

Changes to the CBP Overflight Exemption Process

Under Title 19 Code of Federal Regulations (CFR), Section 122.23, certain General Aviation aircraft (generally private and unscheduled charter aircraft) arriving from some areas south of the United States are required to provide advance notices of arrival and land at certain designated airports for US Customs and Border Protection (CBP) processing unless exempted from this requirement through an Overflight Exemption provided for in § 122.25.

Beginning June 17, 2013, CBP will implement the following changes to the Southern Border Overflight Exemption process:

- 1) Certain requirements for Overflight Exemption applications will be waived as a matter of CBP's enforcement discretion, pending revision of the applicable CBP regulations. Specifically, CBP will no longer enforce the following information requirements under Section 122.25 for overflights:
 - Names, addresses, Social Security numbers (if applicable), and dates of birth for all usual or anticipated passengers. (19 CFR § 122.25(c)(7));
 - Name(s) of the airport(s) of intended first landing in the U.S. (19 CFR § 122.25(c)(10));
 - Foreign place or places from which flight(s) will usually originate. (19 CFR § 122.25(c)(11)).
- 2) All Overflight Exemptions will now allow operators to overfly designated CBP airports – from all foreign points – to all airports where CBP services are normally available, *provided* the operator has complied with all other applicable CBP requirements – including APIS – and landing rights and permission to land have been granted by the receiving port of entry.
- 3) CBP will also no longer enforce the requirement that operators utilizing an Overflight Exemption carry one approved passenger (19 CFR 122.25(c)(7)) *provided* the operator has complied with all other applicable CBP requirements – including APIS – and landing rights and permission to land have been granted by the receiving port of entry. GA operators wishing to utilize an existing or newly granted Overflight Exemption will be allowed to arrive with no passengers; with passengers already listed within an existing Overflight Exemption; or with passengers not listed within an existing Overflight Exemption.

All General Aviation operators utilizing an Overflight Exemption must still abide by all other applicable CBP requirements and regulations, to include:

- the aircraft commander, operator, or authorized representative must still obtain landing rights approval or permission to land directly from the U.S. CBP port of arrival as applicable under 19 CFR §§ 122.12, 122.14, and 122.15 and must provide advance notice of arrival in accordance with 19 CFR § 122.31;
- a copy of the Overflight Exemption letter must be maintained onboard the approved aircraft;
- only aircraft listed within the Overflight Exemption letter may be utilized;
- only crewmembers listed within the Overflight Exemption letter may be utilized;
- exempted aircraft must utilize a transponder that reports aircraft position and altitude (i.e., Mode C, Mode S);
- operators of exempted aircraft must fly in accordance with instrument flight rules (IFR); and
- operators of exempted aircraft must maintain altitudes above 12,500 feet mean sea level (unless otherwise instructed by Federal Aviation Administration controllers).

If you have any questions or require additional information, please contact us:

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