) by substituting the word "agent" for the phrase "authorized person (authorized agent of an owner or operator)."

4. Section 122.1(d) is new and clarifies the difference between commercial and non-commercial (private and public) flights.

5. Section 122.1(e) clarifies § 6.1(h).

6. Section 122.1(f) is new and defines, for the first time, a "landing rights airport."

7. Section 122.1(g) is a rephrasing of § 24.18.

8. Section 122.1(h) is new and defines "private aircraft."

9. Section 122.1(i) is new and defines "public aircraft."

10. Section 122.1(j) is new and defines "residue cargo." The definition is loosely derived from § 6.9(a).

11. Section 122.1(k) is a rephrasing of § 6.1(f).

12. Section 122.1(l) combines § 6.1 (b) and (c) and includes Puerto Rico in the definition of "United States."

13. Section 122.2 is largely unchanged from § 6.10.

14. Section 122.3 is a rephrasing of § 6.6(b).

15. Section 122.4 is a rephrasing of § 6.6(a).

16. Section 122.5 significantly revises the specific requirements for reproduction of Customs forms found in § 6.6(a).

Subpart B—International Airports

1. Section 122.11(a) rephrases § 6.12 (a), (b) and (d).

2. Section 122.11(b) is a rephrasing of § 6.12(c).

3. Section 122.11(c) is a rephrasing of § 6.12(e).

4. Section 122.12(a) is a restatement of § 6.12(f).

5. Section 122.12(b) is a restatement of § 6.12(g).

6. Section 122.12(c) is a restatement of § 6.12(h).

7. Section 122.12(d) is a restatement of § 6.12(i) with deletion of the reference to "Area."

8. Section 122.13 is unchanged from § 6.13.

9. Section 122.14 is new and is based upon T.D. 86-174, published in the *Federal Register* on September 12, 1986 (51 FR 32448).

Subpart C—Private Aircraft

1. Section 122.21 is new and makes the subpart applicable to all private aircraft.

2. Section 122.22 makes the landing requirements in § 122.31 applicable to private aircraft.

3. Section 122.23(a) is new and is based upon definitions found in the Department of Transportation regulations relating to exemptions for air taxi operations (14 CFR Part 298).

4. Section 122.23 (b) and (c) is a restatement of § 6.14(a) as amended by T.D. 86-22, published in the *Federal Register* on March 31, 1986 (51 FR 11004).

5. Section 122.24 (a) and (b) is a restatement of § 6.14 (d) and (g).

6. Section 122.25 (a), (b), (c), (d) and (e) is a restatement of § 6.14(f), as amended by T.D. 86-72 and T.D. 87-42.

7. Section 122.26 is new and exempts private aircraft from entry and clearance requirements.

8. Section 122.27 is partially new and partially a restatement of § 148.5. It sets forth the documentation necessary for declaring baggage and cargo upon arrival of a private aircraft, as well as documentation and requirements for departing with certain cargo not for hire.

9. Section 122.28 is based upon § 148.32 and relates to a U.S. resident returning a private aircraft to the U.S. which has been taken abroad for non-commercial purposes.

10. Section 122.29 is new and sets forth the changes and procedures

relating to overtime services rendered by Customs in connection with an arriving private aircraft. The section is based in part upon § 24.16.

11. Section 122.30 is based upon §§ 6.10 and 6.11, and lists other regulatory requirements applying to private aircraft.

Subpart D—Landing Requirements

1. Section 122.31(a) contains a complete rewording and restructuring of § 6.2(b)(1) and sets forth reporting requirements for all non-excepted aircraft arriving from outside the U.S. Exceptions appear in § 122.31(b).

2. Section 122.31(b) is based upon § 6.2(b)(3).

3. Section 122.31(c)(2) is based upon § 6.2(b)(2).

4. Section 122.31(d) is based upon § 6.2(b)(4).

5. Section 122.31(e) is based upon § 6.2(b)(5).

6. Section 122.31(f) is based upon the second sentence of § 6.2(b)(1).

7. Section 122.32 is based upon the first sentence of § 6.2(a).

8. Section 122.33 is based upon the second sentence of § 6.2(a). The revision adds reference to two other sections relating to alternative landing sites.

9. Section 122.34 is based upon the last three sentences of § 6.2(a).

10. Section 122.35 is based upon § 6.2(h).

11. Section 122.36 is based upon § 6.2(b)(6).

12. Section 122.37 is based upon present § 6.2(h).

13. Section 122.38(a) is based upon the sentence of present § 6.2 (e) and (f).

14. Section 122.38(b) is based upon § 6.2 (e) and (f).

15. Section 122.38(c) is based upon § 6.2 (e) and (f).

16. Section 122.38(d) is based upon § 6.2 (e) and (f) and provides exceptions for the need to obtain a permit or special license for each arrival or departure.

17. Section 122.38(e) is based upon § 6.2(g).

18. Section 122.38(f) is new and is based upon Customs Circular INS-2-EV, dated 12/14/61, and provides the procedure for requesting automatic renewal of permits and special licenses.

Subpart E—Aircraft Entry and Entry Documents

1. Section 122.41 is based upon §§ 6.3(a), 6.4(a) and (b), and 6.9(c).

2. Section 122.42 is based upon §§ 6.3(b), 6.4(c), and 6.7.

Note: Much of the remainder of Subpart E is based upon § 6.7. It covers all of the various forms required for entry. The revision is structured so that each required form is treated in a separate section.

3. Section 122.43(a) and (c) is based upon § 6.7(a) and (b).

4. Section 122.43(b) is based upon Customs Circular Air-4-ICS, dated 1/24/68, and permits entry upon presentation of an air cargo manifest in lieu of a general declaration.

5. Section 122.44 is new and is based upon Customs Circular BAG-3-CO (AIR-4-AIR), dated 8/9/65. It states that aircraft crewmembers arriving from a foreign area must file a crew baggage declaration as provided in Subpart G, Part 148, Customs Regulations (19 CFR Part 148).

6. Section 122.45 is based upon § 6.7(b)(1) and substitutes "crew list" for "crew manifest."

7. Section 122.45(d) is based upon Customs Circular BAG-3-CO, dated 8/9/65, and sets forth requirements for crewmembers returning as passengers.

8. Section 122.46(a) is based upon § 6.7(b)(2). The qualifying phrase "for any aircraft required to enter by § 122.41" is added.

9. Section 122.46(b) is based upon the last sentence of § 6.7(b)(2), as well as Customs Circular AIR-4-ICS, dated 1/24/68. The section includes a cross-reference to Subpart G, Part 148, Customs Regulations (19 CFR Part 148).

10. Section 122.46(c) is based upon the second and third sentences of § 6.7(b)(2). The reference to "attached list" is replaced by "crew purchase list."

11. Section 122.47(a) is based upon § 6.7(f).

12. Section 122.47(b) is based upon § 6.7(f).

13. Section 122.47(c)(1) is based upon § 6.7(b)(3)(v).

14. Section 122.47(c)(2) is based upon § 6.7(b)(3)(v) and (vi), and includes major changes. The section specifies that "other domestic supplies" may be omitted from the stores list when an appropriate statement appears on the manifest or stores list. Further, the statement "Aircraft of scheduled airline" is deleted, thus being made applicable to all aircraft required to enter.

15. Section 122.47(d) is based upon § 6.7(f).

Note: Section 122.48 is taken from § 6.7(b)(3). Subparagraphs (v) and (vi) are included in proposed § 122.47(c).

16. Section 122.48(a) is based upon § 6.7(b)(3), and the phrase "for any aircraft required to enter under § 122.41" is added for clarification.

17. Section 122.48(b) is based upon § 6.7(b)(3). There is no substantive change except as concerns the requirement that company mail be listed on the cargo manifest.

18. Section 122.48(c) is based upon § 6.7(b)(3), with the words "duty free" inserted for clarity.

19. Section 122.48(d) is based upon § 6.7(b)(3)(vii), as amended by T.D. 84-128, published in the Federal Register on June 4, 1984 (49 FR 23038).

20. Section 122.48(e) is new and is based upon Customs Circular AIR-7-IEI, dated 1/31/72. This section concerns accompanied baggage in transit.

21. Section 122.49(a) is based upon § 6.7(h)(1) and (2).

22. Section 122.49(b) is based upon § 6.7(h)(1) and (3), as well as § 4.12(a). The sections were combined and put in outline form, making it unnecessary to continually refer back to Part 4, Customs Regulations (19 CFR Part 4), to check the applicability of the vessel regulations to aircraft.

23. Paragraphs (c), (d), (e), and (f) of § 122.49 are based upon §§ 6.7(h) and 4.12. The comments relating to § 122.49(b) apply to these paragraphs as well.

Note: All reference to the applicability of the vessel repair statute (19 U.S.C. 1466) to repairs made to aircraft, currently reflected in § 6.7(d) and (e), are deleted in Part 122 due to enactment of the Trade Agreements Act of 1979 (Title 6, section 601(a)(3), Pub. L. 96-39), which relieved aircraft from the duty provisions of 19 U.S.C. 1466.

Subpart F—International Traffic Permit

1. Section 122.51 is based upon § 6.2(d)(3). The word "civil" is deleted and the phrase "passengers carried for hire or merchandise" is replaced by the word "commercial."

2. Section 122.52(a) is based upon § 6.2(d)(3). The word "civil" is deleted and the term "commercial aircraft" replaces the term "international traffic."

3. Section 122.52(b) is based upon § 6.2(d)(3).

4. Section 122.52(c) is based upon the last two sentences of § 6.2(d)(3). The term "international traffic" has been changed to "commercial aircraft."

5. Section 122.53 is new and is based upon the Federal Aviation Administration regulations (14 CFR 121.153).

6. Section 122.54 (a) and (b) is based upon § 6.2(d)(1). The term "or agent" is added to paragraph (b), and necessary information is listed for inclusion on Customs Form 7507 (Permit to Proceed).

7. Section 122.54(c) is based upon § 6.2(d)(1).

8. Section 122.54 (d), (e) and (f) is based upon § 6.2(d)(1).

9. Section 122.54(g) is based upon § 6.2(d)(2).

Subpart G—Clearance of Aircraft and Permission to Depart

1. Section 122.61 is based upon § 6.3(c) and includes a general statement covering all aircraft except public and private.

2. Section 122.62 (a), (b) and (c) is based upon the third, fourth, and fifth sentences of § 6.3(c), and names those aircraft not otherwise required to clear.

3. Section 122.63(a) is based upon § 6.5(c).

4. Section 122.63(b) is based upon § 6.5(c).

5. Section 122.64 is based upon § 6.3(d) and is largely a restatement of § 122.63 (a) and (b), but deals with aircraft not using the procedure outlined therein.

6. Section 122.65 is new and provides that aircraft commanders must notify Customs if departure is delayed or cancelled after the aircraft has been cleared or given permission to depart.

Subpart H—Documents Required for Clearance and Permission to Depart

1. Section 122.71 is based upon § 6.8(a) and rephrases the telephonic clearance procedures, added by T.D. 82-92, published in the *Federal Register* on May 14, 1982 (47 FR 20750).

2. Section 122.72 is based upon § 6.8(a).

3. Section 122.73 is based upon § 6.8(b) and T.D. 82-92, and concerns the form and preparation of air cargo manifests.

4. Section 122.74(a) is based upon § 6.8(a) and the Bureau of the Census regulations (15 CFR 30.24). The term "Customs officer in charge" is changed to "district director."

5. Section 122.74(b) is based upon § 6.8(a). The term "Customs officer in charge" is changed to "district director."

6. Section 122.74(c) is based upon § 6.8(a) and 15 CFR 30.24(a).

7. Section 122.74(c)(1) is based upon § 6.8(a) and 15 CFR 30.24(a), and concerns shipments to foreign countries.

8. Section 122.74(c)(2) is based upon § 6.8(e) and 15 CFR 30.24(a)(1), and concerns shipments to and from Puerto Rico.

9. Section 122.74(c)(3) is based upon § 6.8(a) and 15 CFR 30.24(a)(1), and concerns shipments to U.S. possessions.

10. Section 122.74(d) is based upon § 6.8(e). The phrase "or all required cargo documents will be filed within the 7-day bond period" is added.

11. Section 122.75(a) (1) and (2) is based upon § 6.8(e) and 15 CFR 30.21(b), and concerns the contents of a complete air cargo manifest.

12. Section 122.75(b) is based upon the third and fourth sentences of § 6.8(e).

13. Section 122.76 is based upon § 6.8(a) and 15 CFR 30.1, and sets forth the requirements for Shipper's Export Declarations.

14. Section 122.77 is based upon § 6.8(d).

15. Section 122.78 is based upon § 6.8(c). The phrase "cargo manifest" replaces "outward manifest."

16. Section 122.79(a) is based upon §§ 6.5(b) and 6.3(c), and concerns shipments to U.S. possessions, other than Puerto Rico.

17. Section 122.79(b) is based upon §§ 6.5(b) and 6.3(c), and concerns manifest requirements on direct flights to Puerto Rico.

18. Section 122.80 is based upon § 6.8(e), and concerns verification by Customs of statements made on shipping records.

Subpart I—Procedures for Residue Cargo and Stopover Passengers

1. Section 122.81 is based upon § 6.9(a).

2. Section 122.82 is based upon §§ 6.9(a), 4.85(a), 113.13 (a) and (b), and 113.61, and details the bond requirement for aircraft seeking a permit to proceed while carrying residue cargo.

3. Section 122.83(a) is based upon § 6.9(b), footnote 6. The term "area" is deleted, and the phrase "an authorized person" is replaced by the word "agent."

4. Section 122.83(b) is based upon § 6.9(b), and includes a provision for crew purchases and stores lists, as well as alternate procedures for unlisted items.

5. Section 122.83(c) is based upon § 6.9(b). The clarifying phrase "An abstract general declaration and manifest need not be filed at the last domestic port of discharge" is added.

6. Section 122.83(d) is based upon § 6.9(b), and relates to the contents of a permit to proceed. The word "agent" replaces the phrase "authorized person", and the phrase "Customs officer in charge" replaces "appropriate Customs officer."

7. Section 122.83(e) is based upon § 6.9, and includes a reproduction of Customs Form 7512-C, Permit to Proceed.

8. Section 122.83(f) is based upon § 6.9(b). The phrase "The documents presented by the aircraft commander or authorized person when applying for clearance shall be delivered to the aircraft commander" is replaced by " * * * must be delivered to aircraft commander or agent." The word "agent" replaces the phrase "authorized person."

9. Section 122.84(a) and (b) is based upon § 6.9(c).

10. Section 122.84(c) is based upon § 6.9(c). The section provides that

declarations are to be detached by Customs.

11. Section 122.84(d) is based upon § 6.9(c), and concerns departure from an intermediate airport.

12. Section 122.85 is based upon § 6.9(d). It concerns arrival at the final airport.

13. Section 122.86 is new and is based upon Customs Circular AIR-7-EV, dated 11/23/59. It concerns the substitution of aircraft under the residue cargo procedures.

14. Section 122.87 is based upon § 6.9(e).

15. Section 122.88 is based upon § 6.9(f).

Subpart J—Transportation in Bond and Merchandise in Transit

1. Section 122.91 is based upon § 6.15(a).

2. Section 122.92(a) and (b) is based upon § 6.15(b)(1) and (2).

3. Section 122.92(c) is based upon § 6.15(b)(3).

4. Section 122.92(d) is based upon § 6.15(b)(4).

5. Section 122.92(e) is based upon § 6.15(b)(5), and the phrase "aircraft of the same line" is changed to "aircraft of the same airline."

6. Section 122.92(f) is based upon the first sentence of § 6.15(b)(6).

7. Section 122.92(g) is based upon the second sentence of § 6.15(b)(6).

8. Section 122.93(a) is based upon § 6.15(c). The word "port" is changed to "airport", the phrase "authorized person" is replaced by the word "agent", and reference to appropriate Customs forms is inserted.

9. Section 122.93(b) is based upon § 6.15.

10. Section 122.94(a) is based upon § 6.16.

11. Section 122.94(b) is based upon § 6.16, and the phrase "authorized person" is replaced by the word "agent."

12. Section 122.95 is based upon footnote 9 of § 6.15(a).

Subpart K—Accompanied Baggage in Transit

1. Sections 122.101 and 122.102 are new and are based upon Customs Circular AIR-7-IEI, dated 1/31/72. These sections concern entry and inspection of accompanied baggage in transit.

Subpart L—Transit Air Cargo Manifest (TACM) Procedures

1. Section 122.111 is based upon § 6.17.

2. Section 122.112(a), (b) and (c) is based upon the definition portion of § 6.17.

3. Section 122.112(d) is based upon § 6.18(a), and defines the use of the transit air cargo manifest.

4. Section 122.113 is based upon § 6.18(a), and discusses the form used for transit air cargo manifest procedures.

5. Section 122.114(a) is based upon the last sentence of § 6.18(a), and Customs Circular AIR-EV, dated 5/8/62.

6. Section 122.114(b) is based upon the first sentence of § 6.18(b).

7. Section 122.114(b)(2) is based upon the second sentence of § 6.18(b).

8. Section 122.114(c) is based upon § 6.18(d).

9. Section 122.114(d) is based upon Customs Circular AIR-7-EV, dated 5/8/62, and concerns corrections to the route shown on the original manifest.

10. Section 122.115 is based upon § 6.18(e) and Customs Circular AIR-7-EV, dated 5/8/62. The section concerns labeling of cargo.

11. Section 122.116 is based upon § 6.19.

12. Section 122.117(a)(1) is based upon the first sentence of § 6.20(c).

13. Section 122.117(a)(2) is based upon the second sentence of § 6.20(c).

14. Section 122.117(b) is based upon § 6.20(b) and (d).

15. Section 122.117(c)(1) is based upon § 6.20(c) and concerns responsibility for direct exploration of transit air cargo.

16. Section 122.117(c)(2) is based upon the fourth sentence of § 6.20(c).

17. Section 122.117(c)(3) is based upon the last sentence of § 6.20(c). Section 122.17(c)(4) is based upon the third sentence of § 6.20(c).

18. Section 122.117(d) is based upon § 6.20(e) and concerns receipts for split shipments.

19. Section 122.118(a) is based upon § 6.24(a). All material in the section following the phrase "in the United States" is deleted and the words "under this section" are added.

20. Section 122.118(b) is based upon § 6.21(c).

21. Section 122.118(c) is based upon § 6.24 (b) and (c).

22. Section 122.118(d) is based upon § 6.24(g) with the phrase "air-carrier" being replaced by the word "airline."

23. Section 122.118(f) is based upon Customs Circular AIR-7-CO, dated 3/17/65. It concerns the exportation of post-entered air cargo.

24. Section 122.118(g) is based upon § 6.24(d).

25. Section 122.119(a) is based upon § 6.22(a).

26. Section 122.119(b) is based upon § 6.21(a).

27. Section 122.119(c) is based upon § 6.22(a) and Customs Circular TRA-1-IMS, dated 7/15/68.

28. Section 122.119(d) (1) and (2) is based upon § 6.22 (c) and (d), and concerns failure to deliver transit air cargo in a timely fashion.

29. Section 122.119(e) is new and concerns the transfer of cargo between carriers.

30. Section 122.120(a) is based upon § 6.23(a) and establishes the authority for transporting cargo to another port for exportation.

31. Section 122.120(b)(1) is based upon the first sentence of § 6.23(a).

32. Section 122.120(b)(2) is based upon the second sentence of § 6.23(c). The phrase "when the goods are ready for lading" is replaced by the phrase "when transit air cargo is ready for lading."

33. Section 122.120(c) is based upon § 6.21(b), and concerns the time limit for delivery of transit air cargo for exportation.

34. Section 122.120(d) is based upon § 6.23 and sets forth new procedures for using Customs Form 7512-C.

35. Section 122.120(e) is based upon § 6.23(b) and details the requirements for presentation of the carrier manifest copy.

36. Section 122.120(f) is based upon the first sentence of § 6.23(c).

37. Section 122.120(g) is based upon § 6.23(e).

38. Section 122.120(h) is based upon § 6.23(d). The phrase "these documents (including the clearance copies of transit air cargo manifest)" is replaced by the phrase "the exportation and clearance copies of transit air cargo manifests."

39. Section 122.120(i) is based upon § 6.23(h).

40. Section 122.120(j) is based upon § 6.23(h) and concerns cargo laden on more than one aircraft of the same airline.

41. Section 122.120(k) is based upon § 6.23(g).

Subpart M—Aircraft Liquor Kits

Note: Sections 122.131 through 122.137, the aircraft liquor kit provisions, do not appear in Part 6, Customs Regulations. The subpart is based upon Customs Circular AIR-7-AIR, dated 8/16/64.

Subpart N—Flights to and From the U.S. Virgin Islands

1. Section 122.141 is a new definition section, inserted to help clarify the subpart.

2. Section 122.142 is based upon § 6.25(a).

3. Section 122.143 is based upon § 6.25(b).

4. Section 122.144(a)(1) is based upon § 6.25(c)(1).

5. Section 122.144(a)(2) is based upon § 6.25(c)(2).

6. Section 122.144(b) is based upon § 6.25(c)(3).

7. Section 122.144(c) is based upon § 6.25(c)(4).

Subpart O—Flights to and From Cuba

Sections 122.151 through 122.158 are based upon § 6.3a, as amended by T.D. 87-77, published in the *Federal Register* on June 30, 1987. (52 FR 24291).

Subpart P—Public Aircraft

(Reserved)

Subpart Q—Penalties

1. Section 122.161 is based upon § 6.11.

2. Section 122.162 is based upon § 6.7(h).

3. Section 122.163 is based upon § 6.22(e).

4. Section 122.164 is based upon § 6.23(g).

5. Section 122.165 is new and is based upon Customs Circular AIR-4-CR, dated 11/12/72. It concerns the Air Cabotage statute, 49 U.S.C. App. 1508(b).

6. Section 122.166 is new and is based upon amendments to 19 U.S.C. 1433 and 1436.

7. Section 122.167 is new and is based upon amendments to 19 U.S.C. 1433 and 1436.

Editorial Changes

Throughout the revision, numerous editorial changes have been made to clarify and simplify the language contained in the existing air commerce regulations.

Analysis of Comments

Only six comments were received in response to the July 26, 1985, *Federal Register* notice. Of these, two were from aircraft and airline industry associations, two from Federal Government offices, one from a customs broker, and one from an aircraft importer.

Two commenters stated that the requirements in § 122.23, relating to 1-hour advance notice of penetration of U.S. airspace by private aircraft arriving from areas south of the U.S., are burdensome, and that compliance may be impossible in some instances.

As discussed in T.D. 86-72, published in the *Federal Register* on March 3, 1986 (51 FR 11004), Customs changed the notice time in § 6.14 from 15 minutes to 1 hour after very careful consideration of the effect and impact of such a change. The revised reporting time was determined to be necessary for valid enforcement reasons. If the 1-hour time period proves unworkable for some aircraft operators, Customs will consider accepting notification of intended airspace penetration when a flight plan is filed with the Federal

Aviation Administration or at any time prior to departure from the U.S.

A discussion of the other sections commented upon follows.

Section 122.2(c) (1) and (2).

(renumbered § 122.1(c) (1) and (2) in this document). Companies acting as an agent for an airline temporarily importing an aircraft for modifications, or, if a used aircraft, being traded in for a new one, should be permitted to act as an agent for the airline without holding a power of attorney or without having written authority from the airline. This comment is outside the scope of this revision. Relevant procedures for these matters are set forth in § 10.36a, Customs Regulations (19 CFR 10.36a).

Section 122.6(b). (renumbered § 122.5(b) in this document). Airlines need to have flexibility in determining the size, shape, and color of general declaration and air cargo manifest forms to conform with other private sector documents.

The requirements in § 6.6, upon which § 122.6 is based, were amended by T.D. 85-157, published in the *Federal Register* on September 19, 1985 (50 FR 37996). The amendment permits private sector printing of the forms so long as the same size, wording arrangement, style and size of type, and quality of paper are used.

Section 122.13. The list of international airports should be revised frequently.

This section is unchanged from § 6.13. The comment is not relevant to this revision. Changes to the list are made as needed.

Section 122.23(b). The requirement that advance notice of U.S. airspace penetration be made by aircraft arriving from the south, even though not touching foreign territory, is unduly burdensome.

As stated earlier in this document, the amendment to § 6.14 by T.D. 86-72 represents a necessary enforcement requirement. However, Customs will continue to accept the notification either prior to or during such a flight.

Section 122.24. Houston Intercontinental Airport should be added to the list of designated airports.

As no explanation or justification was offered, no such action will be taken at this time.

Section 122.25. The section should be changed to permit air ambulances to get single flight exemptions from special landing requirements without the necessity of notification 15 days in advance.

Such exemption may be granted in the discretion of the appropriate district director.

Section 122.27. The minimum dollar amount for which landing certificates or

copies of foreign customs entries for merchandise must be filed should be changed from \$100 to \$500.

As this suggestion has merit, it has been adopted.

Section 122.29. The question is posed as to why Customs overtime charges apply to aircraft and not to vehicles.

This is because service is provided 24 hours a day to aircraft and vessels. The service is free during normal working hours, but must be reimbursed at other times. Automobiles must arrive at Customs border stations during regular hours of operation only and no service is provided during other times.

Section 122.34. Landing rights airports should be required to provide proper office and other space for use by Federal officials.

Authority for such a requirement is found in 31 U.S.C. 9701, and airports provide the necessary space for use by the Federal Inspection Services.

Section 122.34(a)(1). The words "or his representative" should be added to the section to indicate that the regional commissioner need not personally grant landing rights.

This suggestion has been adopted.

Section 122.42. The section should be changed to permit aircraft to land for refueling only, without the need to formally enter.

As the suggestion has merit, it has been adopted. The section has been changed to set forth certain conditions which must be met for aircraft to be excepted from the entry requirement.

Section 122.46. The section, which concerns crew purchase lists, should be changed to reflect contemporary procedures.

We believe that the section is properly drafted at present because, while it is true that a crew purchase list is rarely used, the requirement should be retained as an optional procedure for crewmember declarations.

Section 122.48. The following changes were suggested: Airline company mail should be considered "baggage" without the necessity to include it on a manifest. Reference to Customs Form 5119A should be changed to 7501. The third sentence of paragraph (d) should be changed to read " * * * added to the cargo list * * *," rather than " * * * shown on the cargo manifest." Finally, the second sentence of paragraph (e) should be changed to " * * * while in transit through the U.S." instead of " * * * during the flight."

Customs believes that company mail should continue to be manifested as cargo and be subject to examination. The remaining points are well taken, and appropriate changes have been made.

Section 122.49. The section should provide for corrections made to air way bills as well as air cargo manifests.

We agree and have amended the section accordingly.

Section 122.52(c). Paragraph (c) should be changed to read, in appropriate part, " * * * carrying neither passengers nor cargo," in lieu of the words " * * * in ballast."

We agree and have made the necessary change.

Subpart F. The subpart title should be changed to avoid confusion with Subpart I.

We agree and have changed the title.

Subpart H. The subpart should include the requirements for an outward general declaration, Customs Form 7507.

This was an inadvertent omission which has been corrected.

Section 122.65. The section should include mention of a time limit within which an aircraft must depart after receiving clearance to depart.

The suggestion has been adopted and the section has been appropriately amended.

Section 122.71. The section is burdensome because it requires an aircraft to depart only from an airport where Customs officers are stationed.

This is an incorrect interpretation. Aircraft departing with no commercial export cargo may clear by telephone in advance with the district director nearest the departure place.

Section 122.83(d). The "permit to proceed" form printed in the section should be changed in two respects. First, the phrase "number of pieces of cargo not cleared" should be deleted because it has no application to aircraft which can now accommodate up to 60 breakbulk containers, and the counting of pieces is not done the same way at any two airports. Second, reference to Public Health Service (PHS) clearance should be deleted because PHS personnel no longer routinely inspect arriving passengers.

We concur in the first suggestion and have modified the form accordingly. We have contacted the PHS regarding the second suggestion and as they have no objection to deletion of the requirement, this change has also been made.

Section 122.86(d)(2). The last sentence, which reads, "No other cargo may be laden on the substitute aircraft," should be deleted.

This sentence was inserted to insure that foreign aircraft are not used in violation of the air cabotage law, prohibiting certain air transit within the U.S. However, as the Federal Aviation Administration, which is responsible for

this requirement, did not object to the suggestion, the change has been made.

Section 122.92 (a) and (b). Customs Form 7520, Manifest of Baggage Shipped in Bond, should be described in the section, and the requirement for submitting both the Customs Form 7512 and Customs Form 7512-C should be deleted.

Use of the CF 7520 is described in § 18.13, Customs Regulations (19 CFR 18.13), and we have added an appropriate reference to that section. In regard to the requirement that both the CF 7512 and CF 7512-C be completed for in-bond merchandise, it has been determined that the information on the CF 7512-C is easier to read and use than that on the CF 7512. Accordingly, at this time, the requirement that both forms be submitted is being retained.

Section 122.115 The warning label procedure in regard to transit air cargo not directly exported from the port of arrival is impractical and should be dropped.

Customs continues to experience problems associated with the unauthorized delivery of in-bond merchandise. Therefore, we must continue to require that the warning label be affixed to all such shipments which are not sealed.

Conforming Amendments

The revision of the air commerce regulations by elimination of Part 6, Customs Regulations (19 CFR Part 6), and the addition of a new Part 122, Customs Regulations (19 CFR Part 122), requires that certain non-substantive amendments be made to other parts of the Customs Regulations to conform them to the revised scheme. These amendments consist wholly of changing citations to Part 6 of the appropriate citations in Part 122 wherever they appear.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, U.S.C. 601 et. seq.), it is certified that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other offices participated in its development.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

Revised section	Superseded section
122.0	New.
122.1(a)	New.
122.1(b)	6.1(e).
122.1(c)	6.1(g).
122.1(d)	New.
122.1(e)	6.1(h).
122.1(f)	New.
122.1(g)	Based on 19 CFR 24.18.
122.1(h)	New.
122.1(i)	New.
122.1(j)	New.
122.1(k)	6.1(f).
122.1(l)	6.1(b), (c).
122.2	6.10.
122.3	6.6(b).
122.4	6.6(a).
122.5	6.6(a).
122.11(a)	6.12(a), (b), (d).
122.11(b)	6.12(c).
122.11(c)	6.12(e).
122.12(a)	6.12(f).
122.12(b)	6.12(g).
122.12(c)	6.12(h).
122.12(d)	6.12(i).
122.13	6.13.
122.14	6.12a.
122.21	New.
122.22	New.
122.23(a)	New.
122.23(b), (c), (d), (e)	6.14(a).
122.24(a), (b)	6.14(b), (g).
122.25(a), (b), (c), (d)	6.14(f).
122.26	New.
122.27	Based on 19 CFR 148.5.
122.28	Based on 19 CFR 148.32.
122.29	New.
122.30	6.10 and 6.11.
122.31(a)	6.2(b)(1).
122.31(b)	6.2(b)(3).
122.31(c)(2)	6.2(b)(2).
122.31(d)	6.2(b)(4).
122.31(e)	6.2(b)(5).
122.31(f)	6.2(b)(1).
122.32	6.2(a).
122.33	6.2(a).
122.34	6.2(a).
122.35	6.2(h).
122.36	6.2(b)(6).
122.37	6.2(h).
122.38(a)	6.2(e), (f).
122.38(b)	6.2(e), (f).
122.38(c)	6.2(g).
122.38(d)	6.2(e), (f).
122.38(e)	6.2(g).
122.38(f)	New. Based on Customs Circular INS-2-EV, dated 12-14-61.
122.41	6.3(a), 6.4(a), (b) and 6.9(c).
122.42	6.3(b), 6.4(c), and 6.7.
122.43(a), (c)	6.7(a), (b).
122.43(b)	New. Based on Customs Circular AIR-4-ICS, dated 1-24-68.

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

Revised section	Superseded section
122.44	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65.
122.45	6.7(b)(1).
122.45(d)	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65.
122.46(a)	6.7(b)(2).
122.46(b)	6.7(b)(2). Also based on Customs Circular AIR-4-ICS, dated 1-24-68.
122.46(c)	6.7(b)(2).
122.47(a)	6.7(f).
122.47(b)	6.7(f).
122.47(c)(1)	6.7(b)(3)(v).
122.47(c)(2)	6.7(b)(3)(v), (vi).
122.47(d)	6.7(f).
122.48(a), (b), (c), (d)	6.7(b)(3).
122.48(e)	New. Based on Customs Circular ATR-7-IEI, dated 1-31-72.
122.49(a)	6.7(h)(1), (2).
122.49(b), (c), (d), (e), (f)	6.7(h)(1), (3). Also based on 19 CFR 4.12(a).
122.51	6.2(d)(3).
122.52(a), (b), (c)	6.2(d)(3).
122.52(d)	6.2(d)(3)(ii). Also based on T.D. 55063(1), dated 3-4-60.
122.53	New. Based on 14 CFR 121.153.
122.54(a), (b), (c), (d), (e), (f)	6.2(d)(1).
122.54(g)	6.2(d)(2).
122.61(a)	6.3(c).
122.62(a), (b), (c)	6.3(c).
122.63(a), (b)	6.5(c).
122.64	6.3(d).
122.65	New.
122.71	6.8(a).
122.72	6.8(a).
122.73	6.8(b). Also based on T.D. 82-92, dated March 22, 1982.
122.74(a)	6.8(a). Also based on 15 CFR 30.24.
122.74(b)	6.8(a).
122.74(c)	6.8(a). Also based on 15 CFR 30.24(a).
122.74(c)(1)	6.8(a). Also based on 15 CFR 30.24(a).
122.74(c)(2)	6.8(e). Also based on 15 CFR 30.24(a)(1).
122.74(c)(3)	6.8(a). Also based on 15 CFR 30.24(a)(1).
122.74(d)	6.8(e).
122.75(a)(1), (2)	6.8(e). Also based on 15 CFR 30.21(b).
122.75(b)	6.8(e).
122.76	6.8(a). Also based on 15 CFR 30.1.
122.77	6.8(d).
122.78	6.8(c).
122.79(a), (b)	6.3(c) and 6.5(b).
122.80	6.8(e).
122.81	6.9(a).
122.82	6.9(a). Also based on 19 CFR 4.85(a), 19 CFR 113.13a(a), (b) and 19 CFR 113.61.
122.83(a), (b), (c), (d)	6.9(b).
122.83(e)	6.9.
122.83(f)	6.9(b).
122.84(a), (b), (c), (d)	6.9(c).
122.85	6.9(d).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

Revised section	Superseded section
122.86	New. Based on Customs Circular AIR-7-EV, dated 11-23-59.
122.87	6.9(e).
122.88	6.9(f).
122.91	6.15(a).
122.92(a), (b)	6.15(b)(1), (2).
122.92(c)	6.15(b)(3).
122.92(d)	6.15(b)(4).
122.92(e)	6.15(b)(5).
122.92(f), (g)	6.15(b)(6).
122.93(a)	6.15(c).
122.93(b)	6.15.
122.94(a), (b)	6.16.
122.95	6.15(a).
122.101	New. Based on Customs Circular AIR-7-IEI, dated 1-31-72.
122.102	New. Based on Customs Circular AIR-7-IEI, dated 1-31-72.
122.111	6.17.
122.112(a), (b), (c)	6.17.
122.112(d)	6.18(a).
122.113	6.18(a).
122.114(a)	6.18(a). Also based on Customs Circular AIR-7-EV, dated 5-8-62.
122.114(b)	6.18(b).
122.114(b)(2)	6.18(b).
122.114(c)	6.18(d).
122.114(d)	New based on Customs Circular AIR-7-EV, dated 5-8-62.
122.115	6.18(e). Also based on Customs Circular AIR-7-EV, dated 5-8-62.
122.116	6.19.
122.117(a)	6.20(c).
122.117(b)	6.20(b), (d).
122.117(c), (d)	6.20(c).
122.118(a)	6.24(a).
122.118(b)	6.21(c).
122.118(c)	6.24(b), (c).
122.118(d)	6.24(g).
122.118(e)	New. Based on 19 CFR 18.25.
122.118(f)	New. Based on Customs Circular AIR-7-CO, dated 3-17-65.
122.118(g)	6.24(d).
122.119(a)	6.22(a).
122.119(b)	6.21(a).
122.119(c)	6.22(a). Also based on Customs Circular TRA-1-IMS, dated 7-15-68.
122.119(d)	6.22(c), (d).
122.119(e)	6.22(a).
122.120(a)	6.23(a).
122.120(b)(1)	6.23(a).
122.120(b)(2)	6.23(c).
122.120(c)	6.21(b).
122.120(d)	6.23.
122.120(e)	6.23(b).
122.120(f)	6.23(c).
122.120(g)	6.23(e).
122.120(h)	6.23(d).
122.120(i), (j)	6.23(h).
122.120(k)	6.23(g).
122.131 through 122.137	New. Based on Customs Circular AIR-7-AIR, dated 6-16-64.
122.141	New definition section.
122.142	6.25(a).
122.143	6.25(b).
122.144(a)(1)	6.25(c)(1).

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in revised Part 122 to superseded Part 6.]

Revised section	Superseded section
122.144(a)(2)	6.25(c)(2).
122.144(b)	6.25(c)(3).
122.144(c)	6.25(c)(4).
122.151 through 122.158	6.3a.
122.161	6.11.
122.162	6.7(h).
122.163	6.22(e).
122.164	6.23(g).
122.165	New. Based on Customs Circular AIR-4-CR, dated 11-12-72.
122.166	New based on 19 U.S.C. 1433 and 1436.
122.167	New based on 19 U.S.C. 1433 and 1436.

PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in Part 6 to revised Part 122.]

Superseded section	Revised section
6.1 (b), (c)	122.1(1).
6.1(e)	122.1(b).
6.1(f)	122.1(k).
6.1(g)	122.1(c).
6.1(h)	122.1(e).
6.2(a)	122.32, 122.33, 122.34.
6.2(b)	122.31.
6.2(b)(6)	122.36.
6.2(d)(1)	122.54 (a) through (f).
6.2(d)(2)	122.54(g).
6.2(d)(3)	122.51 and 122.52.
6.2 (e), (f)	122.38 (a), (b), (d), (e) and (f).
6.2(g)	122.38(c).
6.2(h)	122.35 and 122.37.
6.3(a)	122.41.
6.3(b)	122.42 (a), (b).
6.3(c)	122.61(a), 122.62 (a), (b), (c) and 122.79(a).
6.3(d)	122.64.
6.3a	122.151 through 122.158.
6.4 (a) and (b)	122.41.
6.4(c)	122.42(b).
6.5 (b), (c)	122.63 (a), (b) and 122.79(b).
6.6(a)	122.4 and 122.5.
6.6(b)	122.3.
6.7(a)	122.43(a).
6.7(b)	122.43(c), 122.45, 122.46 (a), (b), (c) and 122.47(c).
6.7(f)	122.47 (a), (b), and (d).
6.7(h)	122.49, and 122.162.
6.8(a)	122.122.71, 122.72, 122.74 (a), (b), and (c) (1) and (3) and 122.76.
6.8(b)	122.73.
6.8(c)	122.78.
6.8(d)	122.77.
6.8(e)	122.74(c)(2), 122.74(d), 122.75(a), (1) and (2), 122.75(b) and 122.80.
6.9(a)	122.81 and 122.82.
6.9(b)	122.83.
6.9(c)	122.84.
6.9(d)	122.85.
6.9(e)	122.87.
6.9(f)	122.88.
6.10	122.2, 122.30 and 122.161.
6.11	122.161.
6.12 (a), (b), (d)	122.11(a).
6.12(c)	122.11(b).
6.12(e)	122.11(c).
6.12 (f), (g), (h), (i)	122.12.
6.12a	122.14.

PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 6 to revised Part 122.]

Superseded section	Revised section
6.13	122.13.
6.14(a)	122.23 (b), (c), (d), (e).
6.14 (b), (g)	122.24 (a), (b).
6.14(f)	122.25.
6.15(a)	122.91 and 122.95.
6.15(b)	122.92.
6.15(c)	122.93.
6.16	122.94.
6.17	122.111 and 122.112 (a), (b), (c).
6.18(a)	122.112(d), 122.113, and 122.114(a).
6.18(b)	122.114(b).
6.18(d)	122.114(c).
6.18(e)	122.114(e).
6.19	122.116.
6.20 (b), (d)	122.117(b).
6.20(c)	122.117 (a), (c), and (d).
6.21(a)	122.119(b).
6.21(b)	122.120(c).
6.21(c)	122.118(b).
6.22(a)	122.119 (a), (c), and (e).
6.22 (c), (d)	122.119(d).
6.22(e)	122.163.
6.23(a)	122.120 (a) and (b)(1).
6.23(b)	122.120(e).
6.23(c)	122.120 (b)(2) and (f).
6.23(d)	122.120(h).
6.23(e)	122.120(g).
6.23(g)	122.120(k) and 122.164.
6.23(h)	122.120 (i), (j).
6.24(a)	122.118(a).
6.24 (b), (c)	122.118(c).
6.24(d)	122.118(g).
6.24(g)	122.118(d).
6.25(a)	122.142.
6.25(b)	122.143.
6.25(c)(1)	122.144(a)(1).
6.25(c)(2)	122.144(a)(2).
6.25(c)(3)	122.144(b).
6.25(c)(4)	122.144(c).
6.25(c)(5)	122.144(d).

List of Subjects

19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports, Cuba, Freight.

19 CFR Parts 4, 6, 10, 18, 24, 123, 162

Customs duties and inspection.

PART 6—[REMOVED]

Chapter I of Title 19, Code of Federal Regulations, is amended by removing Part 6 (*Air Commerce Regulations*) (19 CFR Part 6).

Chapter I of Title 19, Code of Federal Regulations, is further amended by adding a new part, Part 122, to read as follows:

PART 122—AIR COMMERCE REGULATIONS

Sec.

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Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644, 49 U.S.C. App. 1509.

§ 122.0 Scope.

The regulations in this part relate to the entry and clearance of aircraft, and the transportation of persons and cargo by aircraft, and are applicable to all air commerce. They do not apply to Guam, Midway, American Samoa, Wake, Kingman Reef, Johnston Island, and other insular possessions of the U.S. not specified herein. They do apply to the U.S. Virgin Islands as stated in Subpart N (§§ 122.141 through 122.144), and Cuba as stated in Subpart O (§§ 122.151 through 122.158).

Subpart A—General Definitions and Provisions**§ 122.1 General definitions.**

The following definitions apply in this part, unless otherwise stated:

(a) *Aircraft*. An "aircraft" is any device now known, or hereafter invented, used or designed for navigation or flight in the air. It does not include hovercraft.

(b) *Aircraft commander*. An "aircraft commander" is any person serving on an aircraft who is in charge or has command of its operation and navigation.

(c) *Agent*. An "agent" is any person who is authorized to act for or in place of:

(1) An owner or operator of a scheduled airline by written authority; or

(2) An owner or operator of a non-scheduled airline, by power of attorney.

The authority to act shall be in writing and satisfactory to the district director.

(d) *Commercial aircraft.* A "commercial aircraft" is any aircraft transporting passengers and/or cargo for some payment or other consideration, including money or services rendered.

(e) *International airport.* An "international airport" is any airport designated by:

(1) The Secretary of the Treasury or the Commissioner of Customs as a port of entry for aircraft arriving in the U.S. from any place outside thereof and for the merchandise carried on such aircraft;

(2) The Attorney General as a port of entry for aliens arriving on such aircraft; and

(3) The Secretary of Health and Human Services as a place for quarantine inspection.

(f) *Landing rights airport.* A "landing rights airport" is any airport, other than an international airport, at which flights from a foreign area may be allowed to land.

(g) *Preclearance.* "Preclearance" is the examination and inspection of air travelers and their baggage, at the request of an airline, at foreign places where Customs personnel are stationed for that purpose. Preclearance may be used only for air travelers and their baggage, not for merchandise.

(h) *Private aircraft.* A "private aircraft" is any aircraft engaged in a personal or business flight to or from the U.S. which is not:

(1) Carrying passengers and/or cargo for commercial purposes;

(2) Leaving the U.S. carrying neither passengers nor cargo in order to land passengers and/or cargo in a foreign area for commercial purposes; or

(3) Returning to the U.S. carrying neither passengers nor cargo in ballast after leaving with passengers and/or cargo for commercial purposes;

(i) *Public aircraft.* A "public aircraft" is any aircraft owned by, or under the complete control and management of the U.S. government or any of its agencies, or any aircraft owned by or under the complete control and management of any foreign government which exempts public aircraft of the U.S. from arrival, entry and clearance requirements similar to those provided in Subpart C of this part, but not including any government owned aircraft engaged in carrying persons or property for commercial purposes. This definition applies if the aircraft is:

(1) Manned entirely by members of the armed forces or civil service of such government, or by both;

(2) Transporting only property of such government, or passengers traveling on official business of such government; or

(3) Carrying neither passengers nor cargo.

(j) *Residue cargo.* "Residue cargo" is any cargo on board an aircraft arriving in the U.S. from a foreign area if the:

(1) Final delivery airport in the U.S. is not the port of arrival; or

(2) Cargo remains on board the aircraft and travels from port to port in the U.S., for final delivery in a foreign area.

(k) *scheduled airline.* A "scheduled airline" is any individual, partnership, corporation or association:

(1) Engaged in air transportation under regular schedules to, over, away from, or within the U.S.; and

(2) Holding a Foreign Air Carrier Permit or a Certificate of Public Convenience and Necessity, issued by the Department of Transportation pursuant to 14 CFR Parts 201 and 213.

(l) *United States.* Except when used in another context, "U.S." means the territory of the several States, the District of Columbia, and Puerto Rico, including the territorial waters and overlying airspace.

§ 122.2 Other Customs laws and regulations.

Except as otherwise provided for in this chapter, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from or departing for any foreign port or place, and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels to the extent that such laws and regulations are administered or enforced by Customs, as provided in 49 U.S.C. App. 1509(c).

§ 122.3 Availability of forms.

The forms mentioned in this part may be purchased from the district director at a port of entry. A small quantity of each form is set aside by district directors for free distribution and official use.

§ 122.4 English language required.

A translation in the English language shall be attached to the original and each copy of any form or document written or printed in a foreign language.

§ 122.5 Reproduction of Customs forms.

(a) *Specifications.* Subject to approval by Customs, the forms mentioned in this part may be printed by private parties if the specified size, wording arrangement, style and size of type, and quality of paper are used.

(b) *Exceptions.* District directors may accept privately printed copies of the General Declaration (Customs Form 7507) and air cargo manifest (Customs Form 7509) which are different from the

official forms. The privately printed forms shall include all information required on the official forms. The differences allowed are:

(1) *General Declaration.* Customs Form 7507 may be printed in several languages, so long as the form includes an English version. The instructions on the reverse side of the official form may be omitted.

(2) *Air cargo manifest.* Customs Form 7509 may be changed to allow for additional information used by the airline.

Subpart B—International Airports

§ 122.11 Designation as international airport.

(a) *Procedure.* International airports, as defined in § 122.1(e), will be designated after due investigation to establish that sufficient need exists in any particular district or area to justify such designation and to determine the airport best suited for such purpose. In each case, a specific airport will be chosen, rather than a general area or district. International airports will be publicly owned, unless circumstances require otherwise.

(b) *Withdrawal of designation.* The designation as an international airport may be withdrawn for any of the following reasons:

(1) The amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel;

(2) Proper facilities are not provided or maintained by the airport;

(3) The rules and regulations of the Federal Government are not followed; or

(4) Some other location would be more useful.

(c) *Providing office space to the Federal Government.* Each international airport shall provide, without cost to the Federal Government, proper office and other space for the sole use of Federal officials working at the airport. A suitable paved loading area shall be supplied by each airport at a place convenient to the office space. The loading area shall be kept for the use of aircraft entering or clearing through the airport.

§ 122.12 Operation of international airports.

(a) *Entry, clearance and charges.* International airports are open to all aircraft for entry and clearance at no charge by Customs. However, charges may be assessed by the airport for commercial or private use of the airport.

(b) *Servicing of aircraft.* When an aircraft enters or clears through an international airport, it shall be

promptly serviced by airport personnel solely on the basis of order of arrival or readiness for departure. Servicing charges imposed by the airport operators shall not be greater than the schedule of charges in effect at the airport in question.

(c) *Federal Aviation Administration rules.* International airports shall follow and enforce any requirements for airport operations, including airport rules, that area set out by the Federal Aviation Administration in 14 CFR Part 91.

(d) *Additional requirements.* Additional requirements may be put into effect at a particular airport as the needs of the Customs district served by the airport demand.

§ 122.13 List of international airports.

The following is a list of international airports of entry designated by the Secretary of the Treasury.

Location	Name
Akron, Ohio.....	Akron Municipal Airport
Albany, N.Y.....	Albany County Airport
Baudette, Minn.....	Baudette International Airport
Bellingham, Wash.....	Bellingham International Airport
Brownsville, Tex.....	Brownsville International Airport
Burlington, Vt.....	Burlington International Airport
Calexico, Calif.....	Calexico International Airport
Caribou, Maine.....	Caribou Municipal Airport
Chicago, Ill.....	Midway Airport
Cleveland, Ohio.....	Cleveland Hopkins International Airport
Cut Bank, Mont.....	Cut Bank Airport
Del Rio, Tex.....	Del Rio International Airport
Detroit, Mich.....	Detroit City Airport
Detroit, Mich.....	Detroit Metropolitan Wayne County Airport
Douglas, Ariz.....	Bisbee-Douglas International Airport
Duluth, Minn.....	Duluth International Airport
Duluth, Minn.....	Sky Harbor Airport
Eagle Pass, Tex.....	Eagle Pass Municipal Airport
El Paso, Tex.....	El Paso International Airport
Fort Lauderdale, Fla.....	Fort Lauderdale-Hollywood International Airport
Friday Harbor, Wash.....	Friday Harbor Seaplane Base
Grand Forks, N. Dak.....	Grand Forks International Airport
Great Falls, Mont.....	Great Falls International Airport
Havre, Mont.....	Havre City-County Airport
Houlton, Maine.....	Houlton International Airport
International Falls, Minn.....	Falls International Airport
Juneau, Alaska.....	Juneau Municipal Airport
Juneau, Alaska.....	Juneau Harbor Seaplane Base
Ketchikan, Alaska.....	Ketchikan Harbor Seaplane Base
Key West, Fla.....	Key West International Airport
Laredo, Tex.....	Laredo International Airport
Massena, N.Y.....	Richards Field
McAllen, Tex.....	Miller International Airport
Miami, Fla.....	Chalk Seaplane Base
Miami, Fla.....	Miami International Airport
Minot, N.Dak.....	Minot International Airport
Nogales, Ariz.....	Nogales International Airport
Ogdensburg, N.Y.....	Ogdensburg Harbor
Ogdensburg, N.Y.....	Ogdensburg International Airport

Location	Name
Oroville, Wash.....	Dorothy Scott Airport
Oroville, Wash.....	Dorothy Scott Seaplane Base
Pembina, N.Dak.....	Pembina Municipal Airport
Port Huron, Mich.....	St. Clair County International Airport
Port Townsend, Wash.....	Jefferson County International Airport
Ranier, Minn.....	Ranier International Seaplane Base
Rochester, N.Y.....	Rochester-Monroe County Airport
Rouses Point, N.Y.....	Rouses Point Seaplane Base
San Diego, Calif.....	San Diego International Airport (Lindbergh Field)
Sandusky, Ohio.....	Griffing-Sandusky Airport
Sault Ste. Marie, Mich.....	Sault Ste. Marie City-County Airport
Seattle, Wash.....	King County International Airport
Seattle, Wash.....	Lake Union Air Service (Seaplanes)
Tampa, Fla.....	Tampa International Airport
Tucson, Ariz.....	Tucson International Airport
Watertown, N.Y.....	Watertown New York International Airport
West Palm Beach, Fla.....	Palm Beach International Airport
Williston, N. Dak.....	Sloulin Field International Airport
Wrangell, Alaska.....	Wrangell Seaplane Base
Yuma, Ariz.....	Yuma International Airport

§ 122.14 Access to Customs security areas.

(a) For the purposes of this section, the term "Customs security area" means the Federal inspection services area (as provided for by § 122.11(c)), designated for processing passengers, crew, their baggage and effects arriving from foreign countries, as well as the aircraft deplaning and ramp area and other restricted areas designated by the district director of Customs. These areas will be posted as restricted to the extent possible, and are established for the purpose of prohibiting unauthorized entries or contact with persons or objects.

(b) With the exception of all Federal, and uniformed State and local law enforcement personnel, all persons located at, operating out of, or employed by any airport accommodating international air commerce, or its tenants or contractors, including air carriers, who have unescorted access to the Customs security area must openly display or produce upon demand, an approved identification card, strip, or seal, to be issued by Customs. The approved identification card, strip, or seal shall be in the possession of the person in whose name it is issued at all times when the person is in the Customs security area. The identification strip or

seal or any Customs issued card remains the property of Customs and any bearer must immediately surrender it upon demand by any authorized Customs officer.

(c) An application for an approved identification card, strip, or seal as required by this section, shall be filed by the applicant with the district director on Customs Form 3078. This requirement applies to all employees, regardless of the length of their employment. For employees hired on or after November 1, 1985, an authorized official of the employer shall attest in writing that a background check has been conducted on the applicant. The background check shall include, at a minimum, investigation of references and employment history to the extent necessary to verify representations made by the applicant relating to employment in the preceding 5 years. For any employee hired before November 1, 1985, the authorized official of the employer need only attest to the fact that the employee was hired before that date. The authorized official of the employer shall attest that, to the best of his knowledge, the applicant meets the conditions necessary to perform functions associated with employment in the Customs security area. The fingerprints of the applicant may be required on FD 258 at the time of the filing of the application. Proof of citizenship or authorized residency, and a photograph may also be required. In addition, the application may be investigated by Customs and a report prepared concerning the character of the applicant. Records of background investigations conducted by employers must be retained by them and made available upon request by the district director for a period of 1 year following cessation of employment of the employees.

(d) Law enforcement officers and other Federal, State, or local officials whose duties require access to the Customs security area may request from the district director the issuance of an approved identification card, strip, or seal. They need not make application nor submit to background checks for security area access.

(e)(1) An approved identification card, strip, or seal shall not be issued to any person whose employment necessitates access to the Customs security area and whose access will, in the judgment of the district director, endanger the

revenue or the security of the area. Grounds for denial of access shall include, but are not limited to:

(i) Any cause which would justify suspension or revocation of the identification card, strip, or seal under the provisions of paragraph (j) of this section; or

(ii) Evidence of a pending or past investigation which establishes criminal, or dishonest conduct, or a verified record of such conduct.

(2)(i) The district director shall give written notification to any person whose application for access to the Customs security area has been denied, fully stating the reasons for denial and setting forth specific appeal procedures. The employer shall be notified in writing that the applicant has been denied access to the area and that the detailed reasons for the denial have been furnished to the applicant. Specific reasons for denial shall not be furnished to the employer.

(ii) The denial will be final unless the applicant files with the district director a written notice of appeal. The applicant's written notice must be filed within 10 days following receipt of the notice of denial. The notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the statement of the district director. The district director shall render his decision on the appeal to the applicant within 30 days of receipt of the notice of appeal.

(iii) If the district director denies the application on appeal, the applicant may file a further written notice of appeal to the Commissioner within 10 days of receipt of the district director's decision on the appeal. The further notice of appeal shall be filed in duplicate, and shall set forth the response of the applicant to the district director's decision. The Commissioner or his designee shall review the appeal, and render a written decision. This final decision shall be transmitted to the district director and served by him on the applicant.

(f) An employee may obtain a new identification card, strip, or seal from the district director in the following circumstances, without completing a new application, except as determined by the district director in his discretion:

(1) A change in employee name or address;

(2) A change in the name or ownership of his employing company;

(3) A change in employer or airport authority identification card format; or

(4) Loss or theft of the identification card, strip, or seal.

(g) The identification card, strip, or seal shall be removed from the employee by the district director when,

for security reasons, it is necessary to change the nature of the identification.

(h) The loss or theft of an identification card, strip, or seal shall be promptly reported in writing by the employee to the district director, and the card, strip, or seal may be replaced as provided in paragraph (f) of this section.

(i) If an approved identification card, strip, or seal is presented by a person other than the one to whom it was issued, the identification card, strip, or seal shall be removed by the district director and destroyed.

(j)(1) An approved identification card, strip, or seal may be removed from an employee by any Customs officer designated by the district director. In addition, the district director may revoke or suspend access to the Customs security area and demand that the identification strip or seal or Customs issued card be surrendered, for any of the following reasons:

(i) The approved identification card, strip, or seal was obtained through fraud or the misstatement of a material fact;

(ii) The employee is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(iii) The employee permits the approved identification card, strip or seal to be used by any other person, or refuses to openly display or produce it upon the proper demand of a Customs officer;

(iv) The continuation of privileges would, in the judgment of the district director, endanger the revenue or security of the area.

(v) The employee refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation; or

(vi) The employee's duties no longer require that he have access to the Customs security area for an extended period of time at the airport of issuance. In this instance the employer shall notify the district director in writing, return the identification card, strip, or seal, and give information regarding the status of the employee who was issued the card, strip, or seal and who no longer requires access. If the employee returns to duties in the Customs security area at the airport within 1 year, a Customs Form 3078, as required by paragraph (d) of this section, need not be submitted, at the discretion of the district director.

(2) The district director shall suspend or revoke access to the Customs security area by giving notice of the proposed action in writing to the employee with a copy of the notice to the employer. The notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of

the privilege and shall be final and conclusive upon the employee unless he files with the district director a written notice of appeal as provided in subparagraph (3) of this paragraph.

(3) The employee may file a written notice of appeal from the revocation or suspension within 10 calendar days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate, and shall set forth the response of the employee to the statement of the district director. The employee, in his notice of appeal, may request a hearing.

(4) If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner or his designee within 30 calendar days following the request. The employee shall be notified of the time and place of the hearing at least 5 calendar days before the hearing.

(5) The employee may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented. Both parties will have the right of cross-examination. A stenographic record of the proceedings shall be made upon request and a copy furnished to the employee. At the conclusion of the proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall promptly transmit all papers and the stenographic record of the hearing to the Commissioner or his designee, together with his recommendation for final action.

(6) Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the employee may submit to the Commissioner or his designee, additional written views and arguments on matters in the record.

(7) If neither the employee nor his attorney appear for a scheduled hearing, the hearing officer shall record that fact, accept any appropriate testimony, and conclude the hearing. The hearing officer shall promptly transmit all papers together with his recommendations to the Commissioner or his designee.

(8) After consideration of the recommendations of the hearing officer or the district director, the Commissioner or his designee shall render his decision, in writing, stating his reasons for the final action. The decision shall be transmitted to the district director and served by him on the employee.

(k) When an approved identification card, strip, or seal is required under paragraph (b) of this section, and the

district director determines that the application cannot be administratively processed in a reasonable period of time, an employer may, upon written request, be issued a temporary identification card, strip, or seal for his employee. The employer must satisfy the district director that a hardship to his business would result if the request is not granted.

(1) The temporary identification card, strip, or seal shall be valid for a period of 60 days. The district director may renew the temporary identification card, strip, or seal for additional 30-day periods if he determines that the circumstances under which the temporary identification card, strip, or seal was originally issued continue to exist. The temporary identification card, strip, or seal shall be destroyed by the district director when the permanent approved identification card, strip, or seal is issued, or the privileges granted thereby are withdrawn.

(2) The provisions of this paragraph shall also apply to temporary employees and official visitors requiring access to the Customs security area. In the case of temporary employees, the identification card, strip, or seal shall be valid for a period of 30 days. In the case of official visitors, the temporary identification card, strip, or seal shall be valid for the day of issuance only. Temporary employee and official visitor identification cards, strips, or seals are renewable for periods equal to their original period of validity.

(3) The temporary identification card, strip, or seal may be revoked and access to the Customs security area denied at any time if the holder of the temporary identification card, strip, or seal refuses or neglects to obey any proper order of a Customs officer, or any Customs order, rule, or regulation, or if, in the judgment of the district director, continuation of the privileges granted thereby would endanger the revenue or pose a threat to the Customs security area.

Subpart C—Private Aircraft

§ 122.21 Application.

This subpart applies to all private aircraft as defined in § 122.1(h). No other provisions of this part apply to private aircraft, except where stated in this subpart.

§ 122.22 Notice of arrival.

When arriving in the U.S. from a foreign area, all private aircraft not covered by § 122.23 shall give advance notice of arrival as required in § 122.31.

§ 122.23 Private aircraft arriving from areas south of the U.S.

(a) *Definitions.* (1) For the purpose of this section, "private aircraft" means all aircraft except:

- (i) Public aircraft;
- (ii) Those aircraft operated on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Department of Transportation, authorizing interstate, overseas air transportation; and
- (iii) Those aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. (See 49 U.S.C. App. 1372 and 14 CFR Part 298).

(2) The term "place" as used in this section means anywhere outside of the inner boundary of the Atlantic (Coastal) Air Defense Identification Zone (ADIZ) south of 30 degrees north latitude, anywhere outside of the inner boundary of the Gulf of Mexico (Coastal) ADIZ, or anywhere outside of their inner boundary of the Pacific (Coastal) ADIZ south of 33 degrees north latitude.

(b) *Advance report of penetration of U.S. airspace.* All private aircraft arriving in the Continental U.S. via the U.S./Mexican border or the Pacific Coast from a foreign place in the Western Hemisphere south of 33 degrees north latitude, or from the Gulf of Mexico and Atlantic Coasts from a place in the Western Hemisphere south of 30 degrees north latitude from any place in Mexico, from the U.S. Virgin Islands, or (notwithstanding the definition of "United States" in § 122.1(1)) from Puerto Rico, (which if from Puerto Rico, are conducting flight under visual flight rules (VFR)), shall furnish a notice of intended arrival to Customs at the nearest designated airport to point of crossing listed in § 122.24(b), for the first landing in the U.S. The notice must be furnished at least 1 hour before crossing the U.S. coastline or border. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. The requirement to furnish a notice of intended arrival shall not apply to private aircraft departing from Puerto Rico and conducting flight under instrument flight rules (IFR) until crossing the U.S. coastline or proceeding north of 30 degrees north latitude.

(c) *Contents of notice.* The advance notice of arrival shall include the following:

- (1) Aircraft registration number;
- (2) Name of aircraft commander;

- (3) Number of U.S. citizen passengers;
- (4) Number of alien passengers;
- (5) Place of last departure;
- (6) Estimated time and location of crossing U.S. border/coastline;
- (7) Estimated time of arrival;
- (8) Name of intended U.S. airport of first landing, as listed in § 122.24, unless an exemption has been granted under § 122.25, or the aircraft has not landed in foreign territory or is arriving directly from Puerto Rico, or the aircraft was inspected by Customs officers in the U.S. Virgin Islands.

§ 122.24 Landing requirements.

(a) *In general.* Private aircraft arriving in the U.S. from a foreign area shall follow the landing requirements set out in §§ 122.23 and 122.36.

(b) *Special requirements.* Private aircraft required to furnish a notice of intended arrival in compliance with § 122.23 shall land for Customs processing at the nearest designated airport to the border or coastline crossing point as listed in this paragraph unless exempted from this requirement in accordance with § 122.25. In addition to the requirement in accordance with § 122.25. In addition to the requirements of this section, private aircraft commanders must comply with all other landing and notice of arrival requirements. This requirement shall not apply to private aircraft which have not landed in foreign territory or are arriving directly from Puerto Rico or if the aircraft was inspected by Customs officers in the U.S. Virgin Islands.

Location	Name
Beaumont, Tex....	Jefferson County Airport.
Brownsville, Tex.	Brownsville International Airport.
Calexico, Calif....	Calexico International Airport.
Corpus Christi, Tex.	Corpus Christi International Airport.
Del Rio, Tex.....	Del Rio International Airport.
Douglas, Ariz.....	Bisbee-Douglas International Airport.
Eagle Pass, Tex.	Eagle Pass Municipal Airport.
El Paso, Tex.....	El Paso International Airport.
Fort Lauderdale, Fla.	Fort Lauderdale Executive Airport.
Fort Lauderdale, Fla.	Fort Lauderdale-Hollywood International Airport.
Fort Pierce, Fla....	St. Lucie County Airport.
Houston, Tex.....	William P. Hobby Airport.
Key West, Fla....	Key West International Airport.
Laredo, Tex.....	Laredo International Airport.
McAllen, Tex.....	Miller International Airport.
Miami, Fla.....	Miami International Airport.
Miami, Fla.....	Opa-Locka Airport.
New Orleans, La.	New Orleans International Airport (Moisant Field).
New Orleans, La.	New Orleans Lakefront Airport.
Nogales, Ariz.....	Nogales International Airport.
Presidio, Tex.....	Presidio-Lely International Airport.

Location	Name
San Diego, Calif.	Brown Field.
Tampa, Fla.	Tampa International Airport.
Tucson, Ariz.	Tucson International Airport.
West Palm Beach, Fla.	Palm Beach International Airport.
Yuma, Ariz.	Yuma International Airport.

§ 122.25 Exemption from special landing requirements.

(a) *Request.* Only companies principally headquartered in the U.S. or individuals principally residing in the U.S. that have operational control over U.S. registered aircraft required to give advance notice of arrival under § 122.23, may request an exemption from the special landing requirements in § 122.24. Exemptions are within the discretion of the district director and may allow aircraft to land at any airport in the U.S. staffed by Customs. Aircraft traveling under an exemption shall continue to follow advance notice and general landing rights requirements.

(b) *Procedure.* An exemption request shall be made to the district director at the airport at which the majority of Customs overflight processing is desired by the applicant. The request shall be submitted:

(1) At least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of one year; or

(2) At least 15 days before the anticipated arrival if the request is for a single flight.

(c) *Content of request.* A request for exemption from the special landing requirements shall be signed by an officer of the company or by the requesting individual and be notarized or witnessed by a Customs officer, and shall include the following information:

(1) Aircraft U.S. registration number(s) and manufacturer's serial number(s) for all aircraft owned or operated by the applicant that will be utilizing the overflight exemption;

(2) Identification information for each aircraft include class, manufacturer, type, number, color scheme, and type of engine (e.g., turbojet, turbofan, turboprop, reciprocating, helicopter, etc.);

(3) A statement that the aircraft is equipped with a functioning mode C (altitude reporting) transponder which will be in use during overflight, that the overflights will be made in accord with instrument flight rules (IFR), and that the overflights will be made at altitudes above 12,500 feet mean sea level (unless otherwise instructed by Federal Aviation Administration controllers);

(4) Name and address of the applicant operating the aircraft, if the applicant is a business entity, the address of the headquarters of the business (include state of incorporation if applicable), and the names, addresses, Social Security numbers, and dates of birth of the company officer or individual signing the application. If the aircraft is operated under a lease, include the name, address, Social Security number, and date of birth of the owner if an individual, or the address of the headquarters of the business (include state of incorporation if applicable), and the names, addresses, Social Security numbers, and dates of birth of the officers of the business;

(5) Individual, signed applications from each usual or anticipated pilot or crewmember for all aircraft for which an overflight exemption is sought stating name, address, Social Security number, Federal Aviation Administration certificate number, and place and date of birth;

(6) A statement from the individual signing the application, as specified in paragraph (c)(4) of this section, that the pilot(s) and crewmembers(s) responding to paragraph (c)(5) of this section are those intended to conduct overflights, and that to the best of the individual's knowledge, the information supplied in response to paragraph (c)(5) of this section is accurate;

(7) Names, addresses, Social Security numbers, and dates of birth for all usual or anticipated passengers. An approved passenger must be on board to utilize the overflight exemption.

Note.—Where the Social Security number is requested, furnishing of the SSN is voluntary. The authority to collect the SSN is 19 U.S.C. 66, 1433, 1459 and 1624. The primary purpose for requesting the SSN is to assist in ascertaining the identity of the individual so as to assure that only law-abiding persons will be granted permission to land at interior airports in the U.S. without first landing at one of the airports designated in § 122.24. The SSN will be made available to Customs personnel on a need-to-know basis. Failure to provide the SSN may result in a delay in processing of the application.

(8) Description of the usual or anticipated baggage or cargo if known, or the actual baggage or cargo;

(9) Description of the applicant's usual business activity;

(10) Name(s) of the airport(s) of intended first landing in the U.S. Actual overflights will only be permitted to specific approved airports.

(11) Foreign place or places from which flight(s) will usually originate; and

(12) Reasons for request for overflight exemption.

(d) *Procedure following exemption.* (1) If a private aircraft is granted an exemption from the landing requirement as provided in this section, the aircraft commander shall notify Customs at least 60 minutes before:

(i) Crossing into the U.S. over a point on the Pacific Coast north of 33 degrees north latitude; or

(ii) Crossing into the U.S. over a point of the Gulf of Mexico or Atlantic Coast north of 30 degrees north latitude; or

(iii) Crossing into the U.S. over the Southwestern land border (defined as the U.S.-Mexican border between Brownsville, Texas, and San Diego, California). Southwestern land border crossings must be made while flying in Federal Aviation Administration published airways.

(2) The notice shall be given to a designated airport specified in § 122.24. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to §§ 122.23 and 122.24 is unnecessary.

(3) All overflights must be conducted pursuant to an instrument flight plan filed with the Federal Aviation Administration prior to the commencement of the overflight.

(4) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale, theft, modification, or destruction of the aircraft;

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers as specified in paragraph (c)(5) of this section. Every pilot and crewmember participating in an overflight must have prior Customs approval either through initial application and approval, or through a supplemental application submitted by the new pilot or crewmember and approved by Customs before commencement of the pilot's or crewmember's first overflight.

(iv) Request permission from Customs to conduct an overflight to an airport not listed in the initial overflight application as specified in paragraph (c)(10) of this section. The request must be directed to the district director who approved the initial request for an overflight exemption.

(v) Retain copies of the initial request for an overflight exemption, all supplemental applications from pilots or

crewmembers, and all requests for additional landing privileges as well as a copy of the letter from Customs approving each of these requests. The copies must be carried on board any aircraft during the conduct of an overflight.

(vi) The notifications specified in this paragraph must be given to Customs within 5-working days of the change, sale, theft, modification, or destruction, or before a flight for which there is an exemption, whichever occurs earlier.

(e) *Inspection of aircraft having or requesting overflight exemption.* Applicants for overflight exemptions must agree to make the subject aircraft available for inspection by Customs to determine if the aircraft is capable of meeting Customs requirements for the proper conduct of overflight. Inspections may be conducted during the review of an initial application or at any time during the term of an overflight exemption.

§ 122.26 Entry and clearance.

Private aircraft, as defined in § 122.1(h), are not required to formally enter or to obtain formal clearance upon departure. However, entry and clearance requirements do apply to air charter and air taxi operators.

§ 122.27 Documents required.

(a) *Crewmembers and passengers.* Crewmembers and passengers on a private aircraft arriving in the U.S. shall make baggage declarations as set forth in Part 148 of this chapter. An oral declaration of articles acquired in foreign areas shall be made, unless a written declaration on Customs Form 6059-B is found necessary by inspecting officers.

(b) *Cargo.* (1) On arrival, cargo and unaccompanied baggage not carried for hire aboard a private aircraft may be listed on a baggage declaration on Customs Form 6059-B, and shall be entered. If the cargo or unaccompanied baggage is not listed on a baggage declaration, it shall be entered in the same manner as cargo carried for hire into the U.S.

(2) On departure, when a private aircraft leaves the U.S. carrying cargo not for hire, the Bureau of Census (15 CFR Part 30) and the Export Administration (15 CFR Parts 368 through 399) regulations and any other applicable export laws shall be followed. A foreign landing certificate or certified copy of a foreign Customs entry is required as proof of exportation if the cargo includes:

(i) Merchandise valued at more than \$500.00; or

(ii) More than one case of alcoholic beverages withdrawn from a Customs bonded warehouse or otherwise in bond for direct exportation by private aircraft. A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing.

§ 122.28 Private aircraft taken abroad by U.S. residents.

An aircraft belonging to a resident of the U.S. which is taken to a foreign area for non-commercial purposes and then returned to the U.S. by the resident shall be admitted under the conditions and procedures set forth in § 148.32 of this chapter. Repairs made abroad, and accessories purchased abroad shall be included in the baggage declaration as required by § 148.32(c), and may be subject to entry and payment of duty as provided in § 148.32.

§ 122.29 Overtime services.

(a) *Application.* Private aircraft arriving in the U.S. and requiring Customs services to be performed outside the regular hours of duty are subject to overtime charges. The overtime charges to be assessed against the operator of a private aircraft in connection with each arrival are limited to a maximum of \$25.

(b) *Procedures.* An application must be made on Customs Form 3171 to receive overtime services. The application shall be supported by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, and may be effective up to one year. See § 24.16(c) of this chapter.

§ 122.30 Other Customs laws and regulations.

Sections 122.2 and 122.161 apply to private aircraft.

Subpart D—Landing Requirements

§ 122.31 Notice of arrival.

(a) *Application.* Except as provided in paragraph (b) of this section, all aircraft entering the U.S. from a foreign area shall give advance notice of arrival. When a private aircraft, as defined in § 122.23(a) of this part, enters the U.S. from a foreign area in the Western hemisphere south of the U.S., advance notice shall be given as provided in § 122.23. Aircraft arriving from Cuba

shall follow the procedures set forth in Subpart O of this part.

(b) *Exceptions for scheduled aircraft of a scheduled airline.* Advance notice is not required for aircraft of a scheduled airline arriving under a regular schedule. The regular schedule shall have been filed with the district director for the district in which the first landing is made. Scheduled airlines shall also submit a copy of their schedules to the regional commissioner of the region in which the scheduled aircraft will land. This notice shall be given 30 days before the effective date of the schedule.

(c) *Giving notice of arrival—(1) Procedure.* The commander of an aircraft covered by this section shall give the advance notice of arrival. Notice shall be given to the district director at or nearest the place of first landing, either:

(i) Directly by radio, telephone, or other method; or

(ii) Through Federal Aviation Administration flight notification procedure (see International Flight Information Manual, Federal Aviation Administration).

(2) *Reliable facilities.* When reliable means for giving notice are not available (for example, when departure is from a remote place) a landing shall be made at a place where notice can be sent prior to coming into the U.S.

(d) *Contents of notice.* The advance notice of arrival shall include the following information:

- (1) Type of aircraft and registration number;
- (2) Name of aircraft commander;
- (3) Place of last foreign departure;
- (4) International airport of intended landing or other place at which landing has been authorized by Customs;
- (5) Number of alien passengers;
- (6) Number of citizen passengers; and
- (7) Estimated time of arrival.

(e) *Time of notice.* Notice of arrival shall be furnished far enough in advance to allow inspecting officers to reach the place of first landing of the aircraft.

(f) *Notice of other Federal agencies.* When advance notice is received, the district director shall inform any other concerned Federal agency.

§ 122.32 Aircraft required to land.

Any aircraft coming into the U.S., including Puerto Rico, from an area outside the U.S., is required to land, unless exempted by the Federal Aviation Administration.

§ 122.33 Place of first landing.

The first landing of an aircraft entering the U.S. from a foreign area

shall be at an international airport (see § 122.13, International airports). Permission to land at another place may be given under § 122.34 (Landing rights airport) or § 122.35 (Emergency or forced landing).

§ 122.34 Landing rights airport.

(a) *Permission to land.* Permission to land at a landing rights airport may be given as follows:

(1) *Scheduled flight.* The scheduled aircraft of a scheduled airline may be allowed to land at a landing rights airport. Permission is given by the regional commissioner, or his representative, of the region in which first landing is made.

(2) *Other aircraft.* All other aircraft may be allowed to land at a landing rights airport by the district director at the port of entry or station nearest the first place of landing.

(3) *Additional flights, charters or changes in schedule.*—(i) *Scheduled aircraft.* If a new carrier plans to set up a new flight schedule, or an established carrier makes changes in its approved schedule, landing rights may be granted by the regional commissioner.

(ii) *Additional or charter flight.* If a carrier or charter operator wants to begin operating or to add flights, application shall be made to the district director for landing rights. All requests shall be made not less than 48 hours before the intended time of arrival, except in emergencies. If the request is oral, it shall be put in writing before or at the time of arrival.

(4) *Emergency or forced landing.* Permission to land is not required for an emergency or forced landing (see § 122.35).

(b) *Notice to Federal agencies.* If an aircraft is given permission to land at a landing rights airport, the Customs officer who granted the landing rights shall notify the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other interested Federal agency at once.

(c) *Payment of expenses.* The owner, operator or person in charge of the aircraft shall pay any added charges for inspecting the aircraft, passengers, employees and merchandise when landing rights are given. When permission to land is given to scheduled aircraft of a scheduled airline, no inspection charge is made except for the overtime expenses of Customs officers. (see § 24.16 of this chapter).

§ 122.35 Emergency or forced landing.

(a) *Application.* This section applies to emergency or forced landings made by aircraft when necessary for safety or

the preservation of life or health, when such aircraft are:

(1) Travelling from airport to airport in the U.S. under a permit to proceed (see §§ 122.52, 122.54 and 122.83(d)), or a Customs Form 7509 (see § 122.113); or

(2) Coming into the U.S. from a foreign area.

(b) *Notice.* When an emergency or forced landing is made, notice shall be given:

(1) To the Customs officer at the intended place of first landing, nearest international airport, or nearest port entry, as soon as possible;

(2) By the aircraft commander, other person in charge, or aircraft owner, who shall make a full report of the flight and the emergency or forced landing.

(c) *Passengers and crewmembers.* The aircraft commander or other person in charge shall keep all passengers and crewmembers in a separate place at the landing area until Customs officers arrive. Passengers and crewmembers may be removed if necessary for safety, or for the purpose of contacting Customs.

(d) *Merchandise and baggage.* The aircraft commander or other person in charge shall keep all merchandise and baggage together and unopened at the landing area until Customs officers arrive. The merchandise and baggage may be removed for safety or to protect property.

(e) *Mail.* Mail may be removed from the aircraft, but shall be delivered at once to an officer or employee of the Postal Service.

§ 122.36 Responsibility of aircraft commander.

If an aircraft lands in the U.S. and Customs officers have not arrived, the aircraft commander shall hold the aircraft, and any merchandise or baggage on the aircraft for inspection. Passengers and crewmembers shall be kept in a separate place until Customs officers authorize their departure.

§ 122.37 Precleared aircraft.

(a) *Application.* This section applies when aircraft carrying crew, passengers and baggage, or merchandise which has been precleared pursuant to § 148.22 of this chapter at a location listed in § 101.5 of this chapter and makes an unscheduled or unintended landing at an airport in the U.S.

(b) *Notice.* The aircraft commander or agent shall give written notice to the Customs office at:

(1) The intended place of unloading; and

(2) The place of preclearance.

(c) *Time of notice.* Notice shall be given within 7 days of the unscheduled

or unintended landing unless other arrangements have been made in advance between the carrier and the district director.

§ 122.38 Permit and special license to unlade and lade.

(a) *Applicability.* Before any passengers, baggage, or merchandise may be unladed or laded aboard on arrival or departure of an aircraft subject to these regulations, a permit and/or special license to unlade or lade shall be obtained from Customs.

(1) *Permit to unlade or lade.* A permit is required to obtain Customs supervision of unloading and lading during official Customs duty hours.

(2) *Special license to unlade or lade.* A special license is required to obtain Customs supervision of unloading and lading at any time not within official Customs duty hours (generally, at night, Sundays or holidays).

(b) *Authorization required.* A permit or special license shall be required for each arrival and departure unless a term permit or special license has been granted. No permit or special license shall be issued unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter.

(c) *Term permit or special license.* A term permit or special license may be issued covering all arrivals and departures during a period of up to one year, providing local arrangements have been made to notify Customs before services are needed. The notice shall specify the kinds of services requested, and the exact times they will be needed. No term permit or special license shall be issued, and any term permit or special license already issued shall be revoked, unless the carrier complies with the terminal facilities and employee list requirements of § 4.30 of this chapter.

(d) *Procedures.* The application for a permit and special license to unlade or lade shall be made by the owner, operator, or agent for an aircraft on Customs Form 3171, and shall be submitted to the district director for the district in which the unloading and lading will take place. The application shall be accompanied by a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, or a cash deposit, unless this requirement is waived under paragraph (e) of this section.

(e) *Waiver of bond.* To insure prompt and orderly clearance of the aircraft, passengers, baggage, or merchandise, the district director may waive the requirement under paragraph (d) of this

section that either a bond or a cash deposit be made, if he is convinced the revenue is protected and that all Customs requirements are satisfied.

(f) *Automatic renewal of term permit or special license.* Automatic renewal of a term permit or special license may be requested by the owner, operator, or agent for an aircraft when a bond on Customs Form 301 containing the appropriate bond conditions set forth in Subpart G of Part 113 of this chapter is on file. The request shall be for successive annual periods which conform to the automatic renewal periods of the bond. An application will be approved by the district director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the district director shall notify the requestor, and shall state the reasons for the denial. To apply for automatic renewal, item 10 on Customs Form 3171 shall be changed by adding the following words after the period of time indicated: "And automatic annual renewal thereof for so long as the bond is renewed and remains in effect."

Subpart E—Aircraft Entry and Entry Documents

§ 122.41 Aircraft required to enter.

All aircraft coming into the U.S. from a foreign area shall make entry under Subpart E except:

- (a) Public and private aircraft; and
- (b) Aircraft traveling from airport to airport in the U.S. under Subpart I, relating to residue cargo procedures.

§ 122.42 Aircraft entry.

(a) *By whom.* Entry shall be made by the aircraft commander or an agent.

(b) *Place of entry—(1) First landing at international airport.* Entry shall be made at the international airport at which first landing is made.

(2) *First landing at another airport.* If the first landing is not at international airport pursuant to §§ 122.34 or 122.35, the aircraft commander or agent shall make entry at the nearest international airport or port of entry, unless some other place is allowed for the purpose.

(c) *Delivery of forms.* When the aircraft arrives, the aircraft commander or agent shall deliver any required forms to the Customs officer at the place of entry at once.

(d) *Exception to entry requirement.* Except for flights to Cuba (provided for in Subpart O of this part), an aircraft of a scheduled airline which stops only for refueling at the first place or arrival in the U.S. shall not be required to enter provided:

- (1) That such aircraft departs within 24 hours after arrival;

(2) No cargo, crew, or passengers are off-loaded; and

(3) Landing rights at that airport as either a regular or alternate landing place shall have been previously secured.

§ 122.43 General declaration.

(a) *When required.* A general declaration, Customs Form 7507, shall be filed for all aircraft required to enter under § 122.41 (Aircraft required to enter).

(b) *Exception.* Aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. need not file a general declaration to enter. Instead, an air cargo manifest (see § 122.48) may be filed in place of the general declaration, regardless of whether cargo is on board. The air cargo manifest shall state the following:

I certify to the best of my knowledge and belief that this manifest contains an exact and true account of all cargo on board this aircraft.

Signature _____
(Aircraft Commander or Agent)

(c) *Form.* The general declaration shall be on Customs Form 7507 or on a privately printed form prepared under § 122.5. The form shall contain all required information, unless the information is given in some other manner under Subpart E of this part.

§ 122.44 Crew baggage declaration.

If an aircraft enters the U.S. from a foreign area, aircraft crewmembers shall file a crew baggage declaration as provided in Subpart G, Part 148 of this chapter.

§ 122.45 Crew list.

(a) *When required.* A crew list shall be filed by all aircraft required to enter under § 122.41.

(b) *Exception.* No crew list is required for aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. Instead, the total number of crewmembers may be shown on the general declaration.

(c) *Form.* The crew list shall show the full name (last name, first name, middle initial) of each crewmember, either:

(1) On the general declaration in the column headed "Total Number of Crew"; or

(2) On a separate, clearly marked document.

(d) *Crewmembers returning as passengers.* Crewmembers of any aircraft returning to the U.S. as passengers on a commercial aircraft from a trip on which they were employed as crewmembers shall be listed on the aircraft general declaration or crew list.

§ 122.46 Crew purchase list.

(a) *When required.* A crew purchase list shall be filed with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A crew purchase list is not required for aircraft arriving directly from Canada on a flight beginning in Canada and ending in the U.S. If a written crew declaration is required for the aircraft under Subpart G of Part 148 of this chapter (Crewmember Declarations and Exemptions), it shall be attached to the air cargo manifest, along with the number of any written crew declarations.

(c) *Form.* If a crewmember enters articles for which a written crew declaration is not required (see Subpart G, Part 148 of this chapter), the articles shall be listed next to the crewmember's name on the general declaration, or on the attached crew purchase list. Articles listed on a written crew declaration need not be listed on the crew purchase list if:

(1) The crew declaration is attached to the general declaration, or to the crew list which in turn is attached to the general declaration; and

(2) The statement "Crew purchases as per attached crew declaration" appears on the general declaration or crew list.

§ 122.47 Stores list.

(a) *When required.* A stores list shall be filed for all aircraft required to enter under § 122.41.

(b) *Form.* The aircraft stores shall be listed on the cargo manifest or on a separate list. If the stores are listed on a separate list, the list must be attached to the cargo manifest. The statement "Stores List Attached" must appear on the cargo manifest.

(c) *Contents—(1) Required listing.* The stores list shall include all of the following:

(i) Alcoholic beverages, cigars, cigarettes and narcotic drugs, whether domestic or foreign;

(ii) Bonded merchandise arriving as stores;

(iii) Foreign merchandise arriving as stores; and

(iv) Equipment which must be licensed by the Secretary of State (see § 122.48(b)).

(2) *Other articles.* In the case of aircraft of scheduled airlines, other domestic supplies and equipment (if not subject to license) and fuel may be dropped from the stores list if the statement "Domestic supplies and equipment and fuel for immediate flight only, except as noted" appears on the cargo manifest or on the separate stores

list. The stores list shall be attached to the cargo manifest.

(d) *Other statutes.* Section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446), which covers supplies and stores kept on board vessels, applies to aircraft arriving in the U.S. from any foreign area.

§ 122.48 Air cargo manifest.

(a) *When required.* An air cargo manifest for all cargo on board shall be filed together with the general declaration for any aircraft required to enter under § 122.41.

(b) *Exception.* A cargo manifest is not required for merchandise, baggage and stores arriving from and departing for a foreign country on the same through flight. Any cargo manifest already on board may be inspected. All articles on

board which must be licensed by the Secretary of State shall be listed on the cargo manifest. Company mail shall be listed on the cargo manifest.

(c) *Form.* The cargo manifest shall be on Customs Form 7509. The form shall contain all required information, except that a more complete description of the cargo shipped under air waybills may be provided by attaching a copy of each master air waybill and, if a consolidated shipment, copies of the house air waybills to the cargo manifest. The statement "Cargo as per air waybills attached" shall appear on the cargo manifest when this is done. Each air waybill number shall also be listed on the cargo manifest.

(d) *Unaccompanied baggage.* Unaccompanied baggage arriving in the

U.S. under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Schedule 8, Tariff Schedules of the United States (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found by Customs to be dutiable, restricted, or prohibited may be subject to seizure. Such unaccompanied checked baggage shall be added to the cargo list in columns under the following headings:

Check No.	Description	Where from	Destination	Name of examining officer	Disposition

The two columns, headed "Name of examining officer" and "Disposition," are provided on the cargo manifest for the use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(e) *Accompanied baggage in transit.* This section applies when accompanied baggage enters into the U.S. in one aircraft and leaves the U.S. in another aircraft. When passengers do not have access to their baggage while in transit through the U.S., the baggage is considered cargo and shall be listed on Customs Form 7509, Air Cargo Manifest.

§ 122.49 Correction of air cargo manifest or air waybill.

(a) *Shortages—(1) Reporting.* Shortages (merchandise listed on the manifest or air waybill but not found) shall be reported to the district director by the aircraft commander or agent. The report shall be made:

(i) On a Customs Form 5931, filled out and signed by the importer and the importing or bonded carrier; or

(ii) On a Customs Form 5931, filled out and signed by the importer alone under § 158.3 of this chapter; or

(iii) On a copy of the cargo manifest, which shall be marked "Shortage Declaration," and must list the merchandise involved and the reasons for the shortage.

(2) *Time to file.* Shortages shall be reported within the time set out in Part

158 of this chapter, or within 30 days of aircraft entry.

(3) *Evidence.* The aircraft commander or agent shall supply proof of the claim that:

(i) Shortage merchandise was not imported, or was properly disposed of; or

(ii) That corrective action was taken. This proof shall be kept in the carrier file for one year from the date of aircraft entry.

(b) *Overages—(1) Reporting.* Overages (merchandise found but not listed on the manifest or air waybill) shall be reported to the district director by the aircraft commander or agent. The report shall be made.

(i) On a Customs Form 5931; or

(ii) On a separate copy of the cargo manifest which is marked "Post Entry" and lists the overage merchandise and the reason for the overage.

(2) *Time to file.* Overages shall be reported within 30 days of aircraft entry.

(3) *Evidence.* Satisfactory proof of the reasons for the overage shall be kept on file by the carrier for one year from the date of the report.

(c) *Statement on cargo manifest.* If the air cargo manifest is used to report shortages or overages, the Shortages Declaration or Post Entry must include the signed statement of the aircraft commander or agent as follows:

I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reason stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the

carrier's files for a period of at least one year and will be made available to Customs on demand.

Signature _____
(Aircraft Commander or Agent)

(d) *Notice by district director.* The district director shall immediately notify the aircraft commander or agent of any shortages or overages that were not reported by the aircraft commander or agent. Notice shall be given by sending a copy of Customs Form 5931 to the aircraft commander or agent, or in any other appropriate way. The aircraft commander or agent shall make a satisfactory reply within 30 days of entry of the aircraft or receipt of the notice, whichever is later.

(e) *Correction not required.* A correction in the manifest or air waybill is not required if:

(1) The district director is satisfied that the difference between the quantity of bulk merchandise listed on the manifest or air waybill, and the quantity unladen, is the usual difference caused by absorption or loss of moisture, temperature, faulty weighing at the airport, or other such reason; and

(2) The marks or numbers on merchandise packages are different from the marks or numbers listed on the cargo manifest for those packages if the quantity and description of the merchandise is given correctly.

(f) *Statutes applicable.* If an aircraft arrives in the U.S. from a foreign area with merchandise and unaccompanied baggage for which a manifest or air

waybill must be filed, sections 440 (concerning post entry) and 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1440, 1584), apply.

Subpart F—International Traffic Permit

§ 122.51 Aircraft of domestic origin registered in the U.S.

After Customs inspection of the aircraft, passengers, baggage and merchandise at the entry airport, commercial aircraft of domestic origin registered in the U.S. may be allowed to proceed to other airports in the U.S. without permit.

§ 122.52 Aircraft of foreign origin registered in the U.S.

(a) *Application.* This section applies to commercial aircraft (as defined in § 122.1(d)) of foreign origin registered in the U.S. and arriving in the U.S. from a foreign area.

(b) *Aircraft entered as an imported article.* If an aircraft covered by this section is entered as an imported article, and any applicable duty for the aircraft has been paid on a prior arrival, it may be allowed to proceed as other than an imported article. In this instance, the aircraft commander must file a declaration that states the:

- (1) Port where entry was made;
- (2) Date duty, if any, was paid; and
- (3) Number of the entry.

(c) *Aircraft not entered as imported article—(1) Treatment as other than an imported article.* A commercial aircraft covered by this section which has not been entered as an imported article may travel from airport to airport in the U.S. without payment of duty. Each commercial aircraft shall proceed under a permit on Customs Form 7507 or 7509, as provided in § 122.54. Treatment of the aircraft as other than an imported article shall continue for so long as the aircraft:

- (i) Is used only for commercial purposes between the U.S. and foreign areas; and
- (ii) Will leave the U.S. for a foreign destination in commercial use or carrying neither passengers nor cargo.

(2) *Treatment as an imported article.* Any aircraft covered by this section which was not entered as an imported article shall make entry if it:

- (i) Is withdrawn from commercial use between the U.S. and foreign areas; or
- (ii) Is used in the U.S. in a way not reasonably related to efficient commercial use of the aircraft between the U.S. and foreign areas.

(3) *Aircraft damage and duty payment—(i) Substantial damage to commercial aircraft.* If an accident causes substantial damage to a

commercial aircraft, no entry or duty payment is required for any part of the wreckage.

(ii) *Less than substantial damage and export.* If an accident does not cause substantial damage to a commercial aircraft, salvageable parts of the wrecked aircraft may be exported. In this circumstance, the aircraft, as a whole or in part, is not considered to be withdrawn from commercial use and is not subject to entry or to duty as imported merchandise.

(iii) *Less than substantial damage and no export.* If an accident does not cause substantial damage to a commercial aircraft and the wrecked aircraft or any salvageable part of it is not exported, then:

(A) Entry is required to be made for the damaged aircraft or any salvageable part of it; and

(B) A duty payment, if applicable, based on the condition of the aircraft following the accident, is required.

§ 122.53 Aircraft of foreign registry chartered or leased to U.S. air carriers.

Aircraft of foreign registry leased or chartered to a U.S. air carrier, while being operated by the U.S. air carrier under the provisions of the Federal Aviation Administration regulations (14 CFR 121.153), shall be treated as U.S. registered aircraft for purposes of this subpart.

§ 122.54 Aircraft of foreign registry.

(a) *Application.* For any commercial aircraft of foreign registry arriving in the U.S., the aircraft commander or agent shall file for an international traffic permit when the aircraft:

- (1) Is not an imported article; and
- (2) Is ferried (proceeds carrying neither passengers nor cargo) from the airport of first arrival to one or more airports in the U.S. (For permit to proceed with residue cargo, passengers, or crewmembers for discharge in the U.S., see Subpart I of this part).

(b) *International traffic permit.* The international traffic permit shall be filed on Customs Form 7507 by the carrier or its agent. Customs Form 7509 may be used if the aircraft arrives directly from Canada on a flight beginning in Canada and ending in the U.S. Either form shall show the following information and must be approved by the appropriate Customs officer:

- (1) Type of aircraft;
- (2) Nationality and registration number of aircraft;
- (3) Name and country of aircraft manufacturer;
- (4) Name of aircraft commander;
- (5) Country from which aircraft arrived;

(6) Name and location of airport where international traffic permit is issued;

(7) Date international traffic permit is issued;

(8) Name and location of airport to which aircraft is proceeding;

(9) Purpose of stay in the U.S.;

(10) Signature of Customs officer giving permit.

(c) *Permit on board.* The international traffic permit shall be kept on board the aircraft while in the U.S.

(d) *Intermediate airports.* For each airport at which the aircraft lands, the Customs officer, or airport manager if there is no Customs officer present, shall note the following information on the permit:

- (1) Name and location of the airport;
- (2) Date and arrival time;
- (3) Purpose of the visit;
- (4) Name and location of the next airport to be visited; and
- (5) Date and time of departure.

(e) *Final airport.* The international traffic permit shall be given to the Customs officer in charge at the airport of final clearance for a foreign destination. Before clearance is given, the Customs officer shall make sure that the aircraft was properly inspected by Customs in the U.S.

(f) *Port of issue.* The international traffic permit shall be returned after final clearance to the district director at the port where the permit was issued, to be kept on file.

(g) *Enforcement.* Once the permit to proceed has been issued for an aircraft, the district director at the port of issue must receive notice that the aircraft has made final clearance. If notice is not received within 60 days, the district director shall report the matter to the Customs agent in charge of the area for investigation.

Subpart G—Clearance of Aircraft and Permission To Depart

§ 122.61 Aircraft required to clear.

(a) All aircraft, except public and private aircraft, leaving the U.S. for a foreign area are required to clear if:

- (1) Carrying passengers and/or merchandise for hire; or
- (2) Taking aboard or discharging passengers and/or merchandise for hire in a foreign area.

(b) Any aircraft used by members of air travel clubs are required to clear, and foreign aircraft traveling under a permit to proceed shall also clear.

§ 122.62 Aircraft not otherwise required to clear.

(a) *Bureau of the Census.* Under Bureau of the Census Regulations (15 CFR 30.1), aircraft not required to clear by § 122.61 shall obtain permission to depart if carrying merchandise from the U.S. to Puerto Rico or from Puerto Rico to the U.S.

(b) *Office of Export Administration.* Aircraft leaving the U.S. for a foreign area must be cleared by Customs if a validated license from the Office of Export Administration (Department of Commerce) is required for the aircraft under the Export Control Regulations (15 CFR Part 370). Aircraft are not required to clear if the Secretary of Commerce issues a permit allowing departure without clearance.

(c) *Department of State.* Aircraft not covered by Export Control Regulations are subject to the Department of State export licensing authority as set out in 22 CFR Parts 121 and 123. Such aircraft may depart from the U.S. only with the proper Department of State license.

§ 122.63 Scheduled airlines.

The aircraft commander or agent shall request clearance or permission to depart for aircraft of scheduled airlines covered by this subpart.

(a) *Clearance at other than airport of final departure.* Aircraft may clear at each airport where merchandise and/or passengers are taken on board for transport outside of the U.S. The clearance applies only to the merchandise and passengers boarding at each place. Clearance shall be requested at the Customs port of entry (regardless of whether it is an international airport) nearest to the place where merchandise and/or passengers are taken on board.

(b) *Clearance at final departure airport.* Clearance or permission to depart may be requested at the Customs port of entry (regardless of whether it is an international airport) nearest the last departure airport, unless some other place is designated by the district director at that port.

§ 122.64 Other aircraft.

Clearance or permission to depart shall be requested by the aircraft commander or agent for aircraft covered by this subpart other than those of scheduled airlines. The request must be made to the district director at the Customs port of entry (regardless of whether it is an international airport) nearest the final departure airport, unless some other place is designated by the district director

§ 122.65 Failure to depart.

Once an aircraft has been cleared or given permission to depart it must depart within 72 hours. The aircraft commander or agent shall report promptly to the district director if departure is delayed beyond or cancelled within 72 hours after the aircraft received clearance or permission to depart.

Subpart H—Documents Required for Clearance and Permission to Depart

§ 122.71 Aircraft departing with no commercial export cargo.

(a) *Application.* This section applies to aircraft departing for foreign territory with no export cargo, but not to those aircraft which are themselves being exported.

(1) Such aircraft may clear by telephone in advance with the district director nearest the departure place if departing empty or carrying only:

- (i) Passengers for hire; or
- (ii) Non-commercial cargo for which Shipper's Export Declarations are not required.

(2) If not cleared by telephone, an air cargo manifest containing the following statement, signed by the aircraft commander or agent, shall be submitted to Customs:

I declare to the best of my knowledge and belief that there is no cargo on board this aircraft.

Signature _____
(Aircraft Commander or Agent)

(b) *Timeliness.* The request for telephone clearance must be received by the Customs officer in charge with sufficient time remaining before departure to ensure that Customs may undertake any necessary examination of the aircraft and cargo.

(c) *Documentation.* If clearance is granted by telephone, the aircraft commander is not required to file the documents required by this subpart.

§ 122.72 Aircraft departing with commercial export cargo.

If an aircraft with export cargo leaves the U.S. for any foreign area, a general declaration, if required, an air cargo manifest and any required Shipper's Export Declarations, shall be filed in accordance with this subpart for all cargo on the aircraft, and for the aircraft itself if exported as merchandise. See § 122.79 for special requirements regarding shipments to U.S. possessions.

§ 122.73 General declaration and air cargo manifest.

(a) *General declaration—(1) Form.* The general declaration shall be on

Customs Form 7507 and shall show all information required.

(2) *Preparation and filing.* The aircraft commander or agent shall file two copies of the general declaration with the district director at the departure airport.

(3) *Exception.* A general declaration shall not be required if the air cargo manifest, Customs Form 7509, contains the statement shown in paragraph (b) of this section.

(b) *Air cargo manifest.*

(1) *Form.* The air cargo manifest shall be on Customs Form 7509, and shall show all information required. If a general declaration is not presented, the following statement, signed by the aircraft commander or agent, shall appear on the form:

I declare that all statements contained in this manifest, including the account of the cargo on board this aircraft, are complete, exact, and true to the best of my knowledge.

Signature _____
(Aircraft Commander or Agent)

(2) *Preparation and filing.* The aircraft commander or agent shall file two copies of the air cargo manifest with the district director or the departure airport. Three copies of the air cargo manifest shall be filed if the aircraft is covered by § 122.77(b). The air cargo manifest must be filed in:

- (i) Complete form, with all required Shipper's Export Declarations (see § 122.75); or
- (ii) Incomplete form (pro forma) under § 122.74.

§ 122.74 Incomplete (pro forma) manifest.

(a) *Application.* Clearance or permission to depart may be given to an aircraft by the district director before a complete manifest or all required Shipper's Export Declarations have been filed, if a proper bond is filed on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, except for aircraft bound for locations referred to in paragraph (b) of this section.

(b) *Exceptions.* An incomplete manifest will not be accepted:

- (1) During any time covered by a proclamation of the President that a state of war exists between foreign nations; or
- (2) If the aircraft is departing on a flight from the U.S. directly or indirectly to a foreign country listed in § 4.75 of this chapter.

In both cases, a complete air cargo manifest and all required Shipper's Export Declarations shall be filed with the district director before the aircraft will be cleared.

(c) *Filing under bond.* An incomplete set of documents may be filed only when accompanied by the proper bond. Under the bond, a complete set of documents shall be filed within whichever of the following time periods is appropriate:

(1) *Shipments to foreign countries.* All required Shipper's Export Declarations and a complete air cargo manifest shall be filed by the airline not later than the fourth business day after clearance (when clearance is required) or departure (when clearance is not required) of the aircraft.

(2) *Shipments to and from Puerto Rico.* For shipments between the U.S. and Puerto Rico, the complete manifest (when required) and all Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure.

(3) *Shipments to U.S. possessions.* For shipments between the U.S. or Puerto Rico and possessions of the U.S., a complete manifest and all required Shipper's Export Declarations shall be filed by the airline not later than the seventh business day after departure. See § 122.79.

(d) *Declaration required.* A declaration shall be made on the incomplete manifest that:

(1) All required documents will be filed within the 4-day bond period; or

(2) All required documents will be filed within the 7-day bond period.

Once all documents have been filed, a statement as required by § 122.75(b) shall be made.

§ 122.75 Complete manifest.

(a) *Contents.* A complete air cargo manifest shall list all cargo laden, and show for each item the air waybill number, or marks and numbers on packages and the type of goods carried. If an item does not require a Shipper's Export Declaration, it shall be noted on the air cargo manifest.

(1) *Shipments on an air waybill.* A copy of each air waybill on which shipments are listed may be attached to the air cargo manifest, and the number of the air waybill may be listed on the air cargo manifest. The statement "Cargo as per Air Waybill Attached" must appear on the air cargo manifest if this is done.

(2) *Direct departure.* This subsection applies only to direct departures of shipments requiring a Shipper's Export Declaration. A copy of each declaration may be attached to the air cargo manifest, and the number of each declaration shall be listed on the air cargo manifest in the column for air waybill numbers. The statement "Cargo as per export Declarations Attached"

must appear on the manifest if this is done.

(b) *Statement required.* (1) When all required documents are ready for filing, the following statement must appear on the air cargo manifest, or on the general declaration form if an air cargo manifest is not required:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried in this flight except that listed on the cargo manifest.

(2) If an incomplete set of documents has been filed and is later completed, the following statement shall accompany the Shipper's Export Declarations and any required air cargo manifests:

Attached Shipper's Export Declarations represent a full and complete enumeration and description of the cargo carried on aircraft No. _____, Flight No. _____

cleared direct for _____, on _____ except cargo listed on any cargo manifest required to be filed for such flight.

Airline _____

Authorized Agent _____

§ 122.76 Shipper's Export Declarations and inspection certificates.

At the time of clearance, the aircraft commander or agent shall file with the district director at the departure airport any Shipper's Export Declarations required by the Bureau of Census (see § 122.62(a)). The aircraft commander or authorized agent also shall deliver a proper export inspection certificate issued by the Veterinary Service, Animal and Plant Inspection Service, Department of Agriculture (9 CFR Part 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine or goats.

§ 122.77 Clearance certificate.

(a) *Aircraft departing from the U.S.* One copy of the air cargo manifest shall be used as a clearance certificate when endorsed by the district director to show that clearance is granted.

(b) *Scheduled aircraft.* If a scheduled aircraft clears at an airport which is not the airport at or nearest the place of final take-off from the U.S., two copies of the air cargo manifest shall be filed. One copy shall be used as a clearance certificate when endorsed at the port by the district director at the port where clearance is obtained, and the second copy shall be attached to the first for use at subsequent U.S. ports.

§ 122.78 Entry or withdrawal for exportation or for transportation and exportation.

If a shipment is exported under an entry or withdrawal for exportation, or for transportation and exportation, the

air cargo manifest, the air waybill, or the consignment note attached to the manifest shall clearly show the following information for each entry or withdrawal:

(a) Number;

(b) Date; and

(c) Class of entry or withdrawal, as follows:

(1) Transportation and exportation;

(2) Withdrawal for transportation and exportation;

(3) Immediate exportation;

(4) Withdrawal for exportation; or

(5) Withdrawal for transportation.

The name of the port where the entry or withdrawal was filed, if not the port where the merchandise is laden for exportation, shall also appear on the air cargo manifest.

§ 122.79 Shipments to U.S. possessions.

(a) *Other than Puerto Rico.* An air cargo manifest shall be filed for aircraft transporting cargo between the U.S. and U.S. possessions. Shipper's Export Declarations are not required for shipments from the U.S. or Puerto Rico to the U.S. possessions, except to the U.S. Virgin Islands or from a U.S. possession and destined to the U.S., Puerto Rico, or another U.S. possession.

(b) *Puerto Rico.* This subsection applies when an aircraft carries merchandise on a direct flight between the U.S. and Puerto Rico. If the requirements contained in Subpart I, relating to residue cargo procedures, have been satisfied, an air cargo manifest is required only for:

(1) Merchandise transported as cargo for which a Shipper's Export Declaration is not required; or

(2) Cargo for which a Shipper's Export Declaration cannot be filed on time. (See 15 CFR 30.21).

Any required air cargo manifest or Shipper's Export Declarations shall be filed with the district director at the point of departure.

§ 122.80 Verification of statement.

Customs officers may verify any of the statements required under this subpart by examining the shipping records of the airline involved.

Subpart I—Procedures for Residue Cargo and Stopover Passengers

§ 122.81 Application.

(a) *Aircraft arriving with cargo.* Aircraft arriving in the U.S. from a foreign area with cargo shown on the manifest to be traveling to other airports in the U.S. or to foreign areas may proceed under the provisions of this subpart.

(b) *Aircraft arriving with no cargo.* Aircraft arriving in the U.S. from a foreign area with no cargo on board, and requesting immediate examination and release, may proceed if a bond on Customs Form 301, containing the bond conditions set forth in Subpart G of Part 113 of this chapter, has been filed and covers the aircraft.

§ 122.82 Bond requirements.

A bond on Customs Form 301, containing the bond provisions set forth in Subpart G of Part 113 of this chapter, shall be filed before an aircraft is given a permit to proceed with residue cargo under this subpart. The bond shall be filed in the correct amount with the district director at the entry airport.

§ 122.83 Forms required.

(a) *Traveling general declaration and manifest.* When applying for examination and release from an airport or place of entry in the U.S., the aircraft commander or agent shall file a traveling general declaration and manifest. The traveling general declaration and manifest is one certified copy of the original inward general declaration, and each air cargo manifest required when the aircraft entered. This includes air waybills that were part of the manifest.

(b) *Attachments to traveling general declaration and manifest—(1) Crew purchase and stores list.* The crew purchase and stores list, if required when the aircraft enters under §§ 122.46 and 122.47, shall be attached to the traveling general declaration and manifest.

(2) *Crew purchases not listed on a crew purchase list.* A crew member's declaration shall be attached to the traveling general declaration and manifest if:

(i) Crew purchases are listed on a crew declaration, Customs Form 5129, instead of on the crew purchase list, under § 122.46(c)(2); and

(ii) The crew member has not left the aircraft with his or her purchase at the first entry port.

The crew member's declaration must be attached at the port where the articles listed on the declaration receive clearance.

(c) *Abstract general declaration and manifest.* The abstract general declaration and manifest shall consist of one copy of the general declaration, and one copy of each manifest (including air waybills) covering residue cargo:

(1) Not yet examined and released by Customs or any other Federal agency; and

(2) To be discharged at another domestic or foreign airport.

An abstract general declaration and manifest need not be filed at the last domestic port of discharge.

(d) *Permit to proceed.* A permit to proceed from one domestic airport to another shall be filed by the aircraft commander or agent with the Customs officer in charge at the clearance airport. The permit to proceed shall include a declaration by the aircraft commander or agent, which shall be signed on entry at the next domestic airport. The permit to proceed and declaration shall state substantially the following:

Permit to Proceed From one Airport to Another

Airport of Departure _____

Date _____

Permission is hereby given aircraft _____ to proceed to _____

(Next Domestic Airport)

The aircraft which has arrived from and is destined to the places shown in the general declaration, is proceeding to such places of destination to discharge residue cargo, passengers, or crew members and their purchases, as listed in the attached manifest. Bond was given at the airport of arrival for the cargo retained on board. Items of cargo manifested for delivery at this airport appear to have been landed.

Number of crew members not cleared by Customs _____

Number of passengers not cleared by Customs _____

Number of pages of the traveling manifest _____

(Customs Officer and Title)

Declaration on Entry of Aircraft at Following Airport

Airport of Arrival _____

Date _____

I, _____, commander or authorized agent of the aircraft identified in this document, declare and guarantee that there were not, when such aircraft departed from the airport of _____, nor have been since, nor now are, any more or other goods, wares, or merchandise on board than was stated in the attached manifests.

(Signature and Title)

The permit to proceed and declaration must be stamped, mimeographed or printed on:

(1) The abstract general declaration;

(2) The traveling general declaration when an abstract general declaration is not required; or

(3) A separate sheet of paper.

(e) *Permit to proceed for nonscheduled aircraft.* For each permit to proceed issued to a nonscheduled aircraft carrying residue cargo the transit air cargo manifest procedures shall be followed and a numbered Customs Form 7512-C shall be filled out and filed. The number on the form shall

be placed in the upper right hand corner of the permit to proceed. The original copy of Customs Form 7512-C shall be forwarded as required by the issuing port and the duplicate must be attached to the permit and given to the aircraft commander. When the aircraft arrives at the final port, the aircraft commander shall deliver the permit to proceed and Customs Form 7512-C (duplicate) to Customs.

(f) *Use of form.* When all of the documents required by this section are in order, the permit to proceed shall be dated and signed by the Customs officer in charge at the clearance airport. One copy of the permit to proceed shall be delivered to the aircraft commander or agent with the other required documents, for filing at the next international airport.

§ 122.84 Intermediate airport.

(a) *Application.* The provisions of this section apply at any U.S. airport to which an aircraft proceeds with residue cargo, and passengers, or crewmembers and their purchases not cleared by Customs. They do not apply to aircraft arriving at the last domestic port of discharge.

(b) *Entry.* When an aircraft arrives at the next airport, the aircraft commander or agent shall make entry by filing the:

- (1) Abstract general declaration and manifest;
- (2) Traveling general declaration and manifest; and
- (3) Permit to proceed.

The Declaration on Entry of Aircraft at Following Airport, found on the permit to proceed, shall be properly signed before filing for entry.

(c) *Crew declarations.* The declarations and entries, Customs Form 5129, of any crewmembers who leave the aircraft with their purchases at the intermediate airport shall be detached from the traveling general manifest. The declaration and entries are to be detached by the Customs officer in charge and are kept at the airport.

(d) *Departure.* When the aircraft leaves an intermediate airport carrying residue cargo, and passengers or crewmembers and their purchases are not yet cleared by Customs or another interested Federal agency, the procedure is the same as at the first arrival airport. All documents required by this section, except those detached under paragraph (c) of this section, shall be returned to the aircraft commander or agent for filing at the next entry airport.

§ 122.85 Final airport.

When an aircraft enters at the last domestic airport of discharge, the

traveling general declaration and manifest shall be filed with Customs and kept at the airport. No abstract general declaration and manifest is required.

§ 122.86 Substitution of aircraft.

(a) *Application.* The residue cargo procedure applies when an airline must substitute aircraft to reach a destination due to weather conditions or operational factors which prevent an aircraft on arrival of the flight at the first port from continuing inbound to interior ports scheduled for that flight.

(b) *Clearance and entry.* Clearance and entry of substitute aircraft is required as provided in this subpart for other aircraft.

(c) *Identification.* An identification of all substitute aircraft shall be clearly made on all clearance and entry documents.

(d) *Transporting cargo—(1) Forwarding.* The carrier may forward all cargo which arrived on one aircraft by transferring it to another aircraft of the same airline to complete the inbound flight. The transfer shall be done under Customs supervision.

(2) *Conditions.* All of the residue cargo from more than one inbound flight of an airline may be laden on one substitute aircraft of the airline. The substitute aircraft shall finish the inbound transport of the residue cargo.

§ 122.87 Other requirements.

Section 4.85 of this chapter, relating to vessels with residue cargo for domestic ports, applies to aircraft residue cargo, except as stated in this subpart.

§ 122.88 Aircraft carrying domestic (stopover) passengers.

Airlines that commingle domestic (stopover) passengers (that is, passengers who have already cleared Customs at their port of arrival and are continuing on another aircraft to a second U.S. destination) with international passengers who are continuing on the flight to their port of arrival and have not yet cleared Customs, must comply with certain requirements before being issued a permit to proceed. The carriers requirements are as follows:

(a) The domestic (stopover) passengers must be transported on U.S.-registered aircraft, or foreign-registered aircraft of the same foreign airline that brought them into the U.S.

(b) A \$2.00 charge must be paid for each revenue producing domestic (stopover) passenger reinspected in the U.S. (see § 24.12 of this chapter).

(c) Arrangements must be made for the checked baggage of all passengers

requiring inspection on the previously described flights to be off-loaded and made available for examination in the Federal inspection area at the destination port (intermediate or final) where an inspection is to take place.

(d) All stopover passengers shall be notified in writing, prior to boarding, that they will be subject to full reinspection by Customs. This written notification shall contain the following language: "Notice to all boarding passengers: You are boarding an aircraft on which passengers will be arriving in the U.S. from foreign destinations. These passengers have not yet cleared U.S. Customs. Accordingly, you will be subject to a full reinspection by Customs at your final U.S. port of entry."

(e) Domestic (stopover) passengers shall be provided a Customs declaration identified by the words "Domestic Flight". The domestic (stopover) passenger is only required to complete items 1-4 on that declaration.

(f) The carrier shall present to Customs, as otherwise required by law, the permit to proceed and/or the general declaration, clearly stating the number of domestic (stopover) passengers to be reinspected upon arrival at the destination port (intermediate or final) where an inspection of passengers is to take place.

Subpart J—Transportation in Bond and Merchandise in Transit

§ 122.91 Application.

This subpart applies to the transportation in bond of merchandise arriving in the U.S. by aircraft and entered:

- (a) For immediate transportation to another airport without appraisement; or
- (b) For transportation through the U.S. and later exportation by aircraft.

§ 122.92 Procedure at port of origin.

(a) *Forms required—(1) Customs Form 7512.* Customs Form 7512 or other Customs approved documents shall be used for both entry and manifest. Three copies of the form or other document are required to be filed with Customs at the port of origin for merchandise for immediate transportation without appraisement. Four copies of the form or other document are required when merchandise for transportation and exportation is entered. (See also, §§ 18.11 and 18.20(a) of this chapter). Each copy shall be signed by the carrier or its authorized agent.

(2) *Customs Form 7512-C.* The "Origin" copy of Customs Form 7512-C shall be filed with Customs Form 7512, and its number shall be placed on all copies of Customs Form 7512.

(b) *Delivery of Customs form to carrier—(1) Merchandise entered for immediate transportation without appraisement.* When merchandise is entered for immediate transportation without appraisement, two copies of Customs Form 7512 or other Customs approved document, and the duplicate copy of Customs Form 7512-C shall be delivered to the carrier.

(2) *Merchandise entered for transportation and exportation.* When merchandise is entered for transportation and exportation, one copy of Customs Form 7512 and one copy of Customs Form 7512-C or other Customs approved document shall be delivered to the carrier.

(3) *After delivery.* After delivery, the forms or other document shall accompany the merchandise to the port of destination or exportation.

(c) *Receipt and supervision.* The agent of a bonded air carrier shall give a receipt for any merchandise delivered to it for transportation in bond, and no supervision of the lading of the merchandise on the transporting aircraft shall be required.

(d) *Split shipment—(1) Departure within 24 hours.* Merchandise covered by a single entry and manifest (Customs Form 7512 or other Customs approved document) may be sent to the destination airport on one or more aircraft. A separate manifest for each aircraft is not required if the whole shipment is sent within a single 24-hour period.

(2) *Departure not within 24 hours.* If any part of a shipment is sent more than 24 hours after the first part was sent, the entry and manifest copy which accompanies the first shipment shall state that the rest of the shipment will follow by separate aircraft. A single manifest shall be prepared for each part of the shipment sent by separate aircraft. The manifest shall be used as notice of each arrival at the destination airport.

(e) *Transshipment.* Merchandise sent under bond may be transferred at an intermediate airport to one or more aircraft of the same airline. This may be done without Customs supervision and notice of the transfer is not required. If merchandise covered by one entry and manifest is transferred to more than one aircraft, paragraph (d) of this section applies.

(f) *Sealing not required.* The sealing of aircraft, aircraft compartments carrying bonded merchandise, or the cording and sealing of bonded packages carried by the aircraft, is not required.

(g) *Warning labels.* The carrier shall supply and attach the warning label, as

described in § 18.4(e) of this chapter, to each bonded package.

§ 122.93 Procedure at destination or exportation airport.

(a) *Delivery to district director.* When a bonded shipment arrives at the destination or exportation airport, the aircraft commander or agent shall deliver one copy of the entry and manifest with Customs Form 7512-C attached (Customs Form 7512 or other Customs approved document) covering the shipment to the district director of that airport as notice of arrival. If the shipment was sent by separate aircraft more than 24 hours after the first part of the shipment was sent, then a manifest for each part of the shipment shall be delivered to the district director.

(b) *Delivery to consignee.* When the merchandise is sent under an entry for immediate transportation without appraisal, one copy of the manifest covering the merchandise shall be delivered by the carrier to the consignee. This copy is used to make entry, and may also be used as a carrier certificate as provided in § 141.11(a)(4) of this chapter.

§ 122.94 Certificate of lading for exportation.

(a) *Required filing.* This section applies to merchandise entered for transportation and exportation by aircraft. A certificate of lading for exportation, Customs Form 7512 with Customs Form 7512-C attached, or other Customs approved document (see § 122.93 of this subpart) shall be filed when the merchandise reaches the final departure airport. The form shall be filled out and signed at the place where aircraft clearance for the merchandise is given.

(b) *Clearance not at place of final departure.* If an aircraft is cleared at a place other than the place of final departure from the U.S., the aircraft commander or its authorized agent shall:

(1) Promptly report arrival of any bonded merchandise for export to the Customs officer in charge at that place; and

(2) Submit to the Customs officer in charge the certificate received at the place the merchandise was taken on board. The clearance certificate is kept by the Customs officer in charge until departure.

This procedure shall be followed at each place of landing before final departure.

§ 122.95 Other provisions.

Part 18 of this chapter (Transportation in Bond and Merchandise in Transit) applies to the transportation of

merchandise under this subpart unless stated otherwise.

Subpart K—Accompanied Baggage in Transit

§ 122.101 Entry of accompanied baggage.

Passengers who enter the U.S. on one aircraft and depart to a foreign area on another aircraft with accompanying baggage shall either:

(a) Submit their baggage to Customs for inspection; or

(b) Arrange with the importing carrier for the baggage to be processed under regular in-transit procedures.

When passengers choose not to have access to their baggage while in the U.S., the baggage shall be listed on the Air Cargo Manifest as provided in § 122.48.

§ 122.102 Inspection of baggage in transit.

(a) General baggage in transit may be inspected upon arrival, while in transit, and upon exportation. Carriers shall present in-transit baggage for inspection at any time found necessary by the district director.

(b) In-transit baggage shall be presented to a Customs officer for inspection and clearance before the baggage can be delivered to a passenger while in the U.S.

Subpart L—Transit Air Cargo Manifest (TACM) Procedures

§ 122.111 Application.

Cargo (including manifested baggage) which arrives and is transported under Customs control in, through, or from, the U.S. may be transported in bond under this subpart. If cargo is not transported under this subpart, it shall be transported under other provisions of this chapter. (See Subparts I and J of this part, and Parts 18 and 123 of this chapter.)

§ 122.112 Definitions.

The following definitions apply in this subpart:

(a) *Transit air cargo.* "Transit air cargo" is cargo, including manifested baggage, transported under the requirements of this subpart.

(b) *Port of arrival.* The "port of arrival" is the port in the U.S. where imported cargo must be documented for further transportation under this subpart.

(c) *Transfer or transferred.* "Transfer or transferred" means the change of documentation of cargo to transit air cargo for transportation. The terms also include the physical movement of the cargo from one carrier to another, and thereafter by air or surface movement to the port of destination.

(d) *Transit air cargo manifest.*

"Transit air cargo manifest" is used in this subpart as the shortened title for the transportation entry and transit air cargo manifest.

§ 122.113 Form for transit air cargo manifest procedures.

A manifest on Customs Form 7509 is required for transit air cargo, as provided in § 122.48(c) of this part. The words "Transportation Entry and Transit Air Cargo Manifest" shall be printed, stamped or marked on the form and on all copies of the form required for transit air cargo movement.

§ 122.114 Contents.

(a) *Form duplicates original manifest.* Each transit air cargo manifest shall be a duplicate of the sheet presented as part of the cargo manifest for the aircraft on which the cargo arrived in the U.S.

(b) *Shipments shown on manifest—(1) Country of exportation.* Each transit air cargo manifest sheet may list:

(i) Only air cargo shipments from one exporting country, with the name of the country shown in the heading; or

(ii) Air cargo shipments from several exporting countries, with the name of the exporting country shown in the "Nature of Goods" column.

(2) *Shipment to same port.* Each transit air manifest sheet may list only those shipments manifested by way of the port of arrival for:

(i) The same Customs port of destination;

(ii) The same Customs port for later exportation; or

(iii) Direct exportation from the port of arrival.

(c) *Information required.* Each air cargo manifest sheet shall show:

(1) The foreign port of lading;

(2) The date the aircraft arrived at the port of arrival;

(3) Each U.S. port where Customs services will be necessary due to transit air cargo procedures; and

(4) The final port of destination in the U.S., or the foreign country of destination, for each shipment. The foreign country destination shown on the manifest must be the final destination, as shown by airline shipping documents, even though airline transport may be scheduled to end before the shipment arrives at the final destination.

(d) *Corrections.* If corrections in the route shown on the original manifest for the cargo are required at the port of arrival to make a manifest sheet workable as a transit air cargo manifest, the district director at the port of arrival may allow the corrections.

§ 122.115 Labeling of cargo.

A warning label, as required by § 18.4(e) of this chapter, shall be attached to all transit air cargo not directly exported from the port of arrival before the cargo leaves the port of arrival.

§ 122.116 Identification of manifest sheets.

When the original cargo manifest for the aircraft on which the cargo arrives is presented by the aircraft commander or its authorized agent at the port of arrival, a manifest number will be given to the aircraft entry documents by Customs. The number given shall be used by the airline to identify all copies of the transit air cargo manifest. All copies of the manifest shall be correctly numbered before cargo will be released from the port of arrival as transit air cargo.

§ 122.117 Requirements for transit air cargo transport.

(a) *Transportation*—(1) *Port to port.* Transit air cargo may be carried to another port only when a receipt is given, as provided in paragraph (b) of this section. The receipt may be given only to an airline which:

- (i) Is a common carrier for the transportation of bonded merchandise; and
- (ii) Has the required Customs bond on file.

(2) *Exportation from port of arrival.* Transit air cargo may be exported from the port of arrival only if covered by a bond on Customs Form 301, containing the bond conditions set forth in Subpart C of Part 113 of this chapter, as provided in § 18.25 of this chapter.

(b) *Receipt*—(1) *Requirements.* When air cargo is to move from the port of arrival as transit air cargo, a receipt shall be given. The receipt shall be made by the airline responsible for transport or export within the lay order period, or an authorized extension period (see § 4.37 of this chapter).

(2) *Contents.* The receipt shall appear on each copy of the transit air cargo manifest, clearly signed and dated if required, in the following form:

Received the cargo listed herein for delivery to Customs at the port of destination or exportation shown above, or for direct exportation.

Name of carrier (or exporter)

Attorney or agent of carrier (or exporter)

Date

(c) *Responsibility for transit air cargo*—(1) *Direct exportation.* The responsibility of the airline exporting

transit air cargo for direct exportation begins when a receipt, as provided in paragraph (b) of this section, is presented to Customs.

(2) *Other than direct exportation.* When the transit air cargo is not for direct exportation, the responsibility of the airline receiving the cargo begins when a receipt, as provided in paragraph (b) of this section, is presented to Customs.

(3) *Carting.* When carting is used to deliver transit air cargo to receiving airlines, the importing airline is responsible for the cargo under its own bond until a receipt is filed by the receiving airline. This does not apply when the carting is done under Part 112 of this chapter, at the expense of the parties involved.

(4) *Importing airlines.* An importing airline which has qualified as a carrier of bonded merchandise, whether registered in the U.S. or a foreign area, may:

- (i) Give a receipt for the air cargo;
- (ii) File an appropriate bond; and
- (iii) Deliver the cargo to an authorized domestic carrier for in-bond transportation from the port of arrival. The importing carrier's bond covers the transportation.

(d) *Split shipments.* A receipt shall be given by one airline for all of the cargo shipments listed on one transit air cargo manifest sheet. Cargo shipments so listed shall be transported from the port of arrival on one aircraft or carrier unless the use of more than one aircraft or carrier would be allowed:

- (1) By § 122.92(d) under a single combined entry and manifest;
- (2) By § 122.118(d); or
- (3) By § 122.119(e), permitting the use of a surface carrier for transport.

Otherwise, all shipments on the transit air cargo manifest shall be separately documented and transported under the regular procedures for transportation of merchandise in bond (See Subpart J).

§ 122.118 Exportation from port of arrival.

(a) *Application.* Transit air cargo may be transferred for exportation from any port of arrival under this section. The district director may require any supervision necessary to enforce the regulations of other Federal agencies.

(b) *Time.* Transit air cargo shall be exported from the port of arrival within 10 days from the date the exporting airline receives the cargo. After the 10-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

(c) *Transit air cargo manifest copies.* Three copies of the transit air cargo manifest shall be filed with Customs.

(1) *Review copy.* The importing airline shall file a copy of each transit air cargo manifest sheet covering any cargo shipment that will be transferred for direct exportation. This filing shall be made as soon as the exporting airline has been chosen. The exporting airline need not give receipt on the review copy for the cargo to be transferred, but the name of the exporting airline shall be placed on the copy.

(2) *Exportation copy.* The exportation copy shall be filed by the exporting airline when clearance documents are presented to Customs.

(3) *Clearance copy.* The clearance copy shall be filed with the exporting aircraft's clearance documents.

The exportation and clearance copies shall show the exporting airline's receipt for the cargo, aircraft number, flight number, and the date.

(d) *Direct export on different aircraft.* Transit air cargo shipments which are listed on one aircraft transit air cargo manifest sheet may be directly exported on different aircraft of the exporting airline. If this occurs, two additional copies of the transit air cargo manifest shall be filed for each shipment or group of shipments transported in other aircraft. Each copy of the transit air cargo manifest shall be clearly marked to show which shipment or shipments listed are covered by the manifest copy.

(e) *Direct export by another airline.* If shipments listed on one transit air cargo manifest sheet are not exported from the same port on the same airline, separate export entries on Customs Form 7512, as required by § 18.25 of this chapter, shall be filed.

(f) *Post entered air cargo.* Air cargo not listed on the manifest (i.e., overages) which has been post entered under § 122.49(b) may be exported from the port of origin under this subpart. If this occurs, four copies of the air cargo manifest, Customs Form 7509, marked "Post Entry", shall be provided. All requirements of § 122.44(b) shall be followed in using this procedure.

(g) *Review.* The review copy of the transit air cargo manifest sheets must be reviewed by Customs as required for the carrier manifest copy in § 122.120(g). The reviewing officer shall take the proper action if a license is necessary for any cargo. The exporting airline shall be notified that any transit air cargo which is not covered by the required license must be placed under constructive Customs custody in a special area of the airline's terminal until the license is obtained.

§ 122.119 Transportation to another U.S. port.

(a) *Application.* Air cargo shipments may be transferred for transportation as transit air cargo from the port of arrival to another port in the U.S. under this section. The district director of the port of arrival may require Customs supervision of the transfer.

(b) *Time.* Transit air cargo traveling to a final port of destination in the U.S. shall be delivered to Customs at its destination within 15 days from the date the receiving airline gives the receipt for the cargo at the port of arrival.

(c) *Transit air cargo manifest copies.* Four copies of the transit air cargo manifest, including a carrier manifest copy, and two copies of Customs Form 7512-C (original and duplicate) shall be filed by the airline giving a receipt for moving the cargo shipments to their destination.

(1) *Permit copy.* This copy is used and kept by Customs at the port of arrival.

(2) *Customs Form 7512-C (duplicate).* This copy accompanies the transit air cargo to the port of destination.

(d) *Failure to deliver on time—(1) Procedure.* If transit air cargo does not arrive at the destination port on time, the district director at the port of arrival shall take action as provided in §§ 18.6 and 18.8 of this chapter. The amount of duty and tax shall be decided at the port of arrival on the basis of information:

(i) On the permit copy kept at the port of arrival; and

(ii) Obtained from the carriers as necessary.

The district director at the port of arrival shall notify the airline that presented a receipt for the cargo that there has been a failure to deliver.

(2) *Responsibility of airline.* When the airline that presented a receipt for the cargo receives notice of discrepancies, the airline shall answer within 90 days of the date of such notice to the district director at the port of arrival. The answer shall provide any information or documents related to the value and description of the cargo involved that the receipting airline and the importing airline can produce.

(e) *Surface movement to port of destination.* If an aircraft arrives at the port of arrival with cargo to be carried as transit air cargo, the cargo may be transferred to another carrier for surface movement to the port of destination. The transfer is allowed under the following conditions:

(1) The bond of the party receiving the cargo for surface movement must cover the transfer and surface movement;

(2) The description of the cargo on the transit air cargo manifest must be complete;

(3) The entire shipment listed in the transit air cargo manifest must be shipped from the port of arrival to the port of destination by the same surface carrier; and

(4) The requirements of § 122.114(b) must be followed.

§ 122.120 Transportation to another port for exportation.

(a) *Application.* Air cargo may be transferred as transit air cargo at the port of arrival for transportation to another port in the U.S. and later exportation under this section.

(b) *Supervision—(1) From port of arrival to exportation port.* The district director at the port of arrival shall order any supervision found necessary for the transfer of transit air cargo for transportation to another port for export.

(2) *At exportation port.* Customs shall be notified far enough in advance to be able to make any required supervision of the lading of cargo, and to enforce any other Federal agency requirements, when transit air cargo is ready for lading on the exporting aircraft.

(c) *Time.* Transit air cargo covered by this section shall be delivered to Customs at the port of exportation within 15 days from the date of receipt by the forwarding airline.

(d) *Transit air cargo manifest copies.* Five copies of the transit air cargo manifest and a Customs Form 7512-C (original and duplicate) shall be filed with Customs.

(1) *Port of arrival.* Two copies of the transit air cargo manifest, marked separately as "permit" and "control" copies, and Customs Form 7512-C (original) shall be filed with Customs at the port of arrival. The duplicate shall accompany the shipment as provided in § 122.119(c)(2) of this part. Filing shall be made when the arriving aircraft enters, or before the lay order period ends, by the airline which presents a receipt to transport the cargo from the port of arrival to the port of destination.

(2) *Port of exportation.* Three copies of the transit air cargo manifest shall be filed at the port of exportation.

(i) *Carrier manifest copy.* The carrier manifest copy shall be attached to the listing of cargo shipments and submitted when the cargo arrives at the exportation port.

(ii) *Exportation and clearance copies.* Two copies, marked separately as "exportation" and "clearance" copies, shall be filed with Customs at the exportation port.

(e) *Delivery to exporting airline.* When the transit air cargo arrives at the exportation port, it may be delivered directly to the exporting carrier, together

with the exportation and clearance copies. The name of the exporting carrier shall be clearly noted on the carrier manifest copy, which shall then be delivered to Customs.

(f) *Storage by exporting airline.* The exporting carrier shall keep all cargo listed on the transit air cargo manifest in one storage space. This storage space shall be separate from the area in which special shipments which require a license under paragraph (g) of this section are stored.

(g) *Export license—(1) Review.* A Customs officer shall review the carrier manifest copy of the transit air cargo manifest to make sure that the export licensing requirements of other Federal agencies have been followed.

(2) *Information inadequate.* If the manifest information is not enough for Customs to determine that a license or other requirement applies, then the transit air cargo shall be checked by examination, or by inspection of the air waybills or attached invoices.

(3) *When license or other requirement applies.* The exporting airline shall be notified at once if Customs finds that the shipment cannot be exported without a license or other approval. The shipment shall then be put under constructive Customs custody in a special area set aside for the shipment in the exporting airline's cargo terminal.

(h) *Filing of exportation and clearance copies—(1) Information.* When filed with Customs, the exportation and clearance copies of the transit air cargo manifest shall each show:

- (i) The aircraft number;
- (ii) The aircraft flight number; and
- (iii) The date.

(2) *Filing.* The exporting airline shall file the exportation and clearance copies before the aircraft that carries the transit air cargo departs. The clearance copies shall be grouped together and not mixed in with other outward manifest sheets. The exportation copies shall be grouped together, and kept separate from the outward clearance documents.

(i) *Cargo not laden at same airport by same airline.* If all the cargo listed on one transit air cargo manifest sheet is not laden for exportation from the same U.S. airport by the same airline, then separate entries on Customs Forms 7512 and 7512-C are required for each cargo shipment listed:

(1) For transportation and exportation under Subpart J of this part; or

(2) For direct exportation under § 18.25 of this chapter.

(j) *Cargo laden on more than one aircraft of same airline.* When any cargo shipment listed on the same transit air

cargo manifest must be exported on more than one aircraft of the same airline, § 122.118(d) applies.

(k) *Failure to deliver.* If all or part of the cargo listed on the transit air cargo manifest is not accounted for with an exportation copy within 40 days, the district director at the port of arrival shall take action as provided in § 122.119(d).

Subpart M—Aircraft Liquor Kits

§ 122.131 Application.

(a) *Liquor and tobacco.* Subpart M applies to:

(1) Duty-free and tax-free liquor and tobacco; and

(2) Duty-paid and tax-paid liquor and tobacco which has been placed in the same liquor kit as duty-free and tax-free liquor and tobacco.

(b) *Aircraft.* Subpart M applies to all commercial aircraft on domestic or foreign flights operating into, from and between U.S. airports, which are carrying:

(1) Duty-free and tax-free liquor and tobacco withdrawn from bond under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309); or

(2) Other liquor or tobacco on which duty or taxes have not been paid.

This includes any aircraft carrying duty-free and tax-free liquor under 19 U.S.C. 1309, or other Federal law, although the aircraft is not required to enter, clear or report arrival.

§ 122.132 Sealing of aircraft liquor kits.

(a) *Sealing required.* Aircraft liquor kits shall be sealed on board the aircraft by crewmembers before the aircraft lands in the U.S. The liquor kits shall be kept under seal while on the ground unless taken to an authorized airline in-bond liquor storeroom.

(b) *Exception.* When an aircraft is traveling between airports in the U.S., in a trade for which duty-free and tax-free liquor is used during flight, sealing the liquor kits on board during transporting stopovers is not required if:

(1) The liquor kits are kept on board the aircraft; and

(2) The district director finds that sealing is not required for revenue protection.

(c) *Seals to be used.* Aircraft liquor kits shall be sealed with serially numbered, Customs approved seals. The airline shall use seals supplied by an approved manufacturer, as provided in Part 24 of this chapter. A small number of seals may be obtained from the district director.

(d) *Removing seals.* When sealed liquor kits are on the ground, the Customs seals may be broken only by:

(1) A Customs officer; or

(2) Authorized airline personnel, in an authorized airline in-bond liquor storeroom.

(e) *Resealing.* When a Customs officer breaks the seal of a liquor kit to check the contents, the action shall be recorded on the liquor kit stores list, and the liquor kit must be resealed with an approved seal.

§ 122.133 Stores list required on arrival.

(a) *When required, contents.* Three copies of an incoming stores list shall be prepared for each liquor kit on board before an aircraft lands. The incoming stores list shall state for each type of liquor and bottle size:

(1) Number of full bottles;

(2) Number of partially filled bottles; and

(3) Total number of bottles.

If the carrier chooses not to state the type of liquor for each size bottle, any duty or taxes assessed for any shortage shall be set at the highest rate available for the alcoholic beverages in the kit.

(b) *Disposition of stores list copies.*

One copy of the incoming stores list shall be placed in the liquor kit before it is sealed. The remaining two copies shall be used as follows:

(1) One copy shall be filed with the inward cargo manifest; and

(2) One copy shall be kept for filing with the outward cargo manifest if the liquor kit was laden for export.

(c) *For aircraft not required to enter and/or clear.* If an aircraft is not required to enter and/or clear:

(1) One copy shall be given to the Customs officer upon arrival; and

(2) One copy shall be kept to be given to the Customs officer before departure of the aircraft.

(d) *When stores list not prepared.*

When a complete stores list is not prepared before landing, liquor kits must be sealed on board, and the seal number shall be recorded on the stores list. When the aircraft lands, the liquor shall be taken at once to the Customs office and the stores list shall be completed by crew members under Customs supervision.

§ 122.134 When airline does not have in-bond liquor storeroom.

(a) *Handling of liquor kits.* An aircraft may land at an airport where the airline involved does not have an authorized in-bond liquor storeroom. When this occurs, the liquor kits, under any supervision found necessary by the district director, may be:

(1) Kept on board the aircraft;

(2) Removed and replaced upon the aircraft; or

(3) Removed and replaced aboard another aircraft.

(b) *Sealing of kits.* Aircraft liquor kits covered by this section shall remain sealed until departure. Customs officers may remove the seal to check the contents of the liquor kits, but shall reseat the kits as provided in § 122.132(e).

(c) *Restocking.* Additional amounts of duty-free and tax-free liquor and tobacco obtained in the U.S. shall be laden in a separate container on any aircraft covered by this section. The lading shall be done under any supervision the district director finds necessary. The additional liquor and tobacco shall be shown on separate outward stores lists.

§ 122.135 When airline has in-bond liquor storeroom.

(a) *Restocking.* Liquor kits on board an aircraft landing at an airport where the airline involved has an authorized in-bond liquor storeroom may be removed and restocked in the storeroom.

(b) *Inventory record.* Each authorized airline in-bond liquor storeroom shall keep an inventory record in a form that satisfies the district director. The inventory record shall account for the receipt and use of all aircraft liquor and tobacco stores on which duty and/or tax has not been paid.

(c) *Airline employees.* Any airline which has an authorized in-bond liquor storeroom at an airport shall give the district director:

(1) A list of names of all airline employees authorized to break Customs seals on liquor kits in the in-bond liquor storeroom; and

(2) Signature samples of the authorized employees.

(d) *Opening of aircraft liquor kits.* Aircraft liquor kits received in an authorized storeroom shall be opened only by authorized airline employees, or by Customs officers.

(e) *Contents of liquor kits.* The employees who break the seals on aircraft liquor kits shall check the contents at once. The employees shall immediately report to the district director any:

(1) Evidence of seal tampering;

(2) Difference between the seal numbers on the liquor kits and those recorded on the stores list; and

(3) Differences in quantity as shown on the stores list.

(f) *Handling the liquor kits—(1) Partial bottles.* Partial bottles of liquor may be removed from incoming liquor kits and kept in the in-bond liquor storeroom to be destroyed or combined

with other partial bottles. This may be done only under Customs supervision. The costs of Customs supervision shall be paid by the airline.

(2) *Exportation.* The contents of incoming liquor kits may be commingled to restock outbound liquor kits. The commingling must take place in the airline in-bond liquor storeroom, using liquor bottles on which the seal has not been broken.

(3) *Sealing.* All liquor kits shall be sealed as provided in § 122.132(a) before removal from the in-bond liquor storeroom. All seal numbers shall be listed on an outgoing stores list.

§ 122.136 Outgoing stores list.

(a) *Preparation.* Two copies of a serially numbered outgoing stores list shall be prepared by the airline for all liquor and tobacco withdrawn from bonded or non-tax-paid stock and added to liquor kits. The outgoing stores list shall show the total number of bottles for each type liquor, the brand, and the size of each bottle.

(b) *Use of copies.* The two copies of the outgoing stores list shall be used as follows:

(1) One copy shall be placed and kept in the outgoing kits until the aircraft leaves the U.S.; and

(2) One copy must be filed either with the outgoing cargo manifest (for aircraft required to clear) or with Customs before departing, as provided in § 122.133(c).

In both cases, the third copy of the inward stores list shall be filed with the outgoing stores list. (See § 122.133(c)).

§ 122.137 Certificate of use.

Any liquor or tobacco withdrawn from the in-bond storeroom and shown on the outgoing stores list shall be recorded, when exported, on a certificate of use prepared by the airline.

Subpart N—Flights to and From the U.S. Virgin Islands

§ 122.141 Definitions.

Under Subpart N, the following definitions apply:

(a) *United States.* The term "U.S." includes the several States, the District of Columbia and Puerto Rico.

(b) *Foreign area.* The term "foreign area" means any area other than the several States, the District of Columbia and Puerto Rico.

§ 122.142 Flights between the U.S. Virgin Islands and a foreign area.

(a) *Aircraft arriving in the U.S. Virgin Islands.* Aircraft arriving in the U.S. Virgin Islands from a place other than the U.S. are governed by the provisions

of this part which apply to aircraft arriving in the U.S. from a foreign area.

(b) *Aircraft leaving the U.S. Virgin Islands.* Aircraft leaving the U.S. Virgin Islands for a place other than the U.S. are governed by the provisions of this part that apply to aircraft leaving the U.S. for a foreign area.

§ 122.143 Flights from the U.S. to the U.S. Virgin Islands.

(a) *In general.* Aircraft on flights from the U.S. to the U.S. Virgin Islands are governed by the provisions of this part that apply to aircraft on a flight within the U.S.

(b) *Bureau of the Census.* When Bureau of the Census regulations (15 CFR Part 30) apply to aircraft carrying merchandise to the U.S. Virgin Islands from the U.S., permission to depart must be obtained from the district director. Permission to depart shall not be given unless:

(1) A complete manifest and Shipper's Export Declarations as required by 15 CFR Part 30 are filed; or

(2) An incomplete manifest under 15 CFR 30.24 is filed and the complete manifest and Shipper's Export Declarations are filed within 7 business days after departure.

§ 122.144 Flights from the U.S. Virgin Islands to the U.S.

(a) *Aircraft not inspected.* This paragraph applies to aircraft departing from the U.S. Virgin Islands and arriving in the U.S., without having been inspected prior to departure.

(1) *On departure.* Aircraft leaving the U.S. Virgin Islands for the U.S. are governed by the provisions of this part that apply to aircraft leaving the U.S. for a foreign area.

(2) *On arrival.* Aircraft departing from the U.S. Virgin Islands and arriving in the U.S. are governed by the provisions of this part that apply to aircraft arriving in the U.S. from a foreign area.

(b) *Supervision.* When aircraft are inspected by Customs in the U.S. Virgin Islands, the district director may order any supervision found necessary to protect the revenue and enforce the laws administered by Customs. This includes the collection of duty and taxes on articles bought in the U.S. Virgin Islands.

(c) *Procedure.* When an aircraft that was inspected in the U.S. Virgin Islands arrives in the U.S. from the U.S. Virgin Islands, the aircraft commander must be able to give evidence of the inspection to Customs on request. Evidence of the inspection shall be given in the following manner:

(1) A certificate on Customs Form 7507 shall be presented for aircraft registered in the U.S.:

- (i) Of domestic origin; or
- (ii) Of foreign origin, if duty has been paid and the aircraft is proceeding carrying neither passengers nor cargo, or with cargo and/or passengers solely from the U.S. Virgin Islands.

Two copies of the certificate shall be given to the inspecting Customs officers in the U.S. Virgin Islands by the aircraft commander. The certificate shall be marked with the port and date of inspection, and must be signed by the inspecting officer. The original of the certificate must be returned to the aircraft commander, who must keep the certificate for a reasonable time after the end of the flight to the U.S. If requested, the certificate shall be presented to Customs. The certificate may be destroyed or disposed of after a reasonable time at the discretion of the aircraft commander or agent.

(2) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in the U.S. which are:

- (i) Of foreign origin;
- (ii) Not duty paid; and
- (iii) Proceeding carrying neither passengers nor cargo.

The permit to proceed, as required by Subpart F of this part, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(3) A permit to proceed on Customs Form 7507 shall be presented for aircraft registered in a foreign country and proceeding carrying neither passengers nor cargo. The permit to proceed, as required under Subpart F of this part, shall be marked with the port and date of inspection, and shall be signed by the inspecting officer in the U.S. Virgin Islands.

(4) A permit to proceed, or other document, shall be filed as required under Subpart I of this part for an aircraft carrying residue cargo and/or passengers. The permit to proceed shall be marked with the port and date of inspection, and it must be signed by the inspecting officer in the U.S. Virgin Islands.

Subpart O—Flights to and From Cuba

§ 122.151 Definitions.

Under this subpart, the following definitions apply:

(a) *United States.* The term "U.S." includes the several States, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.

(b) *Cuba*. The term "Cuba" does not include the Guantanamo Bay Naval Station.

§ 122.152 Application.

This subpart applies to all aircraft entering or departing the U.S. to or from Cuba except public aircraft. Public aircraft are covered by Subpart P.

§ 122.153 Limitations on airport of entry or departure.

The owner or person in command of any aircraft clearing the U.S. for, or entering the U.S. from, Cuba, whether the aircraft is departing on a temporary sojourn, or for export, shall clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida, and comply with the requirements in this part unless otherwise authorized by the Regional Commissioner of Customs, Miami, Florida.

§ 122.154 Notice of arrival.

(a) *Application*. All aircraft entering the U.S. from Cuba shall give advance notice of arrival.

(b) *Procedure for giving advance notice of arrival*. The commander of an aircraft covered by this section shall give the advance notice of arrival not less than one (1) hour before crossing the U.S. coast or border. Notice shall be given either:

(1) Through Federal Aviation Administration flight notification procedure (see International Flight Information Manual, Federal Aviation Administration); or

(2) Directly to the Customs officer in charge at the Miami International Airport, Miami, Florida.

(c) *Contents of notice*. The advance notice of arrival shall state:

- (1) Type of aircraft and registration number;
- (2) Name of aircraft commander;
- (3) Number of U.S. citizen passengers;
- (4) Number of alien passengers;
- (5) Place of last foreign departure;
- (6) Estimated time and location of crossing the U.S. coast or border; and
- (7) Estimated time of arrival.

§ 122.155 Document to be presented upon arrival.

Upon arrival, the aircraft commander shall present:

(a) A manifest of all passengers on board, as required by the U.S. Immigration and Naturalization Service pursuant to 8 CFR 231.1(b), to an officer of the U.S. Immigration and Naturalization Service or to a Customs officer acting as an Immigration officer;

(b) The documents required by Subpart E of this part.

§ 122.156 Release of passengers.

No passengers arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart before the passengers are released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of that agency.

§ 122.157 Documents required for clearance.

As a condition precedent to clearance, the aircraft commander shall present to Customs:

(a) The documents required by Subpart H of this part; and

(b) A validated license issued by the Department of Commerce, as provided for in 15 CFR 371.19 or a license issued by the Department of State, as provided in 22 CFR Part 123.

§ 122.158 Other entry and clearance requirements.

All other provisions of this part relating to entry and clearance of aircraft are applicable to aircraft subject to this subpart.

Subpart P—Public Aircraft [Reserved]

Subpart Q—Penalties

§ 122.161 In general.

Except as provided in § 122.14, any person who violates any Customs requirements stated in this part, or any regulation that applies to aircraft under § 122.2, is, in addition to any other applicable penalty, subject to a civil penalty of \$5,000 as provided by 49 U.S.C. App. 1474, except for overages, and failure to manifest narcotics or marihuana, in which cases the penalties set forth in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584) apply, or for failure to report arrival as required in which case the penalties set forth in section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436) apply, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture, as provided for in the Customs laws. A penalty or forfeiture may be mitigated under Part 171 of this chapter.

§ 122.162 Failure to notify and explain differences in air cargo manifest.

(a) *Application*. Penalties shall be assessed if differences in an air cargo manifest (overages or shortages) are discovered and:

- (1) The required notice and explanation are not made in time;
- (2) The district director is not satisfied that the differences were caused by clerical error or other mistake;

(3) There has been a loss of revenue to the U.S.; or

(4) The district director is not satisfied that there was a valid reason for delay in reporting any differences.

(b) *Definition*. Under this section, "clerical error or other mistake" means a non-negligent, inadvertent, or typographical mistake, made when the manifest is prepared, assembled or submitted.

(c) *Repeated differences*. If repeated differences are found in manifests filed by the same person, it may be determined that the differences were a result of negligence and not clerical error or other mistake.

(d) *Knowledge*. A penalty may be assessed for differences in a manifest that are unknown to the aircraft commander or owner.

§ 122.163 Transit air cargo traveling to U.S. ports.

(a) *Application*. If transit air cargo is traveling from the port of arrival to another U.S. port under § 122.119, a liability shall be assessed, as set out in § 18.8 of this chapter if there has been:

- (1) Shortage in delivery;
- (2) Irregular delivery; or
- (3) Non-delivery.

(b) *Liabilities assessed*. The liabilities assessed under this section are imposed as liquidated damages under a carrier's bond.

(c) *Value of merchandise*. The district director shall determine the value of merchandise for assessment purposes based on the following factors:

- (1) Any data or documents available to the airline which presented a receipt for the transit air cargo, and available to the importing airline relating to the description and value of the cargo; and
- (2) Other information available to the district director relating to the same or similar merchandise. If the data or documents required by this section are not submitted within 90 days of the date requested, the district director shall determine value on the basis of other available information. The transit air cargo manifest does not reflect value.

§ 122.164 Transportation to another port for exportation.

If transit air cargo is traveling from the port of arrival to another U.S. port for later exportation, any liquidated damages for shortages or irregular delivery shall be assessed as provided in § 122.163.

§ 122.165 Air cabotage.

(a) The air cabotage law (49 U.S.C. App. 1508(b)) prohibits the transportation of persons, property, or mail for compensation or hire between

points of the U.S. in a foreign civil aircraft. The term "foreign civil aircraft" includes all aircraft that are not of U.S. registration except those foreign-registered aircraft leased or chartered to a U.S. air carrier and operated under the authority of regulations issued by the Department of Transportation, as provided for in 14 CFR 121.153, and those aircraft used exclusively in the service of any government.

(b) Customs officers detecting possible violations shall report the matter to Headquarters, Attention: Carrier Rulings Branch. Liability should not be assessed under 49 U.S.C. App. 1471 pending instructions from Headquarters since certain limited domestic transportation by foreign civil aircraft is permitted under regulations issued by the Department of Transportation.

§ 122.166 Arrival, departure, discharge, and documentation.

(a) *Liability for civil penalties.* Except as otherwise provided, any aircraft pilot violation of the requirements of section 433, Tariff Act of 1930, as amended, (19 U.S.C. 1433), with respect to the following actions shall be liable for civil penalties as provided by section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436), and described in paragraph (c) of this section:

- (1) Advance notification of arrival;
- (2) Report of arrival;
- (3) Landing of aircraft;
- (4) Presentation of documentation;
- (5) Departure from the port, place, or airport of arrival without authorization; or

(6) Discharge of passenger, or merchandise (to include baggage) without authorization.

(b) *Liability for criminal penalties.* Upon conviction, any aircraft pilot violating any of the Customs requirements described in paragraph (a) of this section shall, in addition to civil penalties be subject to criminal penalties as set forth in section 436, Tariff Act of 1930, as amended, (19 U.S.C. 1436), and described in paragraph (c) of this section. If the aircraft has or is discovered to have had on board any merchandise (other than the equivalent, for a vessel, of sea stores) the importation of which into the U.S. is prohibited, that person shall be subject to an additional fine as set forth in 19 U.S.C. 1436 and described in paragraph (c) of this section.

(c) *Civil and criminal penalties described—(1) Civil penalty.* The pilot of any aircraft who fails to comply with the requirements of this section is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each

subsequent violation. Any aircraft used in connection with any such violation is subject to seizure and forfeiture.

(2) *Criminal penalty.* In addition to the civil penalty prescribed for violation of this section, the pilot of any aircraft who intentionally fails to comply with the requirements of this section is liable, upon conviction, for a fine of not more than \$2,000 or imprisonment for 1 year, or both. If the aircraft is found to have, or to have had, on board any merchandise the importation of which is prohibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(3) *Additional civil penalty.* If any merchandise, other than the equivalent of vessel sea stores, is imported or brought into the U.S. aboard an aircraft which has failed to comply with the requirements prescribed by this section, the pilot of the aircraft shall be liable for a civil penalty equal to the value of the merchandise, and the merchandise may be seized and forfeited, unless properly entered by the importer or consignee.

§ 122.167 Aviation smuggling.

(a) *Civil penalties.* Any aircraft pilot who transports, or any person on board any aircraft who possesses prohibited or restricted merchandise knowing, or intending, that the merchandise will be introduced into the U.S. contrary to law shall be subject to a civil penalty of twice the value of the merchandise involved, but not less than \$10,000, as prescribed in section 590, Tariff Act of 1930, as amended (19 U.S.C. 1590). Any aircraft used in connection with, or in aiding or facilitating, any violation of 19 U.S.C. 1590, whether or not any person is charged in connection with such violation, may be seized and forfeited in accordance with Customs laws.

(b) *Criminal penalties.* Any aircraft pilot or person who intentionally violates 19 U.S.C. 1590 is, upon conviction, subject to the criminal penalties of a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, if none of the merchandise involved is a controlled substance. More severe penalties are provided in 19 U.S.C. 1590 if the smuggled merchandise is a controlled substance. In such case, a violator is liable for a fine of not more than \$250,000 or imprisonment for not more than 20 years, or both.

(c) For purposes of imposing civil penalties under this section; any of the following acts, when performed within 250 miles of the territorial sea of the United States, shall be evidence that the transportation or possession of

merchandise was unlawful and shall indicate that the purpose of the transfer was to make it possible for such merchandise, or any part of it, to be introduced into the U.S. unlawfully. For purposes of seizure and forfeiture, the following acts shall be evidence that an aircraft was used in connection with, or to aid or facilitate, a violation of this section:

(1) The operation of an aircraft without lights during such times as lights are required to be displayed under applicable law.

(2) The presence on an aircraft of an auxiliary fuel tank which is not imported in accordance with applicable law.

(3) The failure to correctly identify the aircraft by registration number and country of registration, when requested to do so by a customs officer or other government authority.

(4) The external display of false registration numbers or false country of registration.

(5) The presence on board of unmanifested merchandise, the importation of which is prohibited or restricted.

(6) The presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under Single Convention on Narcotic Drugs or other international treaty.

(7) The presence of any compartment or equipment which is built or fitted out for smuggling.

Conforming Amendments to the Regulations

Parts 4, 10, 18, 24, 123, and 162, Customs Regulations (19 CFR Parts 4, 10, 18, 24, 123, and 162), are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for Part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103.

§ 4.30 [Amended]

2. Section 4.30(l) and (m) is amended by removing the references to "Part 6", and by inserting, in their places, references to "Part 122".

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624.

§ 10.41 [Amended]

2. Section 10.41(c) is amended by removing the reference to "Part 6", and by inserting, in its place, a reference to "Part 122".

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The authority citation for Part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1551, 1552, 1553, 1624.

§ 18.2 [Amended]

2. Section 18.2(c)(2) is amended by removing the reference to "§ 6.21" and inserting, in its place, a reference to "§ 122.118".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for Part 24 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1624; 31 U.S.C. 9701.

§ 24.12 [Amended]

2. Section 24.12(d) is amended by removing the reference to "§ 6.9(f)" and inserting, in its place, a reference to "§ 122.88".

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The authority citation for Part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1624.

§ 123.0 [Amended]

2. Section 123.0 is amended by removing the reference to "Part 6" and inserting, in its place, a reference to "Part 122".

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for Part 162 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

§ 162.72 [Amended]

2. Section 162.72(b)(3)(ii) is amended by removing the reference to "§ 6.11" and inserting, in its place, a reference to "§ 122.161".

3. Section 162.72(c) is amended by removing the reference to "§ 6.7(h)(5)"

and inserting, in its place, a reference to "§ 122.162".

William von Raab,

Commissioner of Customs.

Approved: March 8, 1988.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 88-5723 Filed 3-21-88; 8:45 am]

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19 CFR Part 4

[T.D. 88-15]

Customs Regulations Amendment Removing Ecuador From the List of Countries Entitled to Special Tonnage Tax Exemption

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by removing Ecuador from the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The Department of State has informed Customs that U.S. vessels have been paying lighthouse fees in Ecuadorian ports since at least 1983, in apparent violation of a reciprocal agreement under which the vessels of neither country would be assessed such duties. Exemption from the assessment of such duties is a privilege which is extended to vessels of countries which extend such privileges to U.S. vessels. Since U.S. vessels are no longer exempt from special tonnage fees and light money in Ecuador, the privileges regarding exemption from the payment of such duties at U.S. ports will no longer be extended to vessels registered in Ecuador.

EFFECTIVE DATE: February 4, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money", on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof, satisfactory to the President, that no discriminatory duties of tonnage or imposts are imposed by that foreign

nation on U.S. vessels or their cargoes (46 U.S.C. 141). Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S., and from payment of light money.

Ecuadorian ships have been exempt as the result of a finding, based upon reciprocity, issued in 1944. By letter, dated January 12, 1988, the Department of State informed the U.S. Customs Service that the U.S. Embassy in Quito, Ecuador had reported it had been advised that U.S. vessels have been paying lighthouse fees in Ecuadorian ports since 1983. This is in violation of the requirement for reciprocal treatment, since Ecuadorian vessels were not being charged such fees at U.S. ports. Because of this lack of reciprocity, the Department of State recommended that Ecuador be removed from the list of nations whose vessels are exempted from payment of special tonnage taxes and light money. On February 4, 1988, the Director, Office of Regulations and Rulings of the U.S. Customs Service determined that, as of that date, Ecuador should be deleted from the list in § 4.22.

By virtue of the authority vested in the President by section 4228 of the revised statutes, as amended (116 U.S.C. 141), the President delegated the authority to grant the exemption from payment of special tonnage tax and light money to the Secretary of the Treasury by E.O. 10289, September 17, 1951, as amended by E.O. No. 10882, July 18, 1960 (3 CFR 1959-1960 Comp., Ch. II). By Treasury Department Order 165025, the Secretary of the Treasury delegated authority to the Commissioner of Customs to prescribe regulations relating to § 4.22 and other sections of the Customs Regulations relating to lists of countries entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated authority to amend this section to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office Regulations and Rulings, who then redelegated it to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State, as described above, it has been determined that the U.S. is in possession of satisfactory evidence regarding the