

inner chord along the length of the repair and around the fastener heads in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1254, Revision 1, dated July 9, 2009.

#### Exceptions to Service Information

(j) Where Boeing Alert Service Bulletin 737-53A1254, Revision 1, dated July 9, 2009, specifies to contact Boeing for repair instructions and repair: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(k) Although Boeing Alert Service Bulletin 737-53A1254, Revision 1, dated July 9, 2009, specifies to submit information to the manufacturer, this AD does not include that requirement.

#### Terminating Action

(l) Doing the repair specified in Part 4 of Boeing Alert Service Bulletin 737-53A1254, Revision 1, dated July 9, 2009, terminates the repetitive inspection requirements of paragraph (g) of this AD for the repaired frame only.

#### Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6447; fax (425) 917-6590. Or, e-mail information to [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

Issued in Renton, Washington, on April 28, 2010.

#### Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010-10902 Filed 5-6-10; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 110, 119, 121, 129, and 135

[Docket No. FAA-2009-0140; Notice No. 10-07]

RIN 2120-AJ45

#### Operations Specifications

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This proposed rule would clarify and standardize the rules for applications by foreign air carriers and foreign persons for operations specifications and establish new standards for amendment, suspension or termination of those operations specifications. The proposed rule would also apply to foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. This action is necessary to update the process for issuing operations specifications, and it will establish a regulatory basis for current practices, such as amending, terminating or suspending operations specifications.

**DATES:** Send your comments on or before August 5, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2009-0140 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket

Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket, or, go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Darcy D. Reed, International Programs and Policy Division, AFS-50, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; e-mail: [darcy.d.reed@faa.gov](mailto:darcy.d.reed@faa.gov); Telephone: 202-385-8078. For legal questions concerning this proposed rule contact Lorna John, Office of the Chief Counsel, Regulations Division, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; e-mail: [Lorna.John@faa.gov](mailto:Lorna.John@faa.gov); telephone: 202-267-3921.

**SUPPLEMENTARY INFORMATION:** Under the Additional Information section of this preamble, you will find a discussion of how you can comment on this proposal and how the agency will handle your comments. Included in this discussion is related information about the docket, privacy, and handling proprietary or confidential business information. There is also a discussion on how you can get a copy of related rulemaking documents.

#### Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This proposed rule is issued under the authority described in Title 49 of the United States Code, Subtitle VII, Part A, Subpart III, Section 44701(a)(5). Under that section, the Administrator is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards for practices, methods, and procedures the Administrator finds

necessary to ensure safety in air commerce. Clarifying and standardizing the rules for application, amendment, suspension, or termination of operations specifications issued to foreign air carriers operating in the United States and to foreign air carriers or foreign persons conducting operations of U.S.-registered aircraft solely outside the United States enhances the FAA's oversight of U.S.-registered aircraft and those foreign air carriers' operations within the United States.

## I. Background

Title 49 of the United States Code contains the basic authority for promoting safe flight of civil aircraft in air commerce and for regulating the global operations of U.S.-registered aircraft. For foreign air carriers serving the United States, the basic operating requirements are found in 14 CFR parts 91 and 129. The standards set forth in Annexes 1, 6, and 8 to the Convention on International Civil Aviation (the Chicago Convention), as implemented by the International Civil Aviation Organization (ICAO), also apply to the international operations of air carriers. *The applicable ICAO Annexes are:*

- Annex 1—Personnel Licensing.
- Annex 6—Part I, Operation of Aircraft—International Commercial Air Transport—Aeroplanes,
- Annex 6—Part III, Operation of Aircraft—International Operations—Helicopters, and
- Annex 8—Airworthiness of Aircraft.

ICAO Annexes contain the international standards for safety, regulation, and efficiency of air navigation. These international standards define the minimum level of safety necessary for the recognition by Contracting States to the Chicago Convention of certificates of airworthiness, certificates of competency and licenses that allow for the flight of aircraft of other States into or over their territories. They also provide for the protection of other aircraft, third parties, and property. As with all Contracting States to the Chicago Convention, the United States is obligated to recognize only those certificates of airworthiness, certificates of competency, and licenses issued or rendered valid by another Contracting State. The requirements under which these certificates or licenses are issued or rendered valid by the Contracting State must be equal to or above the minimum standards established by the Chicago Convention.

The FAA's authority over a foreign air carrier using foreign-registered aircraft is limited to overseeing compliance with all the applicable provisions of the Chicago Convention and its Annexes,

and U.S. regulations for the flights conducted by the foreign air carrier into the United States. Adherence to these standards assures the foreign air carrier's ability to navigate and communicate safely within the U.S. National Airspace System (NAS) while protecting individuals and property on the ground.

To fulfill its oversight responsibilities, the FAA issues operations specifications to foreign air carriers and foreign persons. These operations specifications ensure a common understanding between the foreign air carrier or foreign person and the FAA. The FAA-issued operations specifications describe the scope of a foreign air carrier's operations into the United States, including any applicable authorizations and limitations, and a foreign person's maintenance responsibility for U.S.-registered aircraft operated in common carriage solely outside the United States. The FAA-issued operations specifications do not, however, affect or interfere with the responsibilities of the foreign Civil Aviation Authority (CAA) that issued an air operator certificate to the foreign air carrier. The foreign CAA maintains primary responsibility for the certification of the foreign air carrier and the continuing oversight of the air carrier or foreign person's operations in accordance with applicable ICAO standards.

## II. Discussion of the Proposal

14 CFR part 129 prescribes the rules governing foreign air carrier operations within the United States and the operations of U.S.-registered aircraft solely outside the United States in common carriage. In order to meet international standards and the changing aviation environment, it is necessary to revise part 129. For example, the processes for application and amendment of operations specifications for U.S. operators subject to 14 CFR parts 121, 125, and 135 are described in part 119. However, there are no explicit provisions governing the application for, or amendment of, operations specifications issued to foreign air carriers or foreign persons in part 129, nor is there a provision in part 129 for the suspension or termination of operations specifications. Therefore, the FAA proposes to clarify the process for application, amendment, suspension, and termination of operations specifications issued to foreign air carriers and foreign persons.

This proposal would add three new sections to subpart A: § 129.5, Operations Specifications; § 129.7, Application, issuance, or denial of operations specifications; and § 129.9,

Contents of operations specifications. This proposed rule would also amend the existing § 129.11 to specifically address amendment, suspension and termination of operations specifications.

Section 129.5 would define which foreign air carriers or foreign persons must hold FAA operations specifications and the effective period of such operations specifications. Current regulations require only foreign air carriers conducting operations into the United States to conduct their operations in accordance with operations specifications issued by the Administrator. Section 129.5 of the proposed rule would extend this requirement to a foreign air carrier or foreign person operating a U.S.-registered aircraft solely outside the United States in common carriage. Additionally, the FAA proposes to include a provision in § 129.5 requiring the foreign air carrier to keep each of its employees, and other persons used in its operations, informed of the provisions of its FAA-issued operations specifications that apply to that employee's or person's duties and responsibilities.

In § 129.7, the FAA proposes to include provisions governing the application, issuance, or denial of operations specifications. The application process for foreign air carriers is presently defined in § 129.11(b) and Appendix A of part 129. It contains outdated requirements that are no longer relevant to the FAA's safety oversight needs.<sup>1</sup> Also, unlike the process for domestic air carrier applicants, which allows more cooperation between the applicant and the FAA, current Appendix A of part 129 requires a foreign applicant to provide very specific information in a particular format. Requiring this degree of detail in form and content does not advance aviation safety and may limit the flexibility necessary to ensure the safety of the flying public. The FAA proposes to remove Appendix A and place general requirements in the new § 129.7(a). However, proposed § 129.7(b) would retain the current requirement in Appendix A, section VIII.B for the applicant to provide a written certification that the statements in the application are true. Using this approach allows the operations specification process to be easily revised

<sup>1</sup> An example of an outdated requirement is a listing of the type and class of certificate held by each flight crewmember employed in the proposed operation within the United States. This requirement is duplicative. Contracting states to the Chicago Convention are obligated to recognize as valid certificates and licenses issued by other contracting states.

and updated to meet the changing aviation environment and FAA safety oversight needs.

Upon issuance of the final rule, the FAA will revise the inspector handbook guidance with an updated application procedure for foreign applicants to obtain FAA-issued foreign operations specifications. The procedure would provide for greater interaction between the foreign applicant and the FAA and ensure that a foreign applicant's programs, systems, and intended methods of compliance are thoroughly reviewed and evaluated in light of U.S. requirements.

*The proposed application procedure is as follows:*

*Preapplication.* The foreign applicant makes an inquiry to the FAA regarding the process for obtaining operations specifications. The FAA will provide the foreign applicant with an application package and information on the operations specifications application process.

*Formal Application.* The responsible Flight Standards District Office (FSDO) will conduct an in-depth review of the foreign air carrier's formal application for operations specifications. Also, the responsible office will hold a formal application meeting to discuss the feasibility of the project and obtain any additional information or request corrections needed for its review.

*Documentation.* The responsible FSDO will review the applicant's documents in support of its request for issuance of mandatory and optional operations specifications.

*Verification.* The responsible FSDO will verify the foreign air carrier applicant's DOT economic authority and TSA security program approval (if required).

*Issuance.* The FAA will assign an operations specification designator and number, and the part 129 operations specifications will be generated and issued to the applicant for acceptance and signature. After issuance, the responsible FSDO will implement a comprehensive ongoing surveillance program.

Using this procedure would allow the FAA to verify that the foreign applicant's programs, systems, and intended methods of compliance have been approved or accepted by the State of the Operator. The information obtained during the application process would also provide the FAA with a basis to determine whether the applicant would be able to comply with all applicable FAA requirements while operating in the NAS.

For foreign air carriers or foreign persons who operate U.S.-registered

aircraft in common carriage solely outside the United States, the FAA would provide a simplified application procedure.

Section 129.9 would define the content of operations specifications to be issued to either a foreign air carrier conducting operations within the United States, or a foreign air carrier or foreign person operating U.S.-registered aircraft solely outside the United States in common carriage. By specifying the content of the operations specifications in proposed § 129.9, applicants for these specifications would have clear standards for the submission of their application.

Current regulations do not contain provisions for the amendment, suspension or termination of operations specifications. For example, a foreign air carrier or foreign person may seek reconsideration of an adverse decision relating to its operations specifications using an informal process not established in the regulations. An operator may submit its petition for reconsideration through the FSDO, or an FAA Flight Standards Regional Office or FAA Headquarters. Therefore, there is a need to standardize and streamline all petitions for reconsideration through the office responsible for oversight of the foreign air carrier or foreign person.

The proposed rule would amend § 129.11 to address amendments, suspensions and terminations of operations specifications. The amendment process would be consistent with the process for amending operations specifications issued to domestic operators under part 119. Under the proposed rule, an applicant may apply for an amendment of its operations specification to the responsible FSDO, or the Administrator may amend operations specifications if the Administrator determines that safety in air commerce and the public interest require the amendment. Following an adverse decision, the applicant may submit a petition for reconsideration to the Director, Flight Standards Service within thirty (30) days after the date the foreign air carrier or foreign person receives a notice of the decision. The filing of the petition for reconsideration suspends the decision unless the Administrator determines that an emergency exists requiring immediate action to maintain safety in air commerce or air transportation. For suspension and termination, the FAA proposes to use a process similar to that used for amendments; however the Administrator may conduct consultations under relevant Air Services Agreements prior to

suspending or terminating an operations specification.

The FAA proposes to amend § 129.13, the aircraft airworthiness and registration certificate requirements, to include recognition of the validity of certificates of airworthiness issued or validated by a State of the Operator under Article 83bis of the Chicago Convention. Currently § 129.13 requires airworthiness certificates for foreign air carriers to be issued or validated by the State of Registry and does not recognize Article 83bis agreements with the State of the Operator, although the U.S. obligation to accept those agreements is stated in inspector handbook guidance. The proposed amendment to § 129.13 would allow recognition of third-party transfers of airworthiness certificates under Article 83bis agreements registered with ICAO.

Similarly, the FAA proposes to amend § 129.15 to provide for the recognition of the validity of crew licenses (certificates) issued or validated by a State of the Operator under agreements whereby the State of Registry of an aircraft transfers certain oversight functions to the State of the Operator of the aircraft in accordance with Article 83bis of the Chicago Convention. Although this U.S. obligation is also currently stated in inspector handbook guidance, § 129.15 requires crew licenses (certificates) for foreign air carriers to be issued or validated by the State of Registry and does not recognize crew licenses or certificates transferred under Article 83bis agreements registered with ICAO.

Present regulations do not define how the FAA grants maintenance approval for U.S.-registered aircraft. Therefore, the FAA proposes to amend § 129.14 by changing the FAA approval process for the minimum equipment list (MEL) and maintenance programs of U.S.-registered aircraft used by foreign air carriers and foreign persons. Under this proposed rule, the FAA would grant maintenance program and minimum equipment list approval for U.S.-registered aircraft in FAA-issued operations specifications, which is the practice FAA field offices currently follow.

With the addition of §§ 129.5, 129.7, 129.9, and the amendments to § 129.11 and § 129.14, the FAA proposes to clarify the applicability of part 129 to certain operations of U.S.-registered aircraft operated solely outside the United States in common carriage by a foreign person or foreign air carrier. Therefore, § 129.1(b) would be revised to clarify that §§ 129.5, 129.7, 129.9, 129.11, 129.14, 129.20 and 129.24 and subpart B apply to U.S.-registered aircraft operated solely outside the

United States in common carriage by a foreign person or foreign air carrier.

As described in § 119.1(d), part 119 does not govern operations conducted under part 91, subpart K (when common carriage is not involved), nor does it apply to parts 129, 133, 137 or 139. However, the introductory sentence of § 119.3 requires application of the definitions included in § 119.3 to all of subchapter G, which includes parts 119, 121, 125, 129, 133, 135, 136, 137 and 139. Because not all of these parts are subject to the substantive requirements of part 119, it is not immediately clear that all of the definitions in § 119.3 apply to subchapter G, including part 129.

The FAA proposes to create a new part 110 which will set forth the general requirements applicable to all of subchapter G, including the definitions currently located in § 119.3. Section 119.3 is redesignated as § 110.2, and all of the references in parts 119, 121 and 135 of subchapter G to the definitions formerly contained in § 119.3 were changed to § 110.2. These changes to parts 110, 119, 121 and 135 are editorial in nature, and the FAA has made no substantive changes to any of the

definitions transferred to the new part. Further, this editorial change will have no impact on the applicability of the definitions contained in 14 CFR part 1 to subchapter G, unless otherwise specified.

Additionally, the FAA proposes to eliminate the outdated reference to the Civil Aeronautics Board (CAB) in 14 CFR 129.1(a)(1). This revision is necessary since the CAB no longer exists, and all economic authority is now granted by the Department of Transportation (DOT).

Currently, § 129.11(a) requires foreign air carriers to comply with ICAO standards and recommended practices in part 1 of Annex 6 of the Chicago Convention; however, the Chicago Convention requires compliance with ICAO standards only. By amending § 129.11(a) to remove the incorrect reference to “recommended practices,” the proposed rule would clarify the international standards applicable to foreign air carriers operating within the United States.

In 2007, FAA chartered the Part 129 Aviation Rulemaking Committee (ARC) to provide advice, guidance and recommendations on comprehensive

changes to part 129. This proposed rule does not address the ARC’s recommendations. The FAA will consider those recommendations in a future rulemaking.

To fulfill its oversight responsibilities, the FAA issues operations specifications to foreign air carriers and foreign persons to ensure a common understanding of the scope of their operations. Operations specifications describe: (1) The scope of a foreign air carrier’s operations into the United States, including any applicable authorizations and limitations; and (2) Maintenance responsibility for U.S.-registered aircraft operated by foreign air carriers and foreign persons within or outside the United States. The foreign civil aviation authority is responsible for the certification and the continuing oversight of the air carrier or foreign person’s operations in accordance with applicable ICAO standards.

The following table summarizes the proposed changes to existing provisions of parts 119 and 129, identifies new provisions, and references the relevant ICAO standard implemented in the rule, if applicable.

Existing part 119	Proposed new part 110
<p><i>Definitions:</i> Definitions applicable to part 129 are currently included in part 119, subchapter G. Since part 119 applies to certification requirements for part 135 and 121 operators, there is potential confusion concerning whether subchapter G applies to part 129.</p>	<p><i>Definitions:</i> The proposal would remove definitions from subchapter G of part 119 and include them in a new part 110.</p>
Existing part 129	Proposed part 129 changes
<p><i>Ops Specs—Amendment, suspension or termination:</i> Current regulations do not provide for the amendment, suspension, or termination of Operations Specifications. Information is currently in the Inspector Guidance.</p>	<p><i>Ops Specs—Amendment, suspension or termination:</i> The proposal would provide a legal basis for the amendment, suspension, or termination of Operations Specifications.</p>
<p><i>Application process:</i> The application process and requirements are outdated and impose an unnecessary burden on the operator and the FAA—No safety value (e.g., Provide names, license type and class held by each flight crewmember to include en route training—Luft-hansa employs numerous airmen that change constantly).</p>	<p><i>Application process:</i> The proposal would remove outdated portions of Appendix A and place general requirements in the new § 129.7(a). Specific application processes will be contained in Inspector Guidance for easy updating. In addition, the proposal would clarify and standardize the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129.</p>
<p><i>Appeal process for foreign operators:</i> There is no formal administrative process for a foreign operator to appeal a decision to amend, suspend or terminate its operations specifications.</p>	<p><i>Appeal process for foreign operators:</i> The proposal would provide an administrative appeals process allowing foreign operators and foreign persons to submit a petition for reconsideration to the Director, Flight Standards Service before seeking judicial review under 49 USC 46110.</p>
<p><i>Chicago Convention:</i> There is no regulatory provision for the recognition of Article 83bis of the Chicago Convention. However, current FAA guidance contains this information. (<b>Note:</b> Article 83bis allows the transfer of certain functions and duties from the State of Registry to the State of the Operator under an agreement between the States concerned.)</p>	<p><i>Chicago Convention:</i> The proposed rule allows the FAA to recognize crew licenses and/or airworthiness certificates issued or validated by a State of the Operator under agreements whereby the State of Registry of an aircraft transfers certain oversight functions to the State of the Operator in accordance with Article 83bis of the Chicago Convention.</p>

**III. Paperwork Reduction Act**

This proposal contains the following new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. section 3507(d)), the FAA has

submitted the information requirements associated with this proposal to the Office of Management and Budget for its review.

*Title:* Part 129 Operations Specifications.

*Summary:* This proposed rule would clarify and standardize the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and establish new standards for

amendment, suspension and termination of those operations specifications. The proposed rule would also apply to foreign persons operating U.S. registered aircraft in common carriage solely outside the United States. This action is necessary to update the process for issuing operations specifications, and it will establish a regulatory basis for current practices, such as amending, terminating or suspending operations specifications.

*Use of:* This proposal would support the information needs of the FAA in order to maintain an adequate level of safety oversight.

*Respondents (including number of):* The likely respondents to this proposed information requirement are potential new applicants for operations specifications. The average number of respondents is approximately twenty-five each year.

*Frequency:* The FAA estimates five Flight Standards District Offices (FSDOs) will receive approximately five applications each per year.

*Annual Burden Estimate:* This proposal would result in an annual recordkeeping and reporting burden as follows: 75 hours annually.

*The agency is soliciting comments to—*

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement by August 5, 2010, and should direct them to the address listed in the Addresses section at the end of this preamble. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street, NW., Washington, DC 20053.

According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an

information collection requirement unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register**, after the Office of Management and Budget approves it.

#### IV. International Compatibility

Consistent with U.S. obligations under the Chicago Convention, it is the FAA's policy to comply with ICAO standards to the maximum extent practicable. The proposed amendments will allow the FAA to carry out its obligations under the Chicago Convention by providing for the recognition of the validity of certificates of airworthiness and crew licenses issued or validated by a State of the Operator in accordance with Article 83*bis* of the Chicago Convention. Additionally, the provisions relating to the issuance of operations specifications are consistent with the ICAO standard for issuing operations specifications to operators conducting international air transportation.

The European Aviation Safety Agency (EASA) obtained competence from the European Parliament to regulate third country operators of aircraft engaged in commercial operations into, within or out of the European Community (EC) in 2008. Regulation (EC) No 216/2008 provides competence to EASA to issue and renew authorizations for third country operators and to amend, limit, suspend or revoke the relevant authorization. The FAA will continue to coordinate with EASA on methods to streamline the operations specifications process, as appropriate.

#### V. Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Proposed changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards.

Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995).

For regulations with an expected minimal impact, the above-specified analyses are not required. The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full evaluation, a statement to that effect and the basis for it is included in proposed regulation.

This NPRM will have minimal economic impact because it does not propose to significantly change the rules regarding FAA's obligation for safety oversight of foreign air carriers and foreign persons under the Chicago Convention, but actually incorporates ICAO standards for acceptance of airworthiness certificates and crewmember licenses under Article 83*bis* of the Chicago Convention. This proposed rule also standardizes and clarifies the operations specification process. Accordingly, the FAA has determined as a result of the removal of outdated requirements in Appendix A, there may be a reduction in costs for foreign air carriers or persons who will need to apply for operations specifications. Due to streamlining and clarification of the application process, there may be a decrease in costs to foreign air carriers or persons. In addition, there will be some benefits to foreign air carriers and foreign persons by creating an administrative appeals process. The FAA requests comments from the public on the costs and benefits of this proposal, and the resulting determination that the proposals within the NPRM will have minimal economic impact.

#### Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals

and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a large number of small entities. If the agency determines that it will, the agency must prepare an initial regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule would clarify and standardize the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and establish new standards for amendment, suspension and termination of operations specifications by incorporating current policies and procedures into the regulations. The proposed rule applies only to foreign air carriers and operations of U.S.-registered aircraft in common carriage solely outside the United States. Domestic operators are not impacted by this proposed rule. This proposed rule merely revises and clarifies FAA operations specifications application procedures; the expected outcome will not increase cost to any United States small entity. Therefore, the FAA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

#### *International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The purpose of this proposed rule is to

ensure the safety of the American public, and it does not exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The proposed rule considers and incorporates an international standard promulgated pursuant to the Chicago Convention and is consistent with current ICAO standards. The FAA has assessed the potential effect of this proposed rule and has determined that it will impose minimal costs on international entities and may provide cost-savings to these entities and thus have a neutral trade impact.

#### *Unfunded Mandates Assessment*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$143.1 million in lieu of \$100 million.

This NPRM does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

#### **VI. Executive Order 13132, Federalism**

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

#### **VII. Regulations Affecting Intrastate Aviation in Alaska**

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 CFR in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. Because this proposed rule would apply to the application, amendment, suspension and termination of operations specifications of foreign air carriers that operate into the United States, the rule should not affect intrastate aviation in Alaska.

#### **VIII. Environmental Analysis**

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

#### **IX. Regulations That Significantly Affect Energy Supply, Distribution, or Use**

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). It has determined that it is not a “significant energy action” under the executive order, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### **X. Additional Information**

##### *Comments Invited*

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA asks that you send two copies of written comments.

The FAA will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

#### **Availability of Rulemaking Documents**

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
2. Visiting the FAA’s Regulations and Policies web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or

3. Accessing the Government Printing Office's web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Federal eRulemaking Portal referenced in the paragraph above.

### List of Subjects

#### 14 CFR Part 110

Administrative practice and procedure, air carriers, aircraft, aviation safety, charter flights, reporting and recordkeeping requirements.

#### 14 CFR Part 119

Administrative practice and procedure, air carriers, aircraft, aviation safety, charter flights, reporting and recordkeeping requirements.

#### 14 CFR Part 121

Air carriers, aircraft, airmen, alcohol abuse, aviation safety, charter flight, drug abuse, drug testing, reporting and recordkeeping requirements, safety, transportation.

#### 14 CFR Part 129

Air carriers, aircraft, aviation safety, reporting and recordkeeping requirements, security measures, smoking.

#### 14 CFR Part 135

Air taxis, aircraft, airmen, alcohol abuse, aviation safety, drug abuse, drug testing, reporting and recordkeeping requirements.

### The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

1. Add part 110 to read as follows:

### PART 110—GENERAL REQUIREMENTS

Sec.

110.1 Applicability.

110.2 Definitions.

**Authority:** 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701-44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

#### § 110.1 Applicability.

This part governs all operations conducted under subchapter G of this chapter.

#### § 110.2 Definitions.

For the purpose of this subchapter, the term—

*All-cargo operation* means any operation for compensation or hire that is other than a passenger-carrying operation or, if passengers are carried, they are only those specified in §§ 121.583(a) or 135.85 of this chapter.

*Certificate-holding district office* means the Flight Standards District Office that has responsibility for administering the certificate and is charged with the overall inspection of the certificate holder's operations.

*Commercial air tour* means a flight conducted for compensation or hire in an airplane or helicopter where a purpose of the flight is sightseeing. The FAA may consider the following factors in determining whether a flight is a commercial air tour:

- (1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;
- (2) Whether the person offering the flight provided a narrative that referred to areas or points of interest on the surface below the route of the flight;
- (3) The area of operation;
- (4) How often the person offering the flight conducts such flights;
- (5) The route of flight;
- (6) The inclusion of sightseeing flights as part of any travel arrangement package;
- (7) Whether the flight in question would have been canceled based on poor visibility of the surface below the route of the flight; and
- (8) Any other factors that the FAA considers appropriate.

*Commuter operation* means any scheduled operation conducted by any person operating one of the following types of aircraft with a frequency of operations of at least five round trips per week on at least one route between two or more points according to the published flight schedules:

- (1) Airplanes, other than turbojet powered airplanes, having a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds or less; or
- (2) Rotorcraft.

*Direct air carrier* means a person who provides or offers to provide air transportation and who has control over the operational functions performed in providing that transportation.

*DOD commercial air carrier evaluator* means a qualified Air Mobility

Command, Survey and Analysis Office (AMC/DOB) cockpit evaluator performing the duties specified in Public Law 99-661 when the evaluator is flying on an air carrier that is contracted or pursuing a contract with the U.S. Department of Defense (DoD).

*Domestic operation* means any scheduled operation conducted by any person operating any airplane described in paragraph (1) of this definition at locations described in paragraph (2) of this definition:

- (1) Airplanes:
  - (i) Turbojet-powered airplanes;
  - (ii) Airplanes having a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or
  - (iii) Airplanes having a payload capacity of more than 7,500 pounds.
- (2) Locations:
  - (i) Between any points within the 48 contiguous States of the United States or the District of Columbia; or
  - (ii) Operations solely within the 48 contiguous States of the United States or the District of Columbia; or
  - (iii) Operations entirely within any State, territory, or possession of the United States; or
  - (iv) When specifically authorized by the Administrator, operations between any point within the 48 contiguous States of the United States or the District of Columbia and any specifically authorized point located outside the 48 contiguous States of the United States or the District of Columbia.

*Empty weight* means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

*Flag operation* means any scheduled operation conducted by any person operating any airplane described in paragraph (1) of this definition at the locations described in paragraph (2) of this definition:

- (1) Airplanes:
  - (i) Turbojet-powered airplanes;
  - (ii) Airplanes having a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or
  - (iii) Airplanes having a payload capacity of more than 7,500 pounds.
- (2) Locations:
  - (i) Between any point within the State of Alaska or the State of Hawaii or any territory or possession of the United States and any point outside the State of Alaska or the State of Hawaii or any territory or possession of the United States, respectively; or

(ii) Between any point within the 48 contiguous States of the United States or the District of Columbia and any point outside the 48 contiguous States of the United States and the District of Columbia.

(iii) Between any point outside the U.S. and another point outside the U.S.

*Justifiable aircraft equipment* means any equipment necessary for the operation of the aircraft. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an aircraft to meet the maximum payload capacity.

*Kind of operation* means one of the various operations a certificate holder is authorized to conduct, as specified in its operations specifications, i.e., domestic, flag, supplemental, commuter, or on-demand operations.

*Maximum payload capacity* means:

(1) For an aircraft for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flightcrew, foods and beverages, and supplies and equipment related to foods and beverages, but not including disposable fuel or oil).

(2) For all other aircraft, the maximum certificated takeoff weight of an aircraft, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—for each crewmember required by the Federal Aviation Regulations—

(A) For male flight crewmembers—180 pounds.

(B) For female flight crewmembers—140 pounds.

(C) For male flight attendants—180 pounds.

(D) For female flight attendants—130 pounds.

(E) For flight attendants not identified by gender—140 pounds.

(ii) Oil—350 pounds or the oil capacity as specified on the Type Certificate Data Sheet.

(iii) Fuel—the minimum weight of fuel required by the applicable Federal Aviation Regulations for a flight between domestic points 174 nautical miles apart under VFR weather conditions that does not involve extended overwater operations.

*Maximum zero fuel weight* means the maximum permissible weight of an aircraft with no disposable fuel or oil. The zero fuel weight figure may be

found in either the aircraft type certificate data sheet, the approved Aircraft Flight Manual, or both.

*Noncommon carriage* means an aircraft operation for compensation or hire that does not involve a holding out to others.

*On-demand operation* means any operation for compensation or hire that is one of the following:

(1) Passenger-carrying operations conducted as a public charter under part 380 of this chapter or any operations in which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative that are any of the following types of operations:

(i) Common carriage operations conducted with airplanes, including turbojet-powered airplanes, having a passenger-seat configuration of 30 seats or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less, except that operations using a specific airplane that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for those operations are considered supplemental operations;

(ii) Noncommon or private carriage operations conducted with airplanes having a passenger-seat configuration of less than 20 seats, excluding each crewmember seat, and a payload capacity of less than 6,000 pounds; or

(iii) Any rotorcraft operation.

(2) Scheduled passenger-carrying operations conducted with one of the following types of aircraft with a frequency of operations of less than five round trips per week on at least one route between two or more points according to the published flight schedules:

(i) Airplanes, other than turbojet powered airplanes, having a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds or less; or

(ii) Rotorcraft.

(3) All-cargo operations conducted with airplanes having a payload capacity of 7,500 pounds or less, or with rotorcraft.

*Passenger-carrying operation* means any aircraft operation carrying any person, unless the only persons on the aircraft are those identified in §§ 121.583(a) or 135.85 of this chapter, as applicable. An aircraft used in a passenger-carrying operation may also carry cargo or mail in addition to passengers.

*Principal base of operations* means the primary operating location of a certificate holder as established by the certificate holder.

*Provisional airport* means an airport approved by the Administrator for use by a certificate holder for the purpose of providing service to a community when the regular airport used by the certificate holder is not available.

*Regular airport* means an airport used by a certificate holder in scheduled operations and listed in its operations specifications.

*Scheduled operation* means any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator for which the certificate holder or its representative offers in advance the departure location, departure time, and arrival location. It does not include any passenger-carrying operation that is conducted as a public charter operation under part 380 of this chapter.

*Supplemental operation* means any common carriage operation for compensation or hire conducted with any airplane described in paragraph (1) of this definition that is a type of operation described in paragraph (2) of this definition:

(1) Airplanes:

(i) Airplanes having a passenger-seat configuration of more than 30 seats, excluding each crewmember seat;

(ii) Airplanes having a payload capacity of more than 7,500 pounds; or

(iii) Each propeller-powered airplane having a passenger-seat configuration of more than 9 seats and less than 31 seats, excluding each crewmember seat, that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for those operations; or

(iv) Each turbojet powered airplane having a passenger seat configuration of 1 or more and less than 31 seats, excluding each crewmember seat, that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) of this chapter for those operations.

(2) Types of operation:

(i) Operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative;

(ii) All-cargo operations; or

(iii) Passenger-carrying public charter operations conducted under part 380 of this chapter.

*Wet lease* means any leasing arrangement whereby a person agrees to



provide an entire aircraft and at least one crewmember. A wet lease does not include a code-sharing arrangement.

When common carriage is not involved or operations not involving common carriage means any of the following:

- (1) Noncommon carriage.
- (2) Operations in which persons or cargo are transported without compensation or hire.
- (3) Operations not involving the transportation of persons or cargo.
- (4) Private carriage.

Years in service means the calendar time elapsed since an aircraft was issued its first U.S. or first foreign airworthiness certificate.

#### **PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS**

2. The authority citation for part 119 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

#### **§ 119.3 [Removed and Reserved]**

3. Remove and reserve § 119.3.

#### **§ 119.51 [Amended]**

4. Amend § 119.51(c)(1)(i) by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

#### **§ 119.53 [Amended]**

5. Amend § 119.53(e) by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

#### **PART 121—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS**

6. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40119, 41706, 44101, 44701, 44702, 44705, 44709, 44710, 44711, 44713, 44716, 44717, 44722, 46105.

#### **§ 121.313 [Amended]**

7. Amend § 121.313 by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

#### **§ 121.582 [Amended]**

8. Amend § 121.582 by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

#### **PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE**

9. The authority citation for part 129 continues to read as follows:

**Authority:** 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec. 104.

10. Amend § 129.1 by revising paragraphs (a)(1), (a)(2), and (b) to read as follows:

#### **§ 129.1 Applicability and definitions.**

(a) \* \* \*

(1) A permit issued by the U.S. Department of Transportation under 49 U.S.C. 41301 through 41306, or

(2) Other appropriate economic or exemption authority issued by the U.S. Department of Transportation.

(b) Operations of U.S.-registered aircraft solely outside the United States.

In addition to the operations specified under paragraph (a) of this section, §§ 129.5, 129.7, 129.9, 129.11, 129.14, 129.20 and 24, and subpart B of this part also apply to operations of U.S.-registered aircraft operated solely outside the United States in common carriage by a foreign person or foreign air carrier.

\* \* \* \* \*

11. Add § 129.5 to read as follows:

*§ 129.5 Operations specifications.*

(a) Each foreign air carrier conducting operations within the United States, and each foreign air carrier or foreign person operating U.S. registered aircraft solely outside the United States in common carriage must conduct its operations in accordance with operations specifications issued by the Administrator under this part.

(b) Each foreign air carrier conducting operations within the United States must conduct its operations in accordance with the Standards contained in Annex 1 (Personnel Licensing), Annex 6 (Operation of Aircraft), Part I (International Commercial Air Transport—Aeroplanes) or Part III (International Operations—Helicopters), as appropriate, and in Annex 8 (Airworthiness of Aircraft) to the Convention on International Civil Aviation.

(c) No foreign air carrier may operate to or from locations within the United States without, or in violation of, appropriate operations specifications.

(d) No foreign air carrier or foreign person shall operate U.S. registered aircraft solely outside the United States in common carriage without, or in

violation of, appropriate operations specifications.

(e) Each foreign air carrier must keep each of its employees and other persons used in its operations informed of the provisions of its operations specifications that apply to that employee's or person's duties and responsibilities.

(f) Operations specifications issued under this part are effective until—

(1) The foreign air carrier or foreign person surrenders them to the FAA;

(2) The Administrator suspends or terminates the operations specifications; or

(3) The operations specifications are amended as provided in § 129.11.

(g) Within 30 days after a foreign air carrier or foreign person terminates operations under part 129 of this subchapter, the operations specifications must be surrendered by the foreign air carrier or foreign person to the responsible Flight Standards District Office.

(h) No person operating under this part may operate or list on its operations specifications any airplane listed on operations specifications issued under part 125 of this chapter.

12. Add § 129.7 to read as follows:

*§ 129.7 Application, issuance, or denial of operations specifications.*

(a) A foreign air carrier or foreign person applying to the FAA for operations specifications under this part must submit an application—

(1) In a form and manner prescribed by the Administrator; and

(2) At least 90 days before the intended date of operation.

(b) An authorized officer or employee of the applicant, having knowledge of the matters stated in the application, must sign the application and certify in writing that the statements in the application are true. The application must include two copies of the appropriate written authority issued to that officer or employee by the applicant.

(c) A foreign applicant may be issued operations specifications, if after review, the Administrator finds the applicant—

(1) Meets the applicable requirements of this part;

(2) Holds the economic or exemption authority required by the Department of Transportation, applicable to the operations to be conducted;

(3) Complies with the applicable security requirements of 49 CFR chapter XII;

(4) Is properly and adequately equipped to conduct the operations described in the operations specifications; and

(5) Holds a valid air operator certificate issued by the State of the Operator.

(d) An application may be denied if the Administrator finds that the applicant is not properly or adequately equipped to conduct the operations to be described in the operations specifications.

13. Add § 129.9 to read as follows:

**§ 129.9 Contents of operations specifications.**

(a) The contents of operations specifications issued to a foreign air carrier conducting operations within the United States under § 129.1(a) shall include:

(1) The specific location and mailing address of the applicant's principal place of business in the State of the Operator and, if different, the address that will serve as the primary point of contact for correspondence between the FAA and the foreign air carrier;

(2) The designation of an agent for service within the United States, including the agent's full name and office address or usual place of residence;

(3) The certificate number and validity of the foreign air carrier's Air Operator Certificate issued by the State of the Operator;

(4) Each regular and alternate airport to be used in scheduled operations;

(5) The type of aircraft and registration markings of each aircraft;

(6) The approved maintenance program and minimum equipment lists for United States registered aircraft authorized for use; and

(7) Any other item the Administrator determines is necessary.

(b) The contents of operations specifications issued to a foreign air carrier or foreign person operating U.S.-registered aircraft solely outside the United States in common carriage in accordance with § 129.1(b) shall include—

(1) The specific location and mailing address of the principal place of business in the State of the Operator and, if different, the address that will serve as the primary point of contact for correspondence between the FAA and the foreign air carrier or foreign person;

(2) The designation of an agent for service within the United States, including the agent's full name and office address or usual place of residence;

(3) In the case of a foreign air carrier, the certificate number and validity of the foreign air carrier's Air Operator Certificate issued by the State of the Operator;

(4) Any other business names under which the foreign air carrier or foreign person may operate;

(5) The type, registration markings, and serial number of each United States registered aircraft authorized for use;

(6) The approval of maintenance programs and minimum equipment lists for United States registered aircraft authorized for use; and

(7) Any other item the Administrator determines is necessary.

14. Revise § 129.11 to read as follows:

**§ 129.11 Amendment, suspension, and termination of operations specifications.**

(a) The Administrator may amend any operations specifications issued under this part if—

(1) The Administrator determines that safety in air commerce and the public interest require the amendment; or

(2) The foreign air carrier or foreign person applies for an amendment, and the Administrator determines that safety in air commerce and the public interest allows the amendment.

(b) The Administrator may suspend or terminate any operations specifications issued under this part if the Administrator determines that safety in air commerce and the public interest require the suspension or termination;

(c) Except as provided in paragraphs (f) and (g) of this section, when the Administrator initiates an action to amend, suspend or terminate a foreign air carrier or foreign person's operations specifications, the following procedure applies:

(1) The responsible Flight Standards District Office notifies the foreign air carrier or foreign person in writing of the proposed amendment, suspension or termination.

(2) The responsible Flight Standards District Office sets a reasonable period (but not less than 7 days) within which the foreign air carrier or foreign person may submit written information, views, and arguments on the amendment, suspension or termination.

(3) After considering all material presented, the responsible Flight Standards District Office notifies the foreign air carrier or foreign person of—

(i) The adoption of the proposed amendment, suspension or termination;

(ii) The partial adoption of the proposed amendment, suspension or termination; or

(iii) The withdrawal of the proposed amendment, suspension or termination.

(4) If the responsible Flight Standards District Office issues an action to amend, suspend or terminate the operations specifications, it becomes effective not less than 30 days after the foreign air carrier or foreign person receives notice of it unless—

(i) The responsible Flight Standards District Office finds under paragraph (g) of this section that there is an emergency requiring immediate action with respect to safety in air commerce; or

(ii) The foreign air carrier or foreign person petitions for reconsideration of the amendment, suspension or termination under paragraph (e) of this section.

(d) When the foreign air carrier or foreign person applies for an amendment to its operations specifications, the following procedure applies:

(1) The foreign air carrier or foreign person must file an application to amend its operations specifications—

(i) At least 90 days before the date proposed by the applicant for the amendment to become effective in cases of mergers; acquisitions of airline operational assets that require an additional showing to Department of Transportation for economic authority; major changes in the type of operation and resumption of operations following a suspension of operations as a result of bankruptcy actions, unless a shorter time is approved by the Administrator.

(ii) At least 30 days before the date proposed by the applicant for the amendment to become effective in all other cases.

(2) The application must be submitted to the responsible Flight Standards District Office in a form and manner prescribed by the Administrator.

(3) After considering all material presented, the responsible Flight Standards District Office notifies the foreign air carrier or foreign person of—

(i) The adoption of the applied for amendment;

(ii) The partial adoption of the applied for amendment; or

(iii) The denial of the applied for amendment.

(4) If the responsible Flight Standards District Office approves the amendment, following coordination with the foreign air carrier or foreign person regarding its implementation, the amendment is effective on the date the responsible Flight Standards District Office approves it.

(e) The foreign air carrier or foreign person may petition for reconsideration of a full or partial adoption of an amendment, a denial of an amendment or a suspension or termination of operations specifications.

(f) When a foreign air carrier or foreign person seeks reconsideration of a decision from the responsible Flight Standards District Office concerning the amendment, suspension or termination

of operations specifications, the following procedure applies:

(1) The foreign air carrier or foreign person must petition for reconsideration of that decision within 30 days after the date that the foreign air carrier or foreign person receives a notice of the decision.

(2) The foreign air carrier or foreign person must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of any amendment, suspension or termination issued by the responsible Flight Standards District Office unless the responsible Flight Standards District Office has found, under paragraph (g) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

(g) If the responsible Flight Standards District Office finds that an emergency exists requiring immediate action with respect to safety in air commerce or air transportation that makes the procedures set out in this section impracticable or contrary to the public interest, that office may make the amendment, suspension or termination effective on the day the foreign air carrier or foreign person receives notice of it. In the notice to the foreign air carrier or foreign person, the responsible Flight Standards District Office will articulate the reasons for its finding that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce or that makes it impracticable or contrary to the public interest to stay the effectiveness of the amendment, suspension or termination.

15. Amend § 129.13 by revising paragraph (a) to read as follows:

**§ 129.13 Airworthiness and registration certificates.**

(a) No foreign air carrier may operate any aircraft within the United States unless that aircraft carries a current registration certificate and displays the nationality and registration markings of the State of Registry, and an airworthiness certificate issued or validated by:

(1) The State of Registry; or

(2) The State of the Operator, provided that the State of the Operator and the State of Registry have entered into an agreement under Article 83*bis* of the Convention on International Civil Aviation that covers the aircraft.

\* \* \* \* \*

16. Amend § 129.14 by revising paragraphs (a), (b)(4) and (b)(7) to read as follows:

**§ 129.14 Maintenance program and minimum equipment list requirements for U.S.-registered aircraft.**

(a) Each foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage must ensure that each aircraft is maintained in accordance with a program approved by the Administrator in the operations specifications.

(b) \* \* \*

(4) The FAA operations specification permitting the operator to use an approved minimum equipment list is carried aboard the aircraft. An approved minimum equipment list, as authorized by the operations specifications, constitutes an approved change to the type design without requiring recertification.

\* \* \* \* \*

(7) The aircraft is operated under all applicable conditions and limitations contained in the minimum equipment list and the operations specification authorizing the use of the list.

17. Revise § 129.15 to read as follows:

**§ 129.15 Flight crewmember certificates.**

Each person acting as a flight crewmember must hold a certificate or license that shows the person's ability to perform duties in connection with the operation of the aircraft. The certificate or license must have been issued or rendered valid by:

(a) The State in which the aircraft is registered; or

(b) The State of the Operator, provided that the State of the Operator and the State of Registry have entered into an agreement under Article 83*bis* of the Convention on International Civil Aviation that covers the aircraft.

**Appendix A to Part 129 [Removed and Reserved]**

18. Remove and reserve Appendix A to part 129.

**PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT**

19. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 41706, 44701, 44702, 44705, 44709, 44711, 44713, 44715, 44717, 44722, 46105.

**§ 135.127 [Amended]**

20. Amend § 135.127(b)(1)(iii) by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

**§ 135.127 [Amended]**

21. Amend § 135.127(b)(2) by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

Issued in Washington, DC, on May 4, 2010.

**Raymond Towles,**

*Acting Director, Flight Standards Service.*

[FR Doc. 2010-10890 Filed 5-6-10; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 173, 174, 181, and 187**

[Docket No. USCG-2003-14963]

**RIN 1625-AB45**

**Changes to Standard Numbering System, Vessel Identification System, and Boating Accident Report Database**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its rules related to numbering of undocumented vessels and reporting of casualties. These changes would align and modernize terminology used in the Standard Numbering System (SNS), the Vessel Identification System (VIS), and casualty reporting; require validation of vessel hull identification numbers; require SNS vessel owners to provide personally identifiable information; and provide administrative flexibility for States. Together, the proposed changes would improve recreational boating safety efforts, enhance law enforcement capabilities, advance maritime security, and clarify requirements for all stakeholders.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before August 5, 2010 or reach the Docket Management Facility by that date. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before August 5, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2003-14963 using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.