

§ 122.37

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§ 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 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 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, 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 Customs before services are needed. The notice shall specify the kinds of services requested, and the exact times they will be need-

ed. 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 port director for the airport where 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 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 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 port director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the port 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."

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