all aircraft that are not of U.S. registration except those foreign-registered aircraft leased or chartered to a U.S. air carrier and operated under the authority of regulations issued by the Department of Transportation, as provided for in 14 CFR 121.153, and those aircraft used exclusively in the service of any government.

(b) Customs officers detecting possible violations shall report the matter to Headquarters, Attention: Entry Procedures and Carriers Branch. Liability should not be assessed under 49 U.S.C. Chapter 463 pending instructions from Headquarters since certain limited domestic transportation by foreign civil aircraft is permitted under regulations issued by the Department of Transportation.


§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 passenger, or merchandise (to include baggage) without authorization.

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

§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, unless properly entered by the importer or consignee.

§122.167 Avion 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, unless properly entered by the importer or consignee.
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(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.

§ 122.172  Eligibility.

Any air carrier whose international flights arrive at, or depart from, any of the designated test airports, Miami International Airport, Dallas-Fort Worth International Airport, or Los Angeles International Airport, is eligible for participation in the ACSPP.

§ 122.173  Application procedures.

(a) Application. An air carrier which wishes to participate in the ACSPP shall submit an application to the Assistant Commissioner, Office of Field Operations, in which it:

(1) Identifies specific routes and designated departure points and ACSPP airports for which application is made;

(2) Certifies that it has developed and will continue to maintain standard operating procedures (SOP) which are designed to safeguard the integrity of its employees, cargo and conveyances. The application shall be accompanied by