

**§ 122.151**

**19 CFR Ch. I (4-1-06 Edition)**

- (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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, 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, must clear or obtain permission to depart

from, or enter at, the Miami International Airport, Miami, Florida; the John F. Kennedy International Airport, Jamaica, New York; or the Los Angeles International Airport, Los Angeles, California, and comply with the requirements in this part unless otherwise authorized by the Assistant Commissioner, Office of Field Operations, Customs Headquarters.

[T.D. 99-71, 64 FR 53628, Oct. 4, 1999]

**§ 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; the John F. Kennedy International Airport, Jamaica, New York; or the Los Angeles International Airport, Los Angeles, California, whichever is applicable.

(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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 99-71, 64 FR 53628, Oct. 4, 1999]

**§ 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 subpart S of this part, 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 civil penalty of \$5,000 as provided by 19 U.S.C. 1644 and 1644a, 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 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, as amended by T.D. 98-74, 63 FR 51289, Sept. 25, 1998]

**§ 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 port 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 port 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 in the preparation, assembly, or submission (electronically or otherwise) of the manifest.

(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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 99-64, 64 FR 43266, Aug. 10, 1999]

**§ 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.