

§ 122.53

19 CFR Ch. I (4-1-08 Edition)

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- (i) Is withdrawn from commercial use between the U.S. and foreign areas; or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 In this circumstance, the aircraft, as a whole or in part, is not considered to be withdrawn from commercial use and is not subject to entry or to duty as imported merchandise.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 director of 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 director of the port of issue must receive notice that the aircraft has made final clearance. If notice is not received within 60 days, the port 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 part 30), 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) *Bureau of Industry and Security.* Aircraft leaving the U.S. for a foreign area must be cleared by Customs if a validated license from the Bureau of Industry and Security (Department of Commerce) is required for the aircraft under the Export Administration Regulations (15 CFR parts 730 through 774). 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 Administration 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.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 93-61, 58 FR 41425, Aug. 4, 1993; CBP Dec. 04-28, 69 FR 52599, Aug. 27, 2004; 69 FR 54179, Sept. 2, 2004]

§ 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.