

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.620

National Policy

Effective Date:
4/1/22

Cancellation Date:
4/1/23

SUBJ: Part 125 Letter of Deviation Authority (A125 LODA) for Foreign Operations

1. Purpose of This Notice. This notice announces a nonmandatory revision to the A125 Letter of Deviation Authority (A125 LODA) to authorize foreign citizens operating large U.S.-registered aircraft to conduct noncommercial operations into the United States or its territories or possessions.

2. Audience. The primary audience for this notice is Flight Standards (FS) International Field Offices' (IFO) and Safety Assurance offices' principal inspectors (PI) assigned to operators conducting large aircraft operations under Title 14 of the Code of Federal Regulations (14 CFR) part 125, § 125.3. The secondary audience includes the Safety Standards and Foundational Business offices.

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, the Flight Standards Information Management System (FSIMS) at <https://fsims.avs.faa.gov>, and the Dynamic Regulatory System (DRS) at <https://drs.faa.gov>. Operators and the public can find this notice on the Federal Aviation Administration's (FAA) website at https://www.faa.gov/regulations_policies/orders_notices, FSIMS at <https://fsims.faa.gov>, and the DRS.

4. Background. Review and discussions between the International Operations Branch (AFS-52), the Operations Group (AFS-830), and the Operations Law Branch (AGC-220), and input from Office of the Secretary of Transportation (OST), regarding applicability of § 125.3 to foreign-based operators revealed the need for updated policy and the need to clarify inspector guidance. This notice will clarify FAA policy and provide guidance specific to part 125-applicable operators who maintain their principal base of operations outside the United States.

a. The International Program Division (AFS-50), in collaboration with the General Aviation and Commercial Division (AFS-800), incorporated guidance into the following sections of FAA Order 8900.1 to address foreign-based operators operating large U.S.-registered aircraft into the United States or its territories or possessions:

- Volume 2, Chapter 6, Section 1, Introduction to Part 125 Related Tasks;
- Volume 2, Chapter 6, Section 2, Conduct Certification of a 14 CFR Part 125 Operator; and
- Volume 2, Chapter 6, Section 3, Evaluate an Application for Deviation Authority Under Part 125.

b. Foreign citizens operating large § 125.1(a) U.S.-registered aircraft into the United States or its territories or possessions are required to comply with part 125. However, if the operator is foreign-based (i.e., the operator's principal base of operations is outside of the United States or its territories or possessions), they will not be certificated under part 125.

c. The Convention on International Civil Aviation ("Chicago Convention") requires that Operating Certificates be issued by the State of the Operator. The State of the Operator is the State in which the operator's principal place of business or permanent residence is located. Therefore, an operator's principal base of operations must be located in the United States or a territory or possession of the United States in order for the FAA to issue an Operating Certificate. The FAA's issuance of part 125 certificates to foreign-based operators could be viewed as an unlawful interference with a foreign sovereign's authority over operators based in its territory. Therefore, the FAA will not issue part 125 certificates to operators who maintain their principal base of operations outside of the United States or its territories or possessions, or to operators who conduct operations entirely outside the United States or its territories or possessions.

d. A foreign-based operator wanting to operate their U.S.-registered, part 125-applicable airplane(s) into the United States or its territories or possessions can make application for an A125 LODA to the IFO responsible for the country in which the operator's principal place of business or permanent residence is located. An A125 LODA allows an operator to operate under part 125 without holding an Operating Certificate and operations specifications (OpSpecs). However, all other applicable part 125 regulations apply. The foreign-based operator should be advised by the IFO regarding the extent of the process required in obtaining an A125 LODA. The IFO can prepare a LODA A510 Special Flight Authorization (SFA), with appropriate limitations and valid only over U.S. territory, to a specific destination airport where the required inspections may be conducted. The SFA may also include instructions and authorization for a one-time exit flight if the operator fails to meet applicable requirements.

e. Foreign-based operators operating U.S.-registered airplanes and holding an A125 LODA must be limited to noncommercial operations in accordance with 14 CFR part 375, § 375.30 when operating into the United States or its territories or possessions. Foreign operators cannot conduct any operations for remuneration, directly or indirectly. There are some instances under § 375.37 that could be applicable in the context of authorized business aviation operations with limited chargebacks. All other scenarios involving compensation require OST authority for operations to/from the United States or within the United States for specialty air services.

5. Guidance. The sample LODA A125 template in Appendix A applies to part 125 A125 LODA holders. The template has been revised to add selectable text to subparagraph 4 that, in effect, authorizes a foreign-based operator/company holding an A125 LODA to conduct

§§ 375.30 and 375.37 operations limited to noncommercial operations when operating U.S.-registered airplanes into the United States or its territories or possessions.

6. Action. This a nonmandatory revision to the A125 LODA. Principal Operations Inspectors (POI) of A125 LODA holders issued to U.S.-based operators are not required to reissue A125 LODA. For future issuances of A125 LODA, POIs must select the appropriate text in subparagraph 4 for U.S.-based or foreign-based operators.

7. Disposition. We will incorporate the information in this notice into Order 8900.1 before this notice expires. Direct questions or comments concerning the information in this notice to the General Aviation and Commercial Division, Operations Group (AFS-830) at 9-AFS-800-Correspondence@faa.gov or 202-267-1100.



Robert M. Ruiz
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**Appendix A. Sample LODA A125, Letter of Deviation Authority (LODA):
14 CFR Part 125 (A125 LODA Holder)**

1. Letter of Deviation Authority. The operator/company listed at the bottom of this document is hereby issued a Letter of Deviation Authority (LODA) from the requirements of 14 CFR Part 125, § 125.5 to hold a Part 125 Operating Certificate and operations specifications, as provided by 14 CFR Part 119, § 119.23(a), § 125.3(a), and as authorized in Letter of Authorization (LOA) A005, Exemptions and Deviations.

2. The LODA authorizes the operator/company to transport its personnel, property, and guests. Guests may only travel on flights for which the operator/company has a business purpose.

3. This LODA is issued for the purpose of conducting noncommercial operations. Noncommercial operations are operations in which persons or cargo are transported without compensation or hire, or operations that do not involve the transportation of persons or cargo.

○ 4. This LODA is issued to a U.S.-based operator/company which may also conduct compensation operations not involving common carriage as long as such compensation operations are conducted in accordance with the following kinds of operations specified in subparagraph 4a, as applicable:

○ 4. This LODA is issued to a foreign-based operator/company which is limited to noncommercial operations only in accordance with 14 CFR Part 375, §§ 375.30 and 375.37 when operating into the United States or its territories or possessions. The foreign operator/company must not conduct any operations for remuneration, directly or indirectly.

a. Kinds of Operations.

(1) Ferry or training flights (foreign-based operator/company is limited to training flights for the purpose of giving indoctrination training in the operation of the aircraft concerned to a buyer or a buyer's employees or designees);

(2) Aerial work operations such as aerial photography or survey, or pipeline patrol, but not including firefighting operations (not applicable to foreign-based operator/company);

(3) Flights for the demonstration of an airplane to prospective customers when no charge is made except for those specified in subparagraph 4c below;

(4) Flights conducted by the operator of an airplane for their personal transportation, or the transportation of their guests when no charge, assessment, or fee is made for the transportation;

(5) The carriage of officials, employees, guests, and property of a company on an airplane operated by that company, or the parent or a subsidiary of the company or a subsidiary of the parent, when the carriage is within the scope of, and incidental to, the business of the company (other than transportation by air) and no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane, except that no

charge of any kind may be made for the carriage of a guest of a company, when the carriage is not within the scope of, and incidental to, the business of that company;

(6) The carriage of company officials, employees, and guests of the company on an airplane operated under a time-sharing, interchange, or joint ownership agreement as defined in subparagraph 4b below;

(7) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment (other than transportation by air) when the carriage is within the scope of, and incidental to, that business or employment and no charge, assessment, or fee is made for the carriage other than those specified in subparagraph 4c below;

(8) The carriage on an airplane of an athletic team, sports group, choral group, or similar group having a common purpose or objective when there is no charge, assessment, or fee of any kind made by any person for that carriage (not applicable to foreign-based operator/company); and

(9) The carriage of persons on an airplane operated by a person in the furtherance of a business other than transportation by air for the purpose of selling them land, goods, or property, including franchises or distributorships, when the carriage is within the scope of, and incidental to, that business and no charge, assessment, or fee is made for that carriage (not applicable to foreign-based operator/company).

b. Definitions.

(1) Non-common carriage means an aircraft operation for compensation or hire that does not involve a holding out to others.

(2) A time-sharing agreement means an arrangement whereby a person leases their airplane with flightcrew to another person, and no charge is made for the flights conducted under that arrangement other than those specified in subparagraph 4c below.

(3) An interchange agreement means an arrangement whereby a person leases their airplane to another person in exchange for equal time, when needed, on the other person's airplane, and no charge, assessment, or fee is made, except that a charge may be made not to exceed the difference between the cost of owning, operating, and maintaining the two airplanes.

(4) A joint ownership agreement means an arrangement whereby one of the registered joint owners of an airplane employs and furnishes the flightcrew for that airplane and each of the registered joint owners pays a share of the charge specified in the agreement.

c. Expenses That May Be Charged. The following may be charged, as expenses of a specific flight, for transportation:

(1) Fuel, oil, lubricants, and other additives.

(2) Travel expenses of the crew, including food, lodging, and ground transportation.

- (3) Hangar and tie-down costs away from the airplane's base of operation.
 - (4) Insurance obtained for the specific flight.
 - (5) Landing fees, airport taxes, and similar assessments.
 - (6) Customs, foreign permit, and similar fees directly related to the flight.
 - (7) In-flight food and beverages.
 - (8) Passenger ground transportation.
 - (9) Flight planning and weather contract services.
 - (10) An additional charge equal to 100 percent of the expenses listed above in subparagraph 4c(1).
5. Any operations, other than those authorized by this LODA, will result in the termination of this deviation authority. This LODA must be surrendered upon the request of the Administrator or an authorized representative. A copy of this LODA must be carried in the airplane(s) as required by § 125.7 and presented for inspection upon the request of the Administrator or an authorized representative.
6. This LODA is issued with the understanding that the operator/company must:
- a. Operate its airplane (make/model and registration number) authorized in LOA A003, Airplane Authorization, in compliance with §§ 125.91 and 125.93, notwithstanding specific deviations as authorized in LOA A005.
 - b. Conduct operations in accordance with §§ 125.25, 125.37, 125.39, 125.45, 125.47 (LOA A001, Issuance and Applicability), 125.49, 125.51, and 125.53 of Part 125 Subpart B, notwithstanding specific deviations authorized in LOA A005. LOA A007, Designated Persons, must be issued to show compliance or equivalent level of safety to § 125.25.
 - c. Comply with the manual requirements of Part 125 Subpart C, notwithstanding specific deviations authorized in LOA A005.
 - d. Comply with the airplane requirements of Part 125 Subpart D, notwithstanding specific deviations authorized in LOA A005.
 - e. Comply with the special airworthiness requirements of Part 125 Subpart E, notwithstanding specific deviations authorized in LOA A005.
 - f. Comply with the instrument and equipment requirements of Part 125 Subpart F, notwithstanding specific deviations authorized in LOA A005.
 - g. Comply with the maintenance requirements of Part 125 Subpart G, notwithstanding specific deviations authorized in LOA A005.

h. Comply with the airmen and flightcrew member requirements of Part 125 Subparts H and I, and provide initial and/or recurrent training for flightcrew and flight attendant emergency training as authorized in LOA A031, Flight Crewmember Requirements, notwithstanding specific deviations authorized in LOA A005.

i. Conduct flight operations in accordance with Part 125 Subparts J, K, and L, notwithstanding specific deviations authorized in LOA A005. These operations must be described in LOA A008, Flight Release Authority.

j. Comply with the requirements of Part 125 Appendices A, B, C, D, and E, notwithstanding specific deviations authorized in LOA A005.

k. Comply with the Special Area of Authorization requirements contained in, but not limited to, LOAs B034, B036, B039, B046, B050, and D098, as applicable, if issued.

l. Comply with the requirements of § 125.201 by the issuance of an LOA for a minimum equipment list (MEL) (LOA D095).

m. Notify the manager of the Flight Standards office of any material change in the facts stated in your letter of compliance for this LODA and/or any changes in the original authorizations and deviations herein.

7. This LODA will remain in effect until superseded, withdrawn, or rescinded.