

## VOLUME 12 INTERNATIONAL AVIATION

### CHAPTER 4 PART 129 OPERATIONS

#### Section 11 Surveillance and Operations Specifications

##### Source Basis:

- Section 129.5, Operations Specifications.
- Section 129.7, Application, Issuance, or Denial of Operations Specifications.
- Section 129.9, Contents of Operations Specifications.
- Section 129.11, Amendment, Suspension and Termination of Operations Specifications.
- Section 129.13, Airworthiness and Registration Certificates.
- Section 129.14, Maintenance Program and Minimum Equipment List Requirements for U.S.-Registered Aircraft.
- Section 129.17, Aircraft Communication and Navigation Equipment for Operations Under IFR or Over the Top.
- Section 129.18, Collision Avoidance System.
- Section 129.20, Digital Flight Data Recorders.
- Section 129.24, Cockpit Voice Recorders.
- Section 129.25, Airplane Security.
- Section 129.28, Flightdeck Security.
- Section 129.105, Aging Airplane Inspections and Records Reviews for U.S.-Registered Multiengine Aircraft.
- Section 129.107, Repairs Assessment for Pressurized Fuselages.
- Section 129.109, Supplemental Inspections for U.S.-Registered Aircraft.
- Section 129.111, Electrical Wiring Interconnection Systems (EWIS) Maintenance Program.
- Section 129.113, Fuel Tank System Maintenance Program.
- Section 129.115, Limit of Validity.
- Section 129.117, Flammability Reduction Means.
- Section 129.119, Fuel Tank Vent Explosion Protection.
- Administrative.

#### 11.1 GENERAL.

**11.1.1 Purpose.** This section establishes the Federal Aviation Administration (FAA) Flight Standards Service (FS) policy and requirements for conducting oversight of Title 14 of the Code of Federal Regulations (14 CFR) part 129 foreign air carriers within the United States or its territories.

**11.1.2 Scope.** This section is applicable to all FAA FS personnel who have oversight responsibilities of part 129 foreign air carriers.

### 11.1.3 Safety Assurance System (SAS) Activity Recording (AR) Codes.

- a) Maintenance: 3637, 4635.
- b) Avionics: 5626, 5637, 6635.
- c) Operations: 1622.

**11.1.4 Regulatory References.** All regulatory references in this section are found in 14 CFR unless otherwise indicated.

**11.2 DEFINITIONS.** See Volume 12, Chapter 1, Section 1, Definitions, Abbreviations, and Acronyms, for information associated with this section.

### 11.3 AUTHORITY.

**11.3.1 Regulatory Authority.** Article 16 of the Convention on International Civil Aviation (Chicago Convention) states that the appropriate authorities of each State have the right, without unreasonable delay, to search foreign civil aircraft on landing or departure, and to inspect the certificates and other documents prescribed by the Convention. Title 49 of the United States Code (49 U.S.C.) §§ 40113 and 46101(a)(2) empower the FAA Administrator to conduct such investigations considered necessary to carry out the provisions of 49 U.S.C.

**11.3.2 Department of Transportation (DOT) Authority.** Title 49 U.S.C. § 41703 states that foreign civil aircraft may be navigated in the United States by airmen holding appropriate certificates issued by the State of Registry of the aircraft and only if such navigation is authorized by permit, order, or regulation issued by the DOT, and in accordance with the terms, conditions, and limitations thereof.

**11.3.3 Permit Requirements.** Permits issued by the DOT to foreign air carriers contain specific terms, conditions, and limitations. Among these conditions are requirements that each permit holder comply with the following:

- Operational safety requirements at least equivalent to International Civil Aviation Organization (ICAO) Annexes 1, 6, and 8;
- All applicable orders and regulations of other U.S. agencies and courts; and
- All applicable laws of the United States.

**11.3.4 Short-Term Exemptions.** Title 49 U.S.C. § 40109 exemptions issued by the DOT to foreign air carriers conducting short-term exemption operations (normally no more than 12 flights into the United States) also require compliance with this order.

**Note:** See Volume 12, Chapter 1, Section 2 for more information on regulatory authority.

**11.4 COMPLIANCE.** Each foreign air carrier operating within the United States must comply with each applicable requirement in 14 CFR and in accordance with its operations specifications (OpSpecs). Additionally, each person operating a U.S.-registered aircraft outside the United

States must comply with part 91, § 91.703 and, if engaged in common carriage operations, part 129, § 129.14.

## **11.5 FAA INSPECTIONS UNDER § 129.14.**

**11.5.1 FAA Responsibility.** Consistent with its international obligations as the State of Registry, the FAA is responsible for approving maintenance programs and minimum equipment list (MEL) requirements for U.S.-registered aircraft engaged in common carriage under § 129.14.

### **11.5.2 The Following Guidance Applies.**

a) Approval of the maintenance program does not constitute approval of the foreign operator's maintenance facility or capability. The operator is responsible for ensuring that the aircraft is maintained in accordance with its approved maintenance program. Additionally, regulating and overseeing how a foreign operator integrates a U.S.-registered aircraft, including the FAA-approved maintenance program, into its operations and maintenance systems is the responsibility of the State of the Operator under the Chicago Convention.

b) In carrying out its State of Registry responsibilities, the FAA has authority to inspect aircraft on the U.S. registry even when located outside the United States. Notwithstanding paragraph 11.5.1, upon approval of the § 129.14 maintenance program, the FAA may elect to conduct an in-country visit to validate that a U.S.-registered aircraft operated in common carriage by a foreign air carrier or foreign person is being maintained in accordance with its approved maintenance program. In-country visits must be approved by the responsible manager based on a review of the maintenance program and potential safety issues concerning inadequate maintenance.

c) Prior to scheduling any official visit to a foreign country, the aviation safety inspector (ASI) should coordinate the trip with the foreign air carrier and notify the foreign Civil Aviation Authority (CAA). The ASI also should obtain a country clearance from the U.S. Embassy in the country where the aircraft to be inspected is located.

d) The responsible manager should consider the following factors:

1) Whether the assigned ASI evaluating the maintenance program can conduct the evaluation satisfactorily without the necessity of traveling to the State where the aircraft is operated.

2) Whether the maintenance provider is a part 145 repair station. In that case, the manager should ensure that these safety issues are addressed during the part 145 repair station surveillance visit.

3) Objective evidence to support the reviewing ASI's safety concerns.

e) Conformity inspection of the aircraft to the operator's fleet is the responsibility of the State of the Operator.

**Note:** Conformity of the aircraft to its type certificate (TC) is verified by the FAA as the State of Registry and is a requirement for issuance of an airworthiness certificate.

**11.6 SURVEILLANCE.** ASIs will conduct surveillance of foreign air carriers and their aircraft and operations.

a) The surveillance task is to determine compliance with the regulations and the foreign air carrier's OpSpecs.

b) Conduct surveillance utilizing Risk-Based Decision Making (RBDM).

c) If a foreign air carrier experiences a series of safety-related accidents, incidents, violations, or complaints, the International Field Office (IFO) manager holding the foreign air carrier's OpSpecs will initiate surveillance as necessary to resolve any safety deficiencies.

**11.6.1 Foreign Air Carriers Operating Foreign-Registered Aircraft.** Volume 12, Chapter 4, Section 10 contains general information for conducting ramp inspections. Normally, principal inspectors (PI) should limit any routine or unannounced ramp inspection of a foreign air carrier conducting operations with foreign-registered aircraft to those operations being conducted in the United States and should normally include only the following inspection items:

- Aircraft markings;
- Aircraft airworthiness and registration certificates;
- Flightcrew member certificates;
- Air traffic compliance;
- Taxi and ramp procedures;
- Passenger enplaning/deplaning procedures;
- Baggage and cargo (especially hazardous cargo); and
- Compliance with pilot-in-command (PIC) age policy.

**11.6.2 Enhanced Ground Proximity Warning Systems (EGPWS) and Canadian Air Cargo Operators.** The FAA Office of the Chief Counsel (AGC) has determined that with regard to EGPWS, operators under the safety oversight system of Transport Canada are permitted to operate in the United States as long as their EGPWS meets either the ICAO Annex 6 standards or the standards the FAA applies to its own similarly situated carriers in U.S. airspace.

**11.6.3 Pilot Age Policy.** A foreign air carrier conducting operations within the United States using aircraft having a passenger seating configuration of more than 30 seats, excluding any required crewmember seat, or a payload capacity of more than 7,500 pounds (3,400 kg), regardless of the State of Registry of the aircraft, must comply with the standard contained in ICAO Annex 1, Personnel Licensing, Chapter 2, Licenses and Ratings for Pilots, paragraph 2.1.10. The following applies to foreign air carrier(s) conducting commercial operations using foreign-registered aircraft within the United States:

- a) For single-pilot operations, the PIC must be under age 60.
- b) For operations with two or more pilots, each pilot must be under age 65.

**Note:** Foreign air carriers must also always comply with more restrictive pilot age requirements imposed by the State of the Operator. ICAO State Letter AN 12/1.1.18-14/14, dated March 25, 2014, sent to each ICAO Member State, announced the adoption of amendment 172 to Annex 1, effective November 13, 2014.

**11.6.4 Part 129 Foreign Air Carriers Operating U.S.-Registered and Non-U.S.-Registered Aircraft.** ASIs may conduct routine and unannounced ramp inspections (at any location) of part 129 foreign air carriers conducting operations with U.S.-registered and non-U.S.-registered aircraft. The captain, his or her representative, or an appropriate airline representative should also be present. ASIs must present appropriate FAA identification to operator representatives and the captain, or to the crewmember, as appropriate. The form of identification should be FAA Form 110A, Aviation Safety Inspector's Credential.

- a) The foreign operator does not have to be given advance notice that a ramp inspection is going to be conducted.
- b) Ramp inspection activities include the following ASI rules of conduct:
  - 1) Avoid interrupting crew or ground personnel when they are performing a particular phase of their duties.
  - 2) Accomplish inspection activities that require interaction directly with the crew or ground personnel either prior to or in between phases of their duties.
  - 3) Do not delay or interfere with passenger enplaning or deplaning.
  - 4) Avoid adversely impeding aircraft servicing or catering.

**11.6.5 Need for Diplomacy.** ASIs should take particular care to diplomatically explain each discrepancy to the foreign air carrier's representative. Items not governed by 14 CFR or approved OpSpecs (such as training programs, cabin safety procedures, and non-U.S.-registered aircraft maintenance programs) must not be inspected, unless a specific written request has been made by either the foreign air carrier or the State CAA of the foreign air carrier, or when directed by the FAA.

**11.6.6 Disagreements Concerning Inspection Findings.** If a foreign air carrier's representative disagrees with any inspection findings, the FAA office that conducted the surveillance must prepare a written report of these inspection findings and coordinate with the responsible OpSpec holding IFO for further action with the State CAA and the FAA. The initiating office must prepare the report for the State CAA through the responsible IFO with copies to the International Program Division (AFS-50).

**11.6.7 English Language Endorsement.** ICAO Doc 9835, Manual on the Implementation of ICAO Language Proficiency Requirements, defines English language proficiency requirements for all pilots flying internationally.

a) The FAA ASIs assigned ramp inspection duties on foreign aircraft flying into the United States are expected, as part of the ramp inspection, to verify the pilot certificate/license does have the English language endorsement or verify the country's posted means for mitigation are being met.

b) Concerns or questions about a pilot's endorsement, lack of endorsement, or ability to speak at an appropriate level as defined in ICAO Doc 9835 should be submitted to AFS-50.

c) FAA ASIs will not test foreign certificated airmen for English language proficiency skills.

**11.6.8 Desk Audits of Maintenance Programs for U.S.-Registered Aircraft Maintained Under § 129.14.** Each responsible IFO will be assigned a National Flight Standards Work Program Guidelines (NPG) activity to conduct a desk audit of each foreign air carrier's or foreign person's U.S.-registered aircraft FAA-approved maintenance program.

a) Minimum Items to Be Checked. PIs should check the following:

- 1) Copy of current airworthiness certificate;
- 2) When the maintenance program was last updated;
- 3) Whether the maintenance program matches the fleet;
- 4) Maintenance records;
- 5) Sample life-limited parts, as applicable;
- 6) Sample/review applicable Airworthiness Directives (AD) and advisory circulars (AC); and
- 7) Sample/review maintenance and inspection elements as defined within applicable ACs, such as (listing is not all-inclusive):
  - i. AC 43-4, Corrosion Control for Aircraft;
  - ii. AC 43-9, Maintenance Records;
  - iii. AC 43-206, Inspection, Prevention, Control, and Repair of Corrosion on Avionics Equipment;
  - iv. AC 43-210, Standardized Procedures for Obtaining Approval of Data Used in the Performance of Major Repairs and Major Alterations;
  - v. AC 43-214, Repairs and Alterations to Composite and Bonded Aircraft Structure.

vi. AC 119-1, Operational Authorization of Aircraft Network Security Program (ANSP).

vii. AC 120-93, Damage Tolerance Inspections for Repairs and Alterations;

viii. AC 120-97, Incorporation of Fuel Tank System Instructions for Continued Airworthiness into Operator Maintenance or Inspection Programs;

ix. AC 120-98, Operator Information for Incorporating Fuel Tank Flammability Reduction Requirements into a Maintenance or Inspection Program;

x. AC 120-102, Incorporation of Electrical Wiring Interconnection Systems Instructions for Continued Airworthiness into an Operator's Maintenance Program;

xi. AC 120-104, Establishing and Implementing Limit of Validity to Prevent Widespread Fatigue Damage; and

xii. AC 129-4, Maintenance Programs for U.S. Registered Aircraft Operated Under 14 CFR Part 129;

b) Sampling and Scope. The responsible IFO will determine sample size and scope, based on PI input. It needs to be sufficiently comprehensive to ensure that the foreign air carrier or foreign person is complying with the FAA-approved maintenance program.

c) Associated Part 145 Facility Inspections and Ramp Checks. Desk audits at management discretion may be combined and accomplished as part of an annual FAA part 145 facility inspection when the aircraft are present. While performing in-country part 145 certificate management, it is recommended to validate compliance with § 129.14 inspection/maintenance program(s).

**Note:** A ramp check of a U.S.-registered aircraft may not be used in place of the desk audit.

d) Termination. The responsible IFO, at the end of each fiscal year (FY), may terminate each NPG activity/desk audit in accordance with FAA Order 1800.56, National Flight Standards Work Program Guidelines.