

# NOTICE

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION

N 8900.108

National Policy

Effective Date:  
01/11/10

Cancellation Date:  
01/11/11

**SUBJ:** Correction: 14 CFR Part 129 Appendix A – Changes to Requirements

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**1. Purpose of This Notice.** This notice explains the Federal Aviation Administration's (FAA) interpretation of language used in Title 14 of the Code of Federal Regulations (14 CFR) part 129, appendix A to clarify the FAA's policy and procedures for the submission of applications for the issue or amendment of foreign air carrier operations specifications (OpSpecs).

**2. Audience.** The primary audience for this notice is all personnel assigned to each International Field Office (IFO), International Field Unit (IFU), Flight Standards District Office (FSDO), and all field elements, such as Operations and Airworthiness Inspectors who have responsibility for the issuance, amendment, and oversight of OpSpecs issued to foreign air carriers and foreign persons, as well as other interested aviation safety inspectors (ASI). The secondary audience includes Flight Standards branches and divisions in the regions and in headquarters.

**3. Where You Can Find This Notice.** You can find this notice on the MyFAA Web site at [https://employees.faa.gov/tools\\_resources/orders\\_notices](https://employees.faa.gov/tools_resources/orders_notices). Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at <http://fsims.avs.faa.gov>. Operators and the public may find this information at <http://fsims.faa.gov>.

**4. What This Notice Cancels.** This notice cancels N 8900.64, 14 CFR Part 129 Appendix A – Changes to Requirements, dated January 08, 2009.

**5. Explanation of Policy Changes.** The Administrator has adjusted the level of detail an operator must include in an application for the issue or amendment of foreign air carrier OpSpecs under part 129. The following is a list of the sections of appendix A affected by the change and the information in each section that the applicant should no longer include in the application:

**a. Sections II and III.A.** Operational plans and route: the proposed route for entry and flight within U.S. airspace; detailed maps and charts; and location of navigational facilities to be used in connection with the proposed operation. (Air traffic control (ATC) will clear the aircraft flight path, except in an emergency.)

**b. Section III.B.2.** Airport location (distance to and name of nearest city or town).

**c. Section IV. Communications facilities.**

**d. Section V. Aircraft.**

(1) State of origin (Section V.A.2.);

(2) Single-engine or multiengine, and the number of engines on a multiengine aircraft (Section V.A.3.); and

(3) The maximum takeoff and landing weight to be used for each type of aircraft (Section V.A.4.)

**e. Section VI. Airmen.**

(1) The type and class of certificate held by each flight crewmember, except for foreign operators operating U.S.-registered aircraft (Section VI.A.);

(2) Whether or not pilot personnel have received training in the use of navigational facilities necessary for en route operation and instrument letdowns along or adjacent to the route to be flown within the United States (Section VI.B.); and

(3) Whether pilot personnel have demonstrated English Proficiency to a minimum of ICAO Operational Level (Level 4) and have the relevant endorsement on their license, except for pilot personnel from an ICAO Contracting State that has posted a plan to bring its pilot personnel up to the required minimum of ICAO Level 4 English Proficiency. (Section VI.D.)

**6. Supplementary Information.**

**a. Background.**

(1) Title 49 of the United States Code (49 U.S.C.) provides 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, operating requirements are in 14 CFR parts 91 and 129. The FAA has authority to require that a foreign air carrier using foreign-registered aircraft comply with all applicable provisions of the Convention on International Civil Aviation (the Chicago Convention) and its Annexes, and U.S. regulations for flights conducted by the foreign air carrier into the United States. Adherence to these standards ensures 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.

(2) To fulfill its oversight responsibilities, the FAA issues OpSpecs to foreign air carriers authorized to operate within U.S. airspace and to foreign air carriers operating U.S.-registered aircraft solely outside U.S. airspace. These OpSpecs ensure a common understanding between the foreign air carrier and the FAA. The FAA-issued OpSpecs describe the scope of a foreign air carrier's operations into the United States, including any applicable authorizations and limitations; however, the foreign civil aviation authority (CAA) maintains primary responsibility for the certification of the foreign air carrier and the ongoing oversight of the air carrier's operations in accordance with applicable standards established by the ICAO under the Chicago

Convention. As a result of major improvements in aviation technology, policy, and industry practices, some of the information required in an application for the issue or amendment of foreign air carrier OpSpecs is out-of-date and no longer necessary.

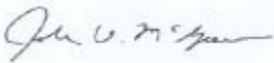
**b. Regulatory Basis and Interpretation.**

(1) Part 129, § 129.11(a) lists five mandatory items to include in FAA-issued OpSpecs (airports, routes or airways to be flown, operational rules and practices to prevent collision, registration markings of U.S.-registered aircraft, and registration and markings of certain other aircraft). Section 129.11(b) states that “detailed requirements governing applications for the issue or amendment of operations specifications are contained in Appendix A.” Paragraph (b) of appendix A requires applicants to follow the prescribed outline; however, appendix A also states that the applicant must submit the information described in sections I through VIII of appendix A only with respect to those parts of the applicant’s proposed operations that will be conducted within the United States, “[u]nless otherwise specified.”

(2) The FAA interprets the phrase, “unless otherwise specified,” as used in part 129, appendix A as providing the Administrator with the discretion to specify the level of detail required in the application. Thus, while the applicant must always submit information pertaining to the mandatory items required by § 129.11(a), and the OpSpecs must contain such information and follow the outline provided, the Administrator may adjust the level of detail required for compliance with § 129.11(a). To interpret this section in any other way would render meaningless the phrase, “unless otherwise specified,” in this context. Therefore, upon issuance of this notice, the FAA will amend FAA Order 8900.1 and relevant OpSpecs templates to specify the level of detail required to comply with § 129.11(a) and appendix A.

**7. Future Cancellations.** This interim action supports a rulemaking project for part 129 that is currently underway as of the date of this notice. The proposed rule will contain new provisions for a revised application process, and will delete part 129 appendix A.

**8. Disposition.** We will permanently incorporate this information in FSIMS before this notice expires. Direct questions or comments concerning the information in this notice to the International Operations and Standardization Branch (AFS-52) at 202-385-8070.



for

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Director, Flight Standards Service