

## II. PART 122: AIR COMMERCE REGULATIONS

### 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 port 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 CBP 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 or user fee airport, at which flights from a foreign area are given permission by CBP 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 CBP 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 lade 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.
- (m) **User fee airport.** A user fee airport is an airport so designated by CBP. Flights from a foreign area may be granted permission to land at a user fee airport rather than at an international airport or a landing rights airport. An informational listing of user fee airports is contained in 122.15.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 88-16, 53 FR 10371, Mar. 31, 1988; T.D. 92-90, 57 FR 43397, Sept. 21, 1992; T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

## 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 CBP, 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 port director at a port of entry. A small quantity of each form is set aside by port 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 CBP FORMS**

- (a) Specifications. Subject to approval by CBP, 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. Port directors may accept privately printed copies of the General Declaration (CBP Form 7507) and air cargo manifest (CBP 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. CBP 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. CBP Form 7509 may be changed to allow for additional information used by the airline.

## **SUBPART B: CLASSES OF 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 port 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. Each airport at a place convenient to the office space shall supply a suitable paved loading area. 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 CBP. 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) **FAA rules.** International airports shall follow and enforce any requirements for airport operations, including airport rules that are set out by the FAA in 14 CFR part 91.
- (d) **Additional requirements.** Additional requirements may be put into effect at a particular airport as the needs of the CBP port servicing the airport demand.

## **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 the 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 CBP 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 CBP by telephone, radio, or other means, or may be furnished through the FAA to CBP. 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 CBP 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 CBP 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 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 CBP officers in the U.S. Virgin Islands.

<b>LOCATION</b>	<b>NAME OF AIRPORT</b>
Beaumont, Texas	Jefferson County Airport
Brownsville, Texas	Brownsville International Airport
Calexico, California	Calexico International Airport
Corpus Christi, Texas	Corpus Christi International Airport
Del Rio, Texas	Del Rio International Airport
Douglas, Arizona	Bisbee-Douglas International Airport
Douglas, Arizona	Douglas Municipal Airport
Eagle Pass, Texas	Maverick County Memorial International Airport
El Paso, Texas	El Paso International Airport
Fort Lauderdale, Florida	Fort Lauderdale Executive Airport
Fort Lauderdale, Florida	Fort Lauderdale-Hollywood International
Fort Pierce, Florida	St. Lucie County Airport
Houston, Texas	William P. Hobby Airport
Key West, Florida	Key West International Airport
Laredo, Texas	Laredo International Airport
McAllen, Texas	Miller international Airport
Miami, Florida	Miami International Airport
Miami, Florida	Opa-Locka Airport
Miami, Florida	Tamiami Airport
Midland, Texas	Midland International Airport
New Orleans, Louisiana	New Orleans International Airport (Moissant Field)
New Orleans, Louisiana	New Orleans Lakefront Airport
Nogales, Arizona	Nogales International Airport
Presidio, Texas	Presidio-Lely International Airport
San Diego, California	Brown Field
Santa Teresa, New Mexico	Santa Teresa Airport
Tampa, Florida	Tampa International Airport

Tucson, Arizona	Tucson International Airport
West Palm Beach, Florida	Palm Beach International Airport
Wilmington, North Carolina	New Hanover County Airport
Yuma, Arizona	Yuma International Airport

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by 89-2, Dec. 21, 1988; T.D. 89-2, 53 FR 51272, Dec. 21, 1988; T.D. 89-44, 54 FR 14214, Apr. 10, 1989; T.D. 93-67, 58 FR 44444, Aug. 23, 1993; T.D. 94-34, 59 FR 16122, Apr. 6, 1994; T.D. 97-35, 62 FR 24815, May 7, 1997]

## 122.25 EXEMPTION FROM SPECIAL LANDING REQUIREMENTS

- (a) **Request.** Any company or individual that has operational control over an aircraft required to give advance notice of arrival under 122.23 may request an exemption from the landing requirements in 122.24. Single overflight exemptions may be granted to entities involved in air ambulance type operations when emergency situations arise and in cases involving the non-emergency transport of persons seeking medical treatment in the U.S. All approvals of requests for overflight exemptions and the granting of authority to be exempted from the landing requirements are at the discretion of the port director. Exemptions may allow aircraft to land at any airport in the U.S. staffed by CBP. 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 port director at the airport at which the majority of CBP overflight processing is desired by the applicant. Except for air ambulance operations and other flights involving the non-emergency transport of persons seeking medical treatment in the U.S., the requests shall be signed by an officer of the company or by the requesting individual and be notarized or witnessed by a CBP officer. The requests 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, or
  - (3) In cases involving air ambulance operations when emergency situations arise and other flights involving the non-emergency transport of persons seeking medical treatment in the U.S., if time permits, at least 24 hours prior to departure. If this cannot be accomplished, CBP will allow receipt of the overflight exemption application up to departure time. In cases of extreme medical emergency, CBP will accept overflight exemption requests in flight through a FAA Flight Service Station.

(c) **Content of request.** All requests for exemption from special landing requirements, with the exception of those for air ambulance operations and other flights involving the non-emergency transport of persons seeking medical treatment in the U.S., shall include the following information. Requests for exemptions for air ambulance operations and other flights involving the non-emergency transport of persons for medical treatment in the U.S. shall include the following information except for paragraphs (c)(5) and (c)(6) of this section:

- (1) Aircraft 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 including 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 FAA 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 (if available), 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 (if available), 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 crew member for all aircraft for which an overflight exemption is sought stating name, address, Social Security number (if available), FAA certificate number (if applicable), and place and date of birth;
- (6) A statement from the individual signing the application that the pilot(s) and crew member(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 (if applicable), and dates of birth crew member(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;

*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 CBP 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 requirements as provided in this section, the aircraft commander shall notify CBP 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 FAA published airways.
- (2) The notice shall be given to a designated airport specified in 122.24. The notice may be furnished directly to CBP by telephone, radio or other means, or may be furnished through the FAA to CBP. 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 FAA or equivalent foreign aviation authority prior to the commencement of the overflight.
- (4) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirements must:
  - (i) Notify CBP of a change of FAA or other (foreign) registration number for the aircraft;
  - (ii) Notify CBP of the sale, theft, modification or destruction of the aircraft;
  - (iii) Notify CBP 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 CBP approval either through initial application and approval, or through a supplemental application submitted by the new pilot or crewmember and approved by CBP before commencement of the pilot's or crewmember's first overflight.

- (iv) Request permission from CBP 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 port 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 CBP approving each of these requests. The copies must be carried on board any aircraft during the conduct of an overflight.
- (5) The notification specified in paragraph (d)(4) of this section must be given to CBP 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 CBP to determine if the aircraft is capable of meeting CBP requirements for the proper conduct of an overflight. Inspections may be conducted during the review of an initial application or at any time during the term of an overflight exemption.

[T.D. 89-24, 53 FR 5429, Feb. 3, 1989, as amended by T.D. 89-24, 53 FR 6884 and 6988, Feb. 15, 1989]

## **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 CBP Form 6059B 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 CBP Form 6059B, 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 CBP 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 CBP administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing.

**(c) Pilot certificate/license, certificate of registration.**

- (1) Pilot certificate/license. A commander of a private aircraft arriving in the U.S. must present for inspection a valid pilot certificate/license, medical certificate, authorization, or license held by that person, when presentation for inspection is requested by a CBP officer.
- (2) Certificate of registration. A valid certificate of registration for private aircraft which are U.S.-registered must also be presented upon arrival in the U.S., when presentation for inspection is requested by a CBP officer. A so-called pink slip is a duplicate copy of the Aircraft Registration Application (FAA Form AC 8050-1), and does not constitute a valid certificate of registration authorizing travel internationally.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 91-61, 56 FR 32086, July 15, 1991]

## **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 ARRIVAL FEE AND OVERTIME SERVICES**

Private aircraft may be subject to the payment of an arrival fee for services provided as set forth in 24.22 of this chapter. For the procedures to be followed in requesting overtime services in connection with the arrival of private aircraft, see 24.16 of this chapter.

[T.D. 93-85, 58 FR 54286, Oct. 21, 1993]

## 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 0 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 port director for the airport in which the first landing is made.
- (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 port director at or nearest the place of first landing, either:
    - (i) Directly by radio, telephone, or other method; or
    - (ii) Through FAA flight notification procedure (see International Flight Information Manual, FAA).
  - (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 CBP;
  - (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 port director shall inform any other concerned Federal agency.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1998, as amended by T.D. 95-77, 60 FR 50020, Sept. 27, 1995]

### **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 FAA.

### **122.33 PLACE OF FIRST LANDING**

(a) The first landing of an aircraft entering the U.S. from a foreign area shall be:

- (1) At a designated international airport (see 122.13);
- (2) At a landing rights airport if permission to land has been granted (see 122.14); or
- (3) At a designated user fee airport if permission to land has been granted (see 122.15).

(b) Permission to land at a landing rights airport or user fee airport is not required for an emergency or forced landing (see 122.35).

[T.D. 92-90, 57 FR 43397, Sept. 21, 1992]

### **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) Traveling from airport to airport in the U.S. under a permit to proceed (see 122.52, 122.54 and 122.83(d)), or a CBPF 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 CBP 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 CBP officers arrive. Passengers and crewmembers may be removed if necessary for safety, or for the purpose of contacting CBP.

- (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 CBP 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 CBP 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 CBP 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 CBP 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 port director.

### **122.38 PERMIT AND SPECIAL LICENSE TO UNLADE AND LADE**

- (a) Applicability. Before any passengers, baggage, or merchandise may be unladen or laden 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 CBP.
  - (1) Permit to unlade or lade. A permit is required to obtain CBP supervision of unloading and lading during official CBP duty hours.
  - (2) Special license to unlade or lade. A special license is required to obtain CBP supervision of unloading and lading at any time not within official CBP duty hours (generally, during overtime hours, 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 CBP 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 CBP Form 3171, and shall be submitted to the port director for the airport in which the unloading and lading will take place. The application shall be accompanied by a bond on CBP 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 port 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 CBP 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 CBP 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 port director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the port director shall notify the requester, and shall state the reasons for the denial. To apply for automatic renewal, item 10 on CBP 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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 94-2, 58 FR 68526, Dec. 28, 1993]

## **SUBPART N: FLIGHTS TO AND FROM THE U.S. VIRIGIN 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 port 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 CBP in the U.S. Virgin Islands, the port director may order any supervision found necessary to protect the revenue and enforce the laws administered by CBP. 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 CBP on request. Evidence of the inspection shall be given in the following manner:
- (1) A certificate on CBP 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 CBP 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 CBP. 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 CBP 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 CBP 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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1998, as amended by T.D. 97-82, 62 FR 51770, Oct. 3, 1997]

### **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 Assistant Commissioner, Office of Field Operations, CBP Headquarters.

### **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 FAA flight notification procedure (see International Flight Information Manual, FAA); or

(2) Directly to the CBP 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 8 CFR 231.1 to a CBP officer;
- (b) The documents required by Subpart E of 19 CFR 122 (122.41-122.50)

#### **122.156 RELEASE OF PASSENGERS**

No passengers arriving from Cuba by aircraft will be released until cleared for CBP Immigration purposes, nor will the aircraft be cleared or permitted to depart before the passengers are released by a CBP officer.

#### **122.157 DOCUMENTS REQUIRED FOR CLEARANCE**

As a condition precedent to clearance, the aircraft commander shall present to CBP:

- (a) The documents required by Subpart H of 19 CFR 122 (122.71-122.80); 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 Q: PENALTIES**

### **122.161 IN GENERAL**

Except as provided in 122.14, any person who violates any CBP 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 civil penalty of \$5,000 as provided by 49 U.S.C. App. 1474, except for overages, and failure to manifest narcotics or marijuana, 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 or to present the documents required by 122.27 (c) of this part in which cases 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.

[T.D. 91-61, 56 FR 32086, July 15, 1991]

### **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 passengers or merchandise (to include baggage) without authorization.

(b) Liability for criminal penalties. Upon conviction, any aircraft pilot violating any of the CBP 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 civic 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 installed 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.

## **PART 148: PERSONAL DECLARATIONS AND EXEMPTIONS**

### **148.0 SCOPE**

This part contains the regulations governing the allowance of exemptions for residents and nonresidents arriving in the United States, for crewmembers of carriers engaged in international traffic, for military and civilian employees of the United States, for certain evacuees, and for certain personnel of foreign governments and international organizations. Procedures and requirements are also set forth pertaining to registration of articles to be taken abroad, declaration and entry, and examination of baggage, and collection of duties and taxes.

### **SUBPART A: GENERAL PROVISIONS**

#### **148.1 REGISTRATION OF EFFECTS TO BE TAKEN ABROAD**

- (a) Persons who may use procedure. Any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take effects of foreign origin abroad may register such articles before departure from the United States in order to facilitate their identification on return to the United States. Only articles of foreign origin having serial numbers or other distinctive, permanently affixed unique markings can be registered.

- (b) Procedures for registration. Applicants for registration of articles of foreign origin shall present the articles, together with a completed, but unsigned, CBP Form 4457, which may be obtained in advance of departure, to a CBP officer. After the CBP officer has examined the articles and verified their description, he shall have the applicant sign the form. The CBP officer shall then sign the form and return it to the applicant for presentation on return of the articles. CBP Form 4455 may be required in any case in which CBP Form 4457 will not adequately serve the purpose of registration.
- (c) Presentation on return and reuse. The form shall be presented to the CBP officer when the registered articles are returned to the United States. The form shall be valid for reuse as long as the document is legible to identify the registered articles.

[T.D. 82-102, 47 FR 24119, June 3, 1982, as amended by T.D. 91-35, 56 FR 19260, Apr. 26, 1991]

#### **148.9 RESIDENCE STATUS OF ARRIVING PERSONS**

- (a) General. Persons arriving from foreign countries shall be divided into two classes for CBP purposes:
  - (1) Residents of the United States returning from abroad, and
  - (2) All other persons, hereinafter referred to as nonresidents.
- (b) Status as returning resident. Citizens of the United States, or persons who have formerly resided in the United States (including American citizens who are residents of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States) shall be deemed residents of the United States returning from abroad within the meaning of residents as used in Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), in the absence of satisfactory evidence that they have established a home elsewhere. For this purpose, the residence of a wife shall be deemed to be that of her husband unless satisfactory evidence is presented that the wife has established a separate residence elsewhere. The residence of a minor child shall be presumed to be that of his parents.
- (c) Status as nonresident. Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad, shall be treated for the purpose of these regulations as a nonresident.
- (d) Optional claim of nonresident status. Any person arriving in the United States who would otherwise be considered a returning resident, may claim at his option the status of a nonresident if he intends to remain in the United States for only a short period of time before returning abroad. If the status as a nonresident claimed by an arriving person is allowed, the procedures in 148.8 shall be followed.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978 T.D. 89-1, 53 FR 51263, Dec. 21, 1988]

### **148.3 CBP TREATMENT AFTER TRANSITING THE PANAMA CANAL**

Passengers' baggage and effects and purchases of officers and crewmembers landed in the United States from vessels which have transited the Panama Canal are subject to CBP examination and treatment in the same manner as arrivals from any other foreign country.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 79-276, 44 FR 61957, Oct. 29, 1979]

### **148.4 ACCOMPANYING ARTICLES**

- (a) Generally. Articles shall be considered as accompanying a passenger or brought in by him if the articles arrive on the same vessel, vehicle, or aircraft on the same date as that of his arrival in the United States.
- (b) Baggage shipped as freight. Articles in baggage shipped as freight on a bill of lading or airway bill shall be considered as accompanying a passenger when the baggage arrives on the conveyance on which he arrives in the United States.
- (c) Precleared articles. Articles in baggage, or in baggage shipped as freight, shall be considered as accompanying a passenger if examined at an established preclearance station and the baggage is hand-carried, checked, or manifested on the conveyance on which he arrives in the United States.
- (d) Automobiles. An automobile which arrives on the same mode of conveyance on the same date as a passenger arrives in the United States shall be considered as accompanying him.
- (e) Misdirected baggage. Baggage which arrives on the same mode of conveyance ahead of, or after a passenger, shall be treated as accompanying him if it is fully evident to the examining officer from the circumstances that:
  - (1) The passenger intended the baggage to arrive with him; and
  - (2) It was misdirected through no fault of the passenger.

### **148.5 REGULAR ENTRY OF ARTICLES IN BAGGAGE**

Subject to any applicable exemption from entry requirements, articles imported as baggage but not passed under a baggage declaration or under the procedure provided in 148.6 for unaccompanied shipments of effects subject to personal exemptions shall

be entered in the same manner as a cargo importation of like goods. In making regular entry for articles imported in baggage, the value of articles entitled to free entry under subheadings 9804.00.10, or 9804.00.45, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be disregarded in determining whether formal or informal entry is required.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51263, Dec. 21, 1988]

#### **148.6 ENTRY OF UNACCOMPANIED SHIPMENTS OF EFFECTS SUBJECT TO PERSONAL EXEMPTIONS**

- (a) Declaration to support free entry. When effects claimed to be free of duty under subheadings 9804.00.10, 9804.00.20, 9804.00.25, 9804.00.35, or 9804.00.45, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), do not accompany the importer on his arrival in the United States or are forwarded in bond, a declaration of the importer on CBP Form 3299 shall be required to support the claim for free entry. However, an oral declaration may be accepted in lieu of a written declaration on CBP Form 3299, for effects of a resident which are free of duty under subheadings 9804.00.10 or 9804.00.45. Effects of returning residents entitled to free entry under subheadings 9804.00.10 or 9804.00.45 (except automobiles and other vehicles of residents returning from countries other than Canada or Mexico) need not be itemized if a written declaration is required.
- (b) Exemption from entry. If the port director is satisfied that an entry would serve no good purpose, none need be required, but evidence of ownership for CBP purposes, such as a carrier's certificate or properly endorsed bill of lading, shall be required with the declaration. Such exemption from entry may also be applied with respect to household effects or tools of trade entitled to free entry (see 148.52 and 148.53 respectively) which are unaccompanied or forwarded in bond.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### **148.7 UNCLAIMED BAGGAGE**

Articles in passengers' baggage on which duties due are not paid and baggage not claimed within a reasonable time shall be treated as unclaimed and sent to general order.

#### **148.8 TEMPORARY IMPORTATION BY RESIDENTS ARRIVING FOR SHORT VISITS**

A person claiming the status of a nonresident upon arrival for a short visit in the United States before returning abroad may import articles free of duty under subheadings 9804.00.20, 9804.00.25, 9804.00.30, 9804.00.35, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), in accordance with the following procedure:

- (a) The person claiming the status shall agree to export all such articles upon his departure from the United States, except articles imported as gifts under subheading 9804.00.30, and articles consumed during his visit;
- (b) When required to do so, the person claiming the status shall list all articles of substantial value which he is importing on CBP Form 4455, in duplicate, noting thereon the expected duration of his visit. He shall present the completed form to the inspecting officer who will initial both copies and return the duplicate to him;
- (c) Upon his departure from the United States at the completion of his visit, the person claiming the status of a nonresident shall present to a CBP officer the duplicate copy of CBP Form 4455, initialed by the inspecting officer, and the articles listed thereon shall be subject to inspection; and
- (d) If he decides not to return abroad, the person claiming the status shall immediately notify the director at the port of entry. The port director will advise him of the amount of duties and taxes due by reason of his failure to return abroad.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

### **III. FREQUENTLY USED CBP FORMS**

- CBP Form 178: Private Aircraft Enforcement System Arrival Report
- CBP Form 301: Customs Bond
- CBP Form 337: Major Repair and Alteration
- CBP Form 339A: Aircraft Decal Request
- CBP Form 3171: Application - Permit - Special License - Unlading - Lading - Overtime Services
- CBP Form 7507: General Declaration
- CBP Form 7509: Air Cargo Manifest
- Immigration Form I-92: Aircraft/Vessel Report
- Immigration Form I-94: Arrival/Departure Record