

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.398

National Policy

Effective Date:
12/29/16

Cancellation Date:
12/29/17

SUBJ: OpSpecs A028 and A029 for Part 129, Economic Authority and Environmental Assessment Guidance

1. Purpose of This Notice. This notice provides revised guidance for Federal Aviation Administration (FAA) offices and inspectors with oversight responsibility for operators conducting operations under Title 14 of the Code of Federal Regulations (14 CFR) part 129. This notice amends Operations Specification (OpSpec) A028, Aircraft Wet Lease Arrangements, for part 129 to include changing the title to “Aircraft Wet Lease Agreements.” This notice also amends OpSpec A029, Aircraft Interchange Agreements, to include changing the title to “Aircraft Interchange Arrangements.” Additionally, it provides:

- Department of Transportation (DOT) economic authority guidance; and
- Reference to the location of Environmental Assessment (EA) guidance.

2. Audience. The primary audience for this notice is International Field Offices (IFO), principal operations inspectors (POI), principal maintenance inspectors (PMI), and principal avionics inspectors (PAI) with oversight responsibility for operators issued OpSpecs under part 129. The secondary audience includes Flight Standards District Offices (FSDO) and Flight Standards (AFS) divisions and branches in the regions and in headquarters (HQ).

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee website at 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 can find this notice on the FAA’s website at <http://fsims.faa.gov>. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Explanation of Policy Changes. The International Programs and Policy Division (AFS-50), together with the Office of the Chief Counsel (AGC), amended OpSpec A028 and related inspector guidance for part 129 as follows:

a. OpSpec A028.

(1) Added clarity by not using the term “primary operator” so as not to confuse a wet lease agreement with an interchange arrangement. Specifically, operational control and maintenance control does not shift based on who is operating the aircraft in a wet lease. In an

interchange arrangement, operational control shifts with the operator who is operating the aircraft.

(2) Added clarity to which party to the wet lease has operational control and airworthiness responsibility via the addition of boilerplate text. In a wet lease, the lessor always has operational and airworthiness control.

(3) Deleted duplicative language and streamlined the OpSpec.

(4) Amended OpSpec title to “Aircraft Wet Lease Agreements” so that template text and OpSpec title use the same term.

b. OpSpec A029. To more clearly differentiate between leases and interchanges:

(1) Amended the OpSpec title to “Aircraft Interchange Arrangements;” and

(2) Within the boilerplate text of the template, deleted “interchange agreements” and inserted “interchange arrangements.”

c. FAA Order 8900.1.

(1) Deleted guidance from Order 8900.1, Volume 12, Chapter 2, Section 9 in regards to a wet lease scenario wherein the U.S. certificate holder would not have operational control in a wet lease. This guidance was deleted because that scenario did not represent existing practice; and AGC did not recall any scenarios where that may have occurred in the past and did not expect any such scenarios to be approved in the future.

(2) Deleted wet lease duplications between Order 8900.1, Volume 12, Chapter 2, Sections 3 and 9.

(3) Updated for OpSpecs amendments.

(4) Added additional dry lease guidance.

(5) Added to OpSpec A001, Issuance and Applicability, and Reports; and OpSpec A003, Airplane/Aircraft Authorization, guidance:

- Reference to Order 8900.1, Volume 11 for inspector guidance on EAs when adding new scheduled destination airport(s) or new aircraft, which noise category is louder than previously authorized for the operator; and
- Reference to the location of a checklist of the information needed by the General Aviation Operations Branch (AFS-830) for an environmental review.

d. AFS-50 and DOT-Amended Guidance. Additionally, AFS-50, together with the DOT, amended inspector guidance as follows:

(1) Charter economic authority may be granted in the form of an exemption, foreign air carrier permit, or foreign aircraft permit/special authorization under 14 CFR part 375.

(2) Per the DOT, for licensing purposes, alternate airports are considered technical stops.

(3) Foreign air carriers who do not hold economic authority to serve the United States, and want to file U.S. airports as alternate airports for weather reasons may do so under the provisions of part 375, § 375.30.

(4) Added a brief overview of the DOT's part 375 economic regulation.

(5) Added a reference to the AFS-50 website for questions and answers (Q & A) regarding part 375.

5. Guidance. This notice contains the following:

- The sample OpSpec A028 template in Appendix A applies to part 129.
- The sample OpSpec A029 template in Appendix B applies to part 129.

6. Action. This is a mandatory change for OpSpec A028 and a nonmandatory change for OpSpec A029. These changes affect principal inspectors (PI) with responsibility for the issuance, amendment, and oversight of OpSpecs for part 129. If previously issued, then the PIs must reissue OpSpec A028 within 1 year of the effective date of this notice.

7. Disposition. We will incorporate the information in this notice into Order 8900.1 before this notice expires. Direct questions concerning the information in this notice to the International Operations Branch (AFS-52) at 202-267-0962.



John Barbagallo
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Appendix A. Sample OpSpec A028, Aircraft Wet Lease Agreements: 14 CFR Part 129

- a. The foreign air carrier is authorized to conduct operations under the wet lease agreement(s) listed in Table 1. The foreign air carrier must not conduct, nor be a party to, operations under these operations specifications with aircraft under any other wet lease agreement.
- b. The Lessor must, at all times, be responsible for and maintain operational control and the airworthiness of the aircraft identified in the wet lease agreement(s). All operations conducted under the wet lease agreement(s) must be conducted in accordance with the terms and conditions of the appropriate wet lease agreement listed in Table 1.

Table 1 – Aircraft Wet Lease Agreements

Parties to the Wet Lease Agreement(s)		Aircraft Registration Number	Aircraft Serial Number	DOT Statement of Authorization Number	DOT Statement of Authorization Approval Date	DOT Statement of Authorization Expiration Date	Wet Lease Agreement Effective Date	Wet Lease Agreement Expiration Date
Lessor	Lessee							

Appendix B. Sample OpSpec A029, Aircraft Interchange Arrangements: 14 CFR Part 129

a. The foreign air carrier is authorized to conduct operations in accordance with the interchange arrangements identified and using the aircraft listed in Table 1 below. All operations conducted under an interchange arrangement must be conducted in accordance with the authorizations, limitations, and provisions of these operations specifications and the terms and conditions of the applicable interchange arrangement.

b. Parties to the Interchange. For the purpose of this paragraph, the primary operator is the operator that would normally operate the aircraft if an interchange arrangement were not in effect. The interchange operator is the other party to an interchange arrangement.

(1) The primary operator, when its flightcrews are operating the aircraft, must be responsible for and maintain operational control of the aircraft. The primary operator must be responsible for the maintenance control of the aircraft at all times. When the aircraft is under the operational control of the primary operator, the flightcrews and dispatch personnel of the primary operator must be used to conduct the operation.

(2) The interchange operator, when its flightcrews are operating the aircraft, must be responsible for and maintain operational control of the aircraft. When the aircraft is under the operational control of the interchange operator, the flightcrews and dispatch personnel of the interchange operator must be used to conduct the operation.

c. Interchange Points. Except when required due to an in-flight diversion, the transfer of flightcrews and operational control responsibility between the primary and interchange operators must only take place at the interchange points specified in Table 1 below.

Table 1 – Aircraft Interchange Arrangements

Names of Parties to the Interchange Arrangement		Aircraft M/M/S	Aircraft Serial Number	Aircraft Registration Number	Interchange Points
Primary Operator	Interchange Operator				