

V. Referral of Petitions for Relief

If the petition raises an issue of adequacy of marking, the petition, plus any samples from the shipment of seized merchandise, may be forwarded to the Department of Commerce, Chief Counsel for Technology, Room 4824, Washington, D.C. 20230, for an opinion as to the adequacy of the marking. Customs shall retain all forfeiture remission authority for purposes of these seizures.

VI. Disposition of Forfeited Merchandise

Toy, either look-alike or imitation as well as firearms which are seized and forfeited under these provisions of law shall be summarily destroyed.

DOG AND CAT FUR PRODUCTS - 19 U.S.C. 1308

I. In General

The importation, exportation, transportation, distribution or sale of any product consisting or comprised in whole or in part, of any dog fur, cat fur or both, is prohibited. Any such product which is so imported, exported, transported, distributed or sold will be seized and forfeited. This prohibition does not apply to the importation, exportation or transportation, for noncommercial purposes, of a personal pet that is deceased, including a pet preserved through taxidermy.

II. Forfeiture Remission

There will be no remission of any forfeiture of this product if the product is found to be comprised of dog or cat fur.

III. Disposition of Forfeited Merchandise

Dog and cat fur products which are seized and forfeited under this provisions of law shall be summarily destroyed.

AIRCRAFT REGISTRATION AND CERTIFICATION - 49 U.S.C. 46306

Under the provisions of 49 U.S.C. 46306(d), an aircraft which is in violation of the provisions of section 46306(b) may be seized by Customs, subject to forfeiture under the Customs laws.

I. Violations/Remission Guidelines

The following are violations, which may be the basis for seizure of an aircraft. The section of law for each violation is provided. Forfeiture remission guidelines for each type of violation are also included. It is unlawful for any person to:

- A. Knowingly and willfully forge or alter a certificate authorized to be issued under this part or to knowingly sell, use, attempt to use or possess with the intent to use such a certificate (46306(b)(1) and (2)).
1. Certificates authorized to be issued under the Act include airman's certificates, aircraft registration certificates, certificate of modification to aircraft, etc.
 2. An aircraft is presumed to have been related to a violation of, or to aid or facilitate a violation of this paragraph if the registration for the aircraft has been forged or altered. See, 46306(d)(2)(A).
 3. Violations involving false aircraft registrations shall result in seizure of the falsely registered aircraft.
 4. If a person who is not the owner of an aircraft operates said aircraft on the basis of a fraudulent certificate, and the owner has knowledge of the falsity, the aircraft shall be seized. If the owner does not have knowledge of the falsity and the inquiring Customs officer is satisfied that the owner does not have such knowledge, seizure would not be appropriate.
 5. Forfeiture remission guidelines for violation of this subsection:
 - a. If the owner of the aircraft commits a knowing violation of this section, deny relief.
 - b. If the owner of an aircraft permits use of the aircraft by any person who has committed a knowing violation of this section and the owner was negligent in failing to police the registration and use of the aircraft so as to avoid the offense, remit the forfeiture upon payment of an amount between 1 and 10 percent of the value of the aircraft (not to exceed \$100,000) depending on the presence of aggravating and mitigating factors.
 - c. If the owner of the aircraft was grossly negligent, i.e., displayed a wanton disregard for the requirements of this section or should have known of the violations or the violations were ongoing thereby permitting a finding of gross negligence, remit the forfeiture upon payment of an amount between 15 and 30 percent of the value of the aircraft (not to exceed \$250,000) depending on the presence of aggravating and mitigating factors.
- B. Obtaining a certificate by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious or fraudulent statement or representation, or making or using any false writing or document knowing

the writing to contain any false, fictitious or fraudulent statement or entry (See., 46306(b)(4).

1. An aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of this paragraph if:
 - a. The aircraft is registered to a fictitious or false person, (See., 46306(d)(2)(C)(i)), or
 - b. The application form used to obtain the aircraft registration certificate contains a material false statement. (See. 46306(d)(2)(C)(ii).
 2. This violation includes provision of false statements on temporary registration form (pink slip).
 3. If an airman obtains a certificate in violation of this section, and flies an aircraft based on the fraudulently obtained certificate, the aircraft should not be seized if the inquiring officer is satisfied that the owner of the aircraft did not know nor after reasonable inquiry could have known that the certificate was obtained fraudulently.
 4. Forfeiture remission guidelines for violation of this subsection:
 - a. If the owner of the aircraft commits a knowing violation of this section, deny relief.
 - b. If the aircraft is registered to a fictitious or false person, deny relief.
 - c. If the owner of an aircraft permits use of the aircraft by any person who has committed a knowing violation of this section or the owner of the aircraft commits a violation with regard to completion of his registration or application for registration and the owner was negligent in failing to police the registration and use of the aircraft so as to avoid the offense, remit the forfeiture upon payment of an amount between 1 and 10 percent of the value of the aircraft (not to exceed \$100,000) depending on the presence of aggravating and mitigating factors.
 - d. If the owner of the aircraft was grossly negligent, i.e., displayed a wanton disregard for the requirements of this section or should have known of the violations or the violations were ongoing thereby permitting a finding of gross negligence, remit the forfeiture upon payment of an amount between 15 and 30 percent of the value of the aircraft (not to exceed \$250,000) depending on the presence of aggravating and mitigating factors.
- C. As owner of an aircraft which is eligible for registration under 49 U.S.C. 44102, to knowingly and willfully operate, attempt to operate or permit any other

person to operate his aircraft if the aircraft is not registered or the certificate is suspended or revoked, if the person does not have proper authorization to operate the aircraft without registration for a period of time after transfer of ownership. See, 46306(b)(6).

1. Aircraft eligible for registration include any aircraft:
 - a. owned by a citizen of the U.S. or by an individual citizen of a foreign country who has been admitted lawfully for permanent-resident status in U.S., or
 - b. owned by a corporation lawfully organized and doing business under the laws of the United States or any state thereof so long as such aircraft is based and primarily used in the United States, and
 - c. the aircraft is not registered under the laws of any foreign country
2. Per 14 C.F.R. 47.3(b), no person may operate on aircraft that is eligible for registration under 49 U.S.C. 44102 unless the aircraft:
 - a. has been registered by its owner, or
 - b. is carrying aboard a temporary authorization required by FAA regulation, or
 - c. is an aircraft of the armed forces
3. Domestic operation of aircraft under a temporary authorization is permitted; however, aircraft are not authorized to be operated outside the United States when flying on that temporary authorization. If an owner has knowledge that his aircraft is being flown outside the U.S. on temporary authorization, the aircraft is subject to seizure.
4. An aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of this paragraph if the aircraft has been operated while it is not registered under 49 U.S.C. 44102.
5. Forfeiture remission guidelines for violation of this subsection:
 - a. If an owner knowingly operates or permits another to operate an unregistered aircraft or operates or permits another to operate an aircraft whose registration was revoked or suspended in violation of this section, deny relief.

- b. If an owner is negligent in failing to police the operation of an unregistered aircraft, remit the forfeiture upon payment of an amount between 1 and 10 percent of the aircraft (not to exceed \$100,000).
 - c. If the owner displays a wanton disregard to the operation of the aircraft in violation of his subsection, but actual knowledge of its use cannot be shown, remit the forfeiture of the aircraft upon payment of an amount between 15 and 30 percent of the aircraft (not to exceed \$250,000).
- D. To knowingly and willfully employ for service or use in any capacity as an airman an individual without a valid airman certificate authorizing such person to serve in such capacity. See, 46306(b)(8).
- 1. The element of knowledge for this violation extends to the airman serving without a valid airman certificate. If the airman willfully attempts to fly an aircraft for which he is not certified, seizure of the aircraft is appropriate.
 - 2. If the owner either knew or should have known that the airman operating the aircraft or assisting in the operation of an aircraft did not have a valid airman's certificate, the aircraft is subject to seizure
 - 3. If the airman operating the aircraft or assisting in the operation of an aircraft does not have a valid airman's certificate and has operated or assisted in the operation of the aircraft on a regular basis, the owner, for purposes of seizure under this subsection shall be presumed to have known that the airman either operated or assisted in the operation of the aircraft in violation of law.
 - 4. If the owner had no knowledge that the airman operating the aircraft or assisting in the operation of an aircraft did not possess a valid airman's certificate and the owner had inquired as to the validity of the certificate and received false information so as to lead him to believe the certificate was valid, then seizure should not be effected.
 - 5. Forfeiture remission guidelines for violation of this subsection:
 - a. If the owner of the aircraft permits an airman to operate the aircraft knowing that the airman does not possess a valid airman's certificate, remit the forfeiture upon payment of an amount between 10 and 20 percent of the value of the aircraft (not to exceed \$50,000).
 - b. If the owner of the aircraft is negligent in failing to inquire as to whether an airman who operates his aircraft possesses a valid airman's certificate and said airman operates the aircraft without possessing such valid certificate, remit the forfeiture upon payment of an amount

between 1 and 5 percent of the value of the aircraft (not to exceed \$10,000).

- c. If the owner of an aircraft displays a wanton disregard to the requirements of this subsection and permits an airman not possessing a valid airman's certificate to operate his aircraft on a regular basis, remit the forfeiture upon payment of an amount between 5 and 10 percent of the value of the aircraft (not to exceed \$25,000).
 - d. If the owner had no knowledge that the airman operating the aircraft or assisting in the operation of an aircraft did not possess a valid airman's certificate and the owner had inquired as to the validity of the certificate and received false information so as to lead him to believe the certificate was valid, remit the forfeiture upon payment of the expenses of seizure.
- E. To operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with regulations and requirements of the Administrator of the FAA. (See, 46306(b)(9))
1. Violations of this subsection may also be violations of the provisions of 19 U.S.C. 1590. Per 19 U.S.C. 1590(g)(2) presence of an auxiliary fuel tank which is not installed in accordance with applicable law is "prima facie evidence of aviation smuggling. Seizures notices should cite section 46306 and 19 U.S.C. 1590 (if applicable). If both 1590 and 46306 violations are discovered, the guidelines providing the higher forfeiture remission amount should be followed.
 2. Per 46306(d)(2)(E), a violation is presumed when, on an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator of the FAA for such installation or modification is not carried aboard the aircraft.
 3. Forfeiture remission guidelines for violations of this subsection:
 - a. If the owner of the aircraft knew that the fuel tank or fuel system was installed or modified without FAA approval and the owner knew that such approval was required, deny relief.
 - b. If the owner of the aircraft was negligent in failing to obtain the proper approval for installation or modification of the fuel tank or fuel system, remit the forfeiture upon payment of an amount between 10 and 20 percent of the value of the aircraft (not to exceed \$25,000).

- c. If the owner of the aircraft showed a wanton disregard for certification requirements for the installation or modification of the fuel tank or fuel system, remit the forfeiture upon payment of an amount between 20 and 30 percent of the value of the aircraft (not to exceed \$100,000).
 - d. If the violation results solely because the certification documents are not present on the aircraft, remit the forfeiture upon payment of an amount equal to 1 percent of the value of the aircraft (not to exceed \$1,000).
- F. To knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft. See, 46306(b)(3).
 - 1. Violations of this subsection may also be violations of the provisions of 19 U.S.C. 1590. Per 19 U.S.C. 1590(g)(4) the external display of false registration numbers or false country of registration is "prima facie evidence of aviation smuggling. Seizure notices should cite both section 46306(b)(3) and 19 U.S.C. section 1590 (if applicable). If both 1590 and 46306 violations are discovered, the guidelines providing the higher forfeiture remission amount should be followed.
 - 2. Per 46306(d)(2)(B), an aircraft is presumed to be in violation of the statute if there is an external display of false or misleading registration numbers or false or misleading country of registration.
 - 3. Forfeiture remission guidelines for violation of this subsection are as follows:
 - a. If the owner knew that the aircraft displayed false marks as to the nationality or registration of the aircraft, deny relief.
 - b. If the owner was negligent in permitting the aircraft to display false marks or numbers remit the forfeiture upon payment of an amount between 15 and 30 percent of the value of the aircraft (not to exceed \$250,000).
 - c. If the owner of the aircraft showed wanton disregard for the requirements of this subsection, remit the forfeiture upon payment of an amount between 35 and 50 percent of the value of the aircraft (not to exceed \$500,000).

II. Presentation of Valid Documentation

No forfeiture shall be remitted unless all documents determined to be false, to include registration, are tendered to the FAA and a valid set of documentation is

obtained or other written authorization from the FAA to operate the aircraft is granted.

III. Seizures Resulting From Multiple Violations of the Statute

Multiple violations shall be considered an aggravating factor for forfeiture remission purposes. If a seizure occurs and multiple violations of the statute have occurred, then the guidelines providing the higher mitigated amount shall be followed.

IV. Aggravating and Mitigating Factors

A. Aggravating Factors.

1. Multiple violations of section 46306, as noted in Section III. above.
2. Claimant is uncooperative in resolution of the case, (i.e., fails to provide documents or other information necessary to conclude case).
3. Experience in aviation and general knowledge of FAA registration and certification requirements.
4. Any prior violations.

B. Mitigating Factors.

1. Inexperience in aviation or lack of knowledge of FAA registration and certification requirements.
2. Cooperation with Customs and FAA in resolution of the case.
3. Claimant to the property demonstrates that remedial action has been taken to avoid future violations of the statute.
4. Claimant took precautions against possible occurrence of violations of this statute (including background checks of airmen, seeking advice from Customs, FAA, as to their requirements so as to comply with statute and regulations).

V. Advice of FAA

The advice of the FAA shall be sought as to any issue involving registration of aircraft or certification of aircraft or airmen or any necessary interpretation of FAA law or regulation. FAA approval need not be sought as to any final remission amount.