

another forum for appeal; non-final decisions or conclusions; and matters in ongoing litigation, arbitration, or mediation, unless there has been a breakdown in the process, may not be appealed. Matters not subject to appeal include, but are not limited to, appointments of conservators or receivers, preliminary examination conclusions, formal enforcement decisions, formal and informal rulemakings, Freedom of Information Act appeals, final FHFA decisions subject to judicial review, and matters within the jurisdiction of the FHFA Inspector General. The Ombudsman may further define what matters are not subject to appeal.

(4) *Effect of filing an appeal.* An appeal under this section does not excuse a regulated entity or the Office of Finance from complying with any regulatory or supervisory decision while the appeal is pending. However, the Director, upon consideration of a written request, may waive compliance with a regulatory or supervisory decision during the pendency of the appeal.

§ 1213.5 Complaints from a person.

(a) *General.* Any person that has a business relationship with a regulated entity or the Office of Finance may submit a complaint in accordance with procedures established by the Ombudsman.

(b) *Matters subject to complaint.* A person may submit a complaint regarding any matter relating to the regulation and supervision of a regulated entity or the Office of Finance by FHFA that is not a matter in litigation, arbitration, or mediation. The Ombudsman may further define what matters are subject to complaints.

§ 1213.6 No retaliation.

Neither FHFA nor any FHFA employee may retaliate against a regulated entity, the Office of Finance, or a person for submitting a complaint or appeal under this part. The Ombudsman shall receive and address claims of retaliation. Upon receiving a complaint, the Ombudsman, in coordination with the Inspector General, shall examine the basis of the alleged retaliation. Upon completion of the examination, the Ombudsman shall report the findings to the Director with recommendations, including a recommendation to take disciplinary action against any FHFA employee found to have retaliated.

§ 1213.7 Confidentiality.

The Ombudsman shall ensure that safeguards exist to preserve

confidentiality. If a party requests that information and materials remain confidential, the Ombudsman shall not disclose the information or materials, without approval of the party, except to appropriate reviewing or investigating officials, such as the Inspector General, or as required by law. However, the resolution of certain complaints (such as complaints of retaliation against a regulated entity or the Office of Finance) may not be possible if the identity of the party remains confidential. In such cases, the Ombudsman shall discuss with the party the circumstances limiting confidentiality.

Dated: February 3, 2011.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 45, 110, 119, 121, 129, and 135

[Docket No. FAA-2009-0140; Amendment Nos. 45-27, 110-1, 119-14, 121-353, 129-49, and 135-124]

RIN 2120-AJ45

Operations Specifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment clarifies and standardizes the rules for applications by foreign air carriers and foreign persons for part 129 operations specifications and establishes new standards for amendment, suspension, and termination of those operations specifications. In addition, the FAA has moved definitions currently contained in a subpart to a separate part for clarity with no substantive changes to the definitions. The amendment also applies 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 establishes a regulatory basis for current practices, such as amending, terminating, or suspending operations specifications.

DATES: *Effective Date:* These amendments become effective April 11, 2011.

Compliance Date: The compliance date for § 129.9(a)(2) and (b)(2) is

February 10, 2012. Affected parties do not have to comply with the information collection requirement in § 129.7 until the FAA publishes in the **Federal Register** the control number assigned by the Office of Management and Budget (OMB) for this information collection requirement. Publication of the control number notifies the public that OMB has approved this information collection requirement under the Paperwork Reduction Act of 1995. Compliance with all other provisions of the final rule is required by April 11, 2011.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule 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; Telephone: 202-385-8078. For legal questions concerning this final 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; Telephone: 202-267-3921.

SUPPLEMENTARY INFORMATION:

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 rulemaking 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 and establishing new standards for amendment, suspension, and termination of operations specifications issued to foreign air carriers operating in the United States and to foreign air carriers or foreign persons conducting common carriage operations with 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.

Background

A. Summary of the Notice of Proposed Rulemaking (NPRM)

On May 7, 2010, the FAA published an NPRM that proposed to amend the regulations 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 (75 FR 25127). Specifically, the FAA proposed to 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. In addition, the FAA proposed moving definitions currently contained in part 119 to a new part 110 for clarity with no substantive changes to the definitions. The comment period closed on August 5, 2010. As discussed below, the FAA received no adverse comments on the NPRM; therefore, the changes to the regulations in the final rule are the same as proposed in the NPRM, except for minor editorial changes.

B. Summary of the Final Rule

This final rule clarifies and standardizes the rules for applications for operations specifications issued under 14 CFR part 129 by foreign air carriers conducting operations within the United States and foreign air carriers and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. The rule also establishes new standards for amendment, suspension and termination of those operations specifications. As described in the NPRM, this final rule adds 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. It also amends § 129.11 to specifically address amendment, suspension, and termination of operations specifications.

Section 129.5 describes which foreign air carriers or foreign persons must hold FAA operations specifications and the effective period of such operations specifications. Section 129.5 also requires 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. Section 129.5(b) includes and revises provisions formerly contained in the introductory

paragraph of § 129.11(a), removes the incorrect reference to "Recommended Practices," and adds a requirement for foreign air carriers to comply with the Standards of Annex 8 to the Convention on International Civil Aviation (the Chicago Convention).

Section 129.7 includes new provisions governing the application, issuance, and denial of operations specifications. As discussed in the NPRM, the new application process required removal of the outdated requirements contained in part 129, appendix A.

Section 129.9 defines 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.

Section 129.11 establishes requirements for amendments, suspensions, and terminations of operations specifications. The amendment process is consistent with the process for amending operations specifications issued to domestic operators under part 119. Under the new rule, an applicant may apply to the responsible Flight Standards District Office (FSDO) for an amendment of its operations specifications, 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 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 final rule establishes 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 final rule amends § 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. The U.S. obligation to recognize those certificates is stated in inspector handbook guidance. The amended provisions in § 129.13 allow recognition of third-party transfers of airworthiness certificates under Article 83bis agreements registered with the International Civil Aviation Organization (ICAO).

Similarly, § 129.15 provides 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 currently stated in inspector handbook guidance, § 129.15 provides a legal basis for recognition of those crew licenses (certificates).

As discussed in the NPRM, the final rule amends § 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 in common carriage. Under the final rule, the FAA will 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 is clarifying 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, the FAA is revising § 129.1(b) 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 discussed in the NPRM, the FAA has transferred all of the definitions in § 119.3 to a new part 110. This change clarifies that all of the definitions formerly located in § 119.3 apply to subchapter G, including part 129. Section 119.3 is redesignated as § 110.2, and all of the references in parts 45, 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 final rule eliminates the outdated reference to the Civil Aeronautics Board (CAB) in 14 CFR § 129.1(a)(1) because the CAB no longer exists, and all economic authority is now granted by the Department of Transportation (DOT).

The following table summarizes the 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	New part 110
<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.	<i>Definitions:</i> The final rule removes definitions from subchapter G of part 119 and includes them in a new part 110.
Existing part 129	Part 129 changes
<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.	<i>Ops Specs—Amendment, suspension or termination:</i> The final rule provides a legal basis for the amendment, suspension, and termination of Operations Specifications.
<i>Application process:</i> The application process and requirements are outdated and impose an unnecessary burden on the operator and the FAA, with no safety value (<i>e.g.</i> , provide names, license type and class held by each flightcrew member to include en route training—certificate holders could employ numerous airmen and the required information could change frequently).	<i>Application process:</i> The final rule removes outdated portions of part 129, appendix A and places general requirements in the new §129.7(a). Specific application processes will be contained in Inspector Guidance for easy updating. In addition, the final rule clarifies and standardizes the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129.
<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.	<i>Appeal process for foreign operators:</i> The final rule provides 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 U.S.C. 46110.
<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. (Note: 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.)	<i>Chicago Convention:</i> The final rule allows the FAA to recognize crew licenses and 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.

C. Summary of Comments

The FAA received one comment in response to the NPRM. The commenter, Air Pacific Limited, had no objection to the proposal.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. 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 Office of Management and Budget (OMB) control number.

This final rule will impose new information collection requirements as described below. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted these information collection amendments to OMB for its review. Notice of OMB approval for this

information collection will be published in a future **Federal Register** document.

Title: Part 129 Operations Specifications

Summary: This rule will 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. This final rule will also apply to foreign air carriers and 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, and suspending operations specifications.

Public comments: The FAA did not receive any comments concerning the proposed information collection requirements.

Use: This final rule supports 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 information requirement are potential new applicants for operations specifications. The average number of respondents is approximately 25 each year.

Frequency: The FAA estimates five FSDOs will receive approximately five applications each per year.

Annual Burden Estimate: This final rule opens a new information collection requirement and as a result the FAA will begin recording an annual recordkeeping and reporting burden as follows: 75 hours annually. However, the FAA has streamlined the application process and reduced the burden to less than it would have been in the absence of the rule.

International Compatibility

Consistent with U.S. obligations under the Chicago Convention, it is the FAA's policy to conform our regulations to ICAO standards to the maximum extent practicable. The final rule 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.

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

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall 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, that they be 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 the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and

procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble, if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows:

This final rule will not impose costs on domestic operators since it only applies to foreign air carriers and foreign persons. The rule removes outdated requirements in the application process, and therefore may result in a reduction in costs for foreign air carriers or foreign persons who will apply for operations specifications. By clarifying and standardizing the operations specifications application process, providing a regulatory basis for amendment, suspension and termination of those operations specifications, and creating an administrative appeals process, the rule may result in some benefits to foreign air carriers and foreign persons. It will impose minimal costs on the FAA because it will not significantly change the rules regarding the FAA's obligation for safety oversight of foreign air carriers and foreign persons under the Chicago Convention. Additionally, this rule incorporates new provisions for the recognition of airworthiness certificates and crewmember licenses under Article 83*bis* of the Chicago Convention. In the NPRM, the FAA requested, but did not receive, comments on the costs and benefits of the proposed changes. For these reasons we conclude that this final rule will have minimal economic impact.

FAA has, therefore, determined that this final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, and is not "significant" as defined in DOT's Regulatory Policies and Procedures.

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 substantial 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 rule clarifies and standardizes the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and establishes new standards for amendment, suspension, and termination of operations specifications. The rule applies to foreign air carriers operating within the United States and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. As the rule removes outdated requirements in the application process, it may result in a reduction in costs for foreign air carriers or foreign persons who will apply for operations specifications. Furthermore, it creates an administrative appeals process that may result in some benefits to foreign air carriers and foreign persons. Domestic operators are not impacted by this rule. This rule merely revises and clarifies the FAA operations specifications application process; the expected outcome will not increase cost to any United States small entity. Furthermore, there were no comments regarding small business impacts. Therefore, as FAA Administrator, I certify that this 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 statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it may provide minimal cost savings to international entities and thus has 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 (in 1995 dollars) 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 final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, or 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.

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 rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We

have 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.

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/ 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 amendment or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects

14 CFR Part 45

Aircraft, Exports, Signs and symbols.

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 Amendments

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

PART 45—IDENTIFICATION AND REGISTRATION MARKING

- 1. The authority citation for part 45 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 44109, 44113-44114, 44101-44105, 44107-44108, 44110-44111, 44504, 44701, 44708-44709, 44711-44713, 44725, 45302-45303, 46104, 46304, 46306, 47122.

§ 45.11 [Amended]

- 2. Amend § 45.11(g)(1)(ii) and (g)(3) by removing the citation "§ 119.3" and adding the citation "§ 110.2" in its place.
- 3. 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 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 flightcrew members—180 pounds.
 - (B) For female flightcrew members—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

■ 4. 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]

■ 5. Remove and reserve § 119.3.

§ 119.51 [Amended]

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

§ 119.53 [Amended]

■ 7. 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

■ 8. 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]

■ 9. Amend § 121.313(k) by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

§ 121.582 [Amended]

■ 10. 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

■ 11. 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.

■ 12. 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 129.24, 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.

* * * * *

■ 13. 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.

■ 14. 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.

■ 15. 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) Within 1 year after February 10, 2012, 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 list 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) Within 1 year after February 10, 2012, 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 approved maintenance program and minimum equipment list for United States registered aircraft authorized for use; and

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

■ 16. 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.

■ 17. 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.

* * * * *

■ 18. 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.

■ 19. Revise § 129.15 to read as follows:

§ 129.15 Flightcrew member certificates.

Each person acting as a flightcrew member 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]

■ 20. 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

■ 21. 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]

■ 22. Amend § 135.127 in paragraphs (b)(1)(iii) and (b)(2) introductory text by removing the citation “§ 119.3” and adding the citation “§ 110.2” in its place.

Issued in Washington, DC, on January 31, 2011.

J. Randolph Babbitt,
Administrator.

[FR Doc. 2011-2834 Filed 2-9-11; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

RIN 0625-AA66

[Docket No.: 0612243022-1049-01]

Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Interim final rule and request for comments.

SUMMARY: The Department of Commerce (“the Department”) is amending its regulation which governs the certification of factual information submitted to the Department by a person or his or her representative during antidumping (“AD”) and countervailing duty (“CVD”) proceedings. The amendments are intended to strengthen the current certification requirements. For example, these amendments revise the certification in order to identify to which document the certification applies, to identify to which segment of an AD/CVD proceeding the certification applies, to identify who is making the certification, and to indicate the date on which the certification was made. In addition, the amendments are intended to ensure that parties and their counsel are aware of potential consequences for false certifications. The Department is also requesting comments on this interim final rule.

DATES: The effective date of this interim final rule is March 14, 2011. This interim final rule will apply to all investigations initiated on the basis of petitions filed on or after March 14, 2011, and other segments of AD/CVD proceedings initiated on or after March 14, 2011.

Request for Public Comment: The Department seeks public comment on this interim final rule. To be assured of consideration, comments must be received no later than May 11, 2011 and rebuttal comments must be received no later than June 27, 2011. All comments should refer to RIN 0625-AA66. The Department intends to issue a final rule no later than nine months after the publication of this interim final rule.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at <http://www.regulations.gov>, Docket No. ITA-2010-0007, unless the commenter does

not have access to the internet. Commenters that do not have access to the internet may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

The Department will consider all comments received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) and on the Federal eRulemaking Portal at www.Regulations.gov. and the Department's Web site at <http://www.trade.gov/ia/>.

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482-0866, e-mail address: webmaster-support@ita.doc.gov.

FOR FURTHER INFORMATION CONTACT: William Isasi, Senior Attorney, Office of the General Counsel, Office of Chief Counsel for Import Administration, or Myrna Lobo, International Trade Compliance Analyst, Office 6, Import Administration, U.S. Department of Commerce, 1401 Constitution Ave., NW., Washington, DC 20230, 202-482-4339 or 202-482-2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

Section 782(b) of the Tariff Act of 1930, as amended, (“the Act”) requires that any person providing information to the Department during an AD/CVD proceeding must certify to the accuracy and completeness of such information. 19 U.S.C. 1677m(b). Department regulations set forth the specific content requirements for such certifications. 19 CFR 351.303(g). The current language of the certification requirements does not address certain important issues. For example, the current language does not require the certifying official to specify the document or the proceeding for which the certification is submitted, or even the date on which the certification is signed.