

## VOLUME 12 INTERNATIONAL AVIATION

### CHAPTER 4 TITLE 14 CFR PART 129 OPERATIONS

#### Section 1 Title 14 CFR Part 129 Operations Specifications Overview and Issuance

##### Source Basis:

- Title 14 CFR § 129.5, Operations Specifications.
- Title 14 CFR § 129.7, Application, Issuance, or Denial of Operations Specifications.
- Title 14 CFR § 129.9, Contents of Operations Specifications.
- Title 14 CFR § 129.11, Amendment, Suspension and Termination of Operations Specifications.
- Administrative.

#### 1.1 GENERAL.

**1.1.1 Purpose.** This section provides the Federal Aviation Administration (FAA) Flight Standards Service (FS) with information associated with operators operating under Title 14 of the Code of Federal Regulations (14 CFR) part 129. It provides an overview of the application process and identifies related roles and responsibilities.

**1.1.2 Scope.** This section is applicable to all FAA FS personnel with responsibilities associated with part 129 foreign air carrier activities and international aviation operations.

**1.1.3 Safety Assurance System (SAS) Activity Recording (AR) Codes.** See the applicable part 129 operations specifications (OpSpecs) section for the appropriate SAS AR codes.

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

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

**1.3 BACKGROUND.** Each foreign air carrier must obtain OpSpecs issued by the FAA before conducting operations within U.S. airspace. Section 129.7 includes detailed requirements that a foreign air carrier must meet to be issued OpSpecs. Part 129 operators that would like to conduct nonscheduled flights to or from any point in the United States must provide prior notification in accordance with the reporting requirements of OpSpec A001.

**1.4 U.S. AIRPORTS USED AS ALTERNATES ONLY.** Foreign operators that transit U.S. airspace (First Freedom of the Air) without landing in the United States, but file a U.S. airport as an alternate, must apply for economic authority to do so.

a) The regulatory requirements for economic authority to allow for U.S. alternate airports is found in part 375 subparts E and F. For policy requirements and information associated with part 375, see Volume 12, Chapter 3, Section 2 and Volume 12, Chapter 4, Section 15.

b) The Department of Transportation (DOT) website contains extensive information on foreign operator economic licensing and is found at the following address:  
<https://cms.dot.gov/policy/aviation-policy/licensing/foreign-carriers>.

**1.5 INTERNATIONAL FIELD OFFICE (IFO).** The responsibility for the issuance and amendment of foreign air carrier OpSpecs and the approval of minimum equipment lists (MEL) and maintenance programs for U.S.-registered aircraft, § 129.14, has been delegated to specific IFOs. The assigned IFOs are responsible for OpSpecs and enhanced Vital Information Database (eVID) data for foreign air carriers that are issued Air Operator Certificates (AOC) from a foreign authority in the geographic area as specified below. Regardless of where the foreign air carrier may elect to locate its U.S. office, the IFOs specified below still retain responsibility for OpSpec and eVID information. See Volume 12, Chapter 4 for additional guidance on surveillance, entry, and maintenance of environmental information.

**1.5.1 International Responsibility.** The International Field Office Management Branch (AFS-54) manager determines and assigns international responsibility to an IFO for oversight of operations under part 129. The responsible IFOs are:

- Dallas/Fort Worth IFO,
- Los Angeles IFO,
- Miami IFO, and
- New York IFO.

**Note:** The FAA lists the responsible IFO's geographic Area of Responsibility (AOR) on the following website: [https://www.faa.gov/about/office\\_org/field\\_offices/ifo](https://www.faa.gov/about/office_org/field_offices/ifo).

**1.6 APPLICATION.** The application process is designed to ensure an applicant's programs, systems, and intended methods of compliance are thoroughly reviewed and evaluated in accordance with U.S. requirements and international standards. The process, once completed, will ensure the applicant's infrastructure (e.g., programs, methods, and systems) results in continued compliance after issuance of the OpSpecs. The following actions will be taken to determine issuance of OpSpecs under part 129.

**1.6.1 Preapplication.** In the preapplication phase, the applicant informs the FAA of their intent to operate under part 129. The applicant also provides the required information to the FAA for issuance of part 129 OpSpecs.

a) **Notification.** The preapplication process begins when an applicant contacts the responsible IFO regarding the process for obtaining OpSpecs under part 129. The applicant is not required to submit Form FAA 8400-6, Preapplication Statement of Intent, for a part 129 application.

b) **IFO Response.** The responsible IFO must provide the applicant the following:

- 1) Information regarding the part 129 OpSpec application process; and

2) Specific information needed from the applicant. The IFO should refer the applicant to the Part 129/129.14—Foreign Air Carrier Preapplication Job Aid to help ensure that the applicant submits all the information needed for the issuance of part 129 OpSpecs. If the applicant chooses not to use the Part 129/129.14—Foreign Air Carrier Preapplication Job Aid, then the IFO must instruct the applicant to provide a description of the intended operation via a letter or email. The IFO must instruct the applicant to provide this information back to the IFO for review as soon as possible.

**Note:** The Part 129/129.14—Foreign Air Carrier Preapplication Job Aid is available at [https://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/afx/afs/afs050/afs052/](https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afx/afs/afs050/afs052/).

c) FAA Initial Application Review. After initial review and determination that the applicant is prepared to begin the formal application process:

1) The responsible IFO manager will assign aviation safety inspectors (ASI) to the part 129 applicant.

2) A preapplication meeting, including foreign applicant personnel and assigned ASIs, should be conducted early in the process. If the foreign air carrier intends to operate to the United States, it may be beneficial to hold this meeting after the U.S. DOT grants the foreign applicant a permit or exemption. The meeting may be held in person, virtually, or through a combination of both.

3) The preapplication meeting discussion points should include, at the minimum:

- The application process, which may include FAA, DOT, and Transportation Security Administration (TSA) requirements;
- Introduction to the Operations Safety System (OPSS) program and where to find regulatory guidance;
- Authorizations available to the applicant based on aircraft capabilities (e.g., Category (CAT) II/III, Required Navigation Performance Authorization Required (RNP AR));
- Preferred methods for communicating with the IFO and U.S.-based agent for service requirements;
- Requirements to obtain approval of the maintenance program and MEL required by § 129.14 for U.S.-registered aircraft;
- FAA-required reports (flight notification, etc.); and
- Notification of ramp inspection requirements.

**1.6.2 Formal Application.** The ASI must inform the applicant that applications for foreign air carrier OpSpecs must be made in writing via letter or email. The ASI must keep a copy of the application (letter or email) as part of the application file. The application must contain the applicable information required in § 129.7(a) and (b), and § 129.9, the information required for preapplication, and the pertinent State of the Operator approvals.

- a) The ASI must instruct the applicant to present evidence of:
  - 1) Current OpSpecs issued from the State of the Operator; and
  - 2) Approvals or authorizations from the State of the Operator for types of operations authorized that may include, but are not limited to, data link communications (DLC) using Future Air Navigation System (FANS) (e.g., ground deicing).
- b) If applicable to the operation to be conducted, the applicant must present evidence of:
  - 1) A permit or exemption (economic authority) issued by the DOT under Title 49 of the United States Code (49 U.S.C.) § 40109 and/or § 41301;
  - 2) Prior to OpSpecs issuance, the approved security program or waiver by the TSA; and
  - 3) Evidence of approval of the operator's Hazardous Materials (hazmat)/Dangerous Goods Program from the State of the Operator.
- c) For operation of U.S.-registered aircraft, the applicant must submit documents to include:
  - 1) Registration markings in accordance with International Civil Aviation Organization (ICAO) Annex 7, Aircraft Nationality and Registration Marks;
  - 2) Proposed MEL tailored to the applicant's operations and based on the FAA-approved Master Minimum Equipment List (MMEL) (see Volume 12, Chapter 4, Section 9 and Volume 4, Chapter 4, Section 3 for MEL information);
  - 3) Maintenance program and procedures adequate to support the use of the proposed MEL;
  - 4) If applicable, applications for special-purpose pilot authorizations;
  - 5) For leased U.S.-registered aircraft, the applicant must submit the lease agreements or a written memorandum of the terms both parties signed in addition to the items listed above; and
  - 6) Additional information, as necessary.
- d) The ASI must ensure the applicant provides the name of the authorized officer or employee certifying that all application statements in the application are true (refer to § 129.7(b)). If the applicant has submitted the Part 129/129.14—Foreign Air Carrier Preapplication Job Aid, this meets the intent of the rule. If the applicant has chosen not to use the Part 129/129.14—Foreign Air Carrier Preapplication Job Aid, the ASI must ensure the authorized officer or employee certification is provided via a letter. Refer to § 129.7 for timelines.

**1.6.3 Unique Designator Code.** Every foreign air carrier operator must have a part 129 unique designator code. The standard guidance in Volume 2, Chapter 1, Section 3 describes the construction of the part 129 designator code with the fourth character as “F”. That designator becomes part of the foreign air carrier’s SAS OPSS authorizing documents.

**1.6.4 Contents of OpSpecs.** Section 129.5 defines those foreign air carriers or foreign persons that must hold FAA OpSpecs.

a) The contents of the OpSpecs issued to a foreign air carrier conducting operations within the United States under § 129.1(a) must include all the information that § 129.9 requires.

b) The contents of the OpSpecs 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) must include the information that § 129.9(b) contains.

c) The foreign air carrier or foreign person operating under part 129 must designate an agent for service within the United States. This includes the agent’s full name and office address or usual place of residence. The agent for service is the person or company the operator designates upon whom the FAA will serve all legal notices, processes and orders, decisions, and requirements concerning the air carrier’s authorization to operate in the United States under part 129. When the agent for service receives a document from the FAA, the operator is considered to have received the document.

## 1.7 PROCESSING APPLICATIONS.

### 1.7.1 Notification and Evaluation.

a) The responsible FAA office must notify the applicant upon receipt of the formal application.

b) The responsible FAA office must evaluate the application to ensure the applicant provided the information identified in the preapplication phase and the information is accurate. The evaluation of the application consists of a review of the documents and information the applicant provided, except for operations that require concurrence from the Office of Safety Standards (OSS) (e.g., RNP AR); see applicable OpSpecs for guidance.

**1.7.2 Technical Resources.** Unless AFS-54 advises otherwise, IFOs may continue to directly reach out to and consult with and/or use Flight Technologies and Procedures Division (AFS-400) resources, to include:

- Flight Operations Group (AFS-410) subject matter experts (SME) for technical questions relating to Next Generation Air Transportation System (NextGen) technology or Special Areas of Operation (SAO). For assignment of a specialist, please email AFS-410 at 9-AWA-AVS-AFS410@faa.gov.
- Flight Procedures and Airspace Group (AFS-420) files. Please email AFS-420 at 9-AWA-AVS-AFS420@faa.gov to request file copies (if needed).

### 1.7.3 Determine Whether to Issue OpSpecs.

a) Applicant Meets Requirements. If the principal inspector (PI) determines that the applicant meets the applicable requirements of parts 61 (e.g., § 61.3(b)), 91, and 129, and applicable ICAO standards, the IFO may issue appropriate OpSpecs to the foreign air carrier.

b) Applicant Does Not Meet Requirements. If the evaluation results indicate deficiencies or omissions in the application, the responsible PI must:

1) Inform the applicant's representative of the deficiencies and corrective actions required.

2) If the deficiencies are not satisfactorily resolved within a reasonable period of time, return the application to the applicant with a letter that describes the specific reasons the application is unacceptable.

3) Notify AFS-54 that the IFO is terminating the process of issuing OpSpecs.

## 1.8 ISSUANCE OF OPSPECS.

**1.8.1 Procedure.** After the IFO conducts an evaluation of the application and determines the applicant meets the operating requirements of parts 91 and 129, and the applicable ICAO annexes, OpSpecs are issued through OPSS. The FAA created two sets of templates in OPSS to distinguish between foreign operators that fly foreign- and/or U.S.-registered aircraft to the United States (part 129), and foreign operators that operate U.S.-registered aircraft exclusively outside the United States (§ 129.14).

a) Section 129.9(a). The § 129.9(a) set of templates/paragraphs is available for issuance to foreign operators who operate in common carriage to and within the United States. This set makes available D-series OpSpecs for those operators who operate U.S.-registered aircraft. This set is annotated in OPSS as the "129" set.

b) Section 129.9(b). The § 129.9(b) set of templates/paragraphs is available for issuance for foreign air carriers or foreign persons operating U.S.-registered aircraft solely outside the United States in common carriage. Those operators do not have to be from International Aviation Safety Assessment (IASA) CAT 1 countries. This set is annotated in OPSS as the "129.14" set.

**1.8.2 PI Responsibilities.** The responsible PI must ensure appropriate OpSpecs are completed, reviewed, approved, signed, and mailed or sent by electronic format to the foreign air carrier. The PI will recommend that the operator use OPSS. See Volume 12, Chapter 4 for additional details.

**1.9 AMENDMENTS.** Per § 129.11, the FAA may amend, or the foreign air carrier/foreign person may apply for an amendment to, OpSpecs issued under part 129.

**1.9.1 Applicant.** The foreign air carrier or foreign person must file an application to amend its OpSpecs at least 90 calendar days before the applicant's proposed date for the amendment to

become effective. The procedure is found in § 129.11. This applies in cases of mergers and acquisitions of airline operation assets that require an additional showing to the DOT for OpSpecs. In all other cases, the foreign air carrier or foreign person must file an application at least 30 calendar days before the proposed date. The applicant must submit the application to the responsible IFO in the form and manner prescribed by the Administrator.

a) Section 129.11(d) provides that a foreign air carrier may apply for an amendment of its OpSpecs and that the proposed amendment should be submitted whenever the operator desires a change in the items required by § 129.9 to the foreign air carrier's OpSpecs.

b) An amendment must be approved, as appropriate, after a determination is made that the foreign air carrier continues to meet the operating requirements to conduct any operation in accordance with the amended OpSpecs.

**1.9.2 Administrator.** The responsible IFO may amend OpSpecs if the Administrator determines that safety in air commerce and the public interest requires the amendment; or when 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. In order to prevent unnecessary delays or hinder quick turnarounds in processing OpSpec revisions, each responsible IFO must have a policy to allow proxies for signature authority for OpSpec processing when a PI is unavailable. (See Volume 3, Chapter 18, Section 2.)

**Note:** Additional information on FAA-initiated amendment of foreign OpSpecs is found in Volume 12, Chapter 4, Section 12.

**1.9.3 Petition for Reconsideration.** Following an adverse decision, the applicant may submit a petition for reconsideration to the Executive Director, Flight Standards Service (AFX-1) within 30 calendar 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 (see Volume 12, Chapter 4, Section 12 and § 129.11).

**1.9.4 Procedures for Requesting Nonstandard OpSpec Authorizations (300-Series Templates and 400/500-Series Templates Designated as Nonstandard) and Nonstandard Text.** ASIs with primary responsibility for oversight of foreign air carriers or operators conducting part 129 operations must submit their request for approval to issue a nonstandard OpSpec template or nonstandard text to the manager of the International Operations Branch (AFS-52).

a) Supporting Information. Prior to submitting a request to AFS-52 for approval to issue a nonstandard template or nonstandard text, ASIs must ensure that all requests for nonstandard templates or nonstandard text contain enough information to support the request. Supporting information must include at least the following items, as applicable:

1) The original request made by the foreign air carrier along with supporting documentation. This is only required when the request is initiated by the foreign air carrier.

2) For nonstandard text authorizations requested by a foreign air carrier, a statement of why the foreign air carrier requires the nonstandard authorization, and an explanation of how the nonstandard text authorization will provide an equivalent or greater level of safety to what is authorized by the standard template.

3) Any other supporting documentation that the ASI or foreign air carrier deems necessary.

b) ASIs Must Evaluate Information Submitted By a Foreign Air Carrier Prior to Submitting a Request to AFS-52. ASIs must evaluate and substantiate information that is submitted by the foreign air carrier in association with a request for an OpSpec based on a nonstandard template or nonstandard text added to a standard template authorization.

1) If the ASI does not find the information to be acceptable, and/or does not concur with the foreign air carrier's request, the ASI will send correspondence denying the request for the nonstandard template or nonstandard text and include an explanation of the reasons for denial.

2) If the ASI finds the information to be acceptable, he or she must then request approval from AFS-52 to issue the nonstandard template or nonstandard text. All requests for approval must copy the ASI's office management.

c) The ASI Will Make the Official Request for Approval. An email from the ASI, copying IFO management, requesting approval to issue the nonstandard template or nonstandard text must be sent to the manager of AFS-52. The email must include the recommendation and request for approval by the ASI with primary oversight responsibility, along with the foreign air carrier's complete information package.

d) AFS-52 Action. AFS-52 will review all of the documentation forwarded by the IFO.

1) If AFS-52 does not concur with the request, AFS-52 will either provide the IFO with the reason(s) for denial and request additional supporting information or will simply deny the request. AFS-52 may request additional information via an email or a telephone call. If AFS-52 denies the request to issue a nonstandard template or nonstandard text, AFS-52 will provide its determination by email to the ASI and IFO management.

2) If AFS-52 concurs with the request, AFS-52 will provide approval to issue the nonstandard template or nonstandard text by email to the ASI and IFO management.

e) Issue the OpSpec Following FS Approval. Once AFS-52 approves the request for the nonstandard template or nonstandard text, the ASI may sign and issue it in OPSS.

1) Enter FS Approval Information in a Nonstandard Template. AFS-52 approval information is required for all nonstandard templates. Enter the AFS-52 approval information in the "Support Information Reference" box in the digital signature block of the OpSpec. For example, "Approved by AFS-52, email dated 01/01/2021."

2) Enter AFS-52 Approval Information in Nonstandard Text. For all nonstandard text, include the AFS-52 approval information as part of the nonstandard text. For example: “Approved by AFS-52, email dated 01/01/2021.”

f) AFS-52 Approval is Required to Reissue or Amend a Nonstandard Template or Nonstandard Text. ASIs must obtain AFS-52 approval to amend a nonstandard template or any nonstandard text. In addition, ASIs must obtain AFS-52 approval to reissue a nonstandard template or nonstandard text under the following circumstances.

1) FS Revises an OpSpec Template.

i. If FS revises a nonstandard OpSpec template, no ASI may issue the new template without obtaining prior approval from AFS-52, unless otherwise stated in the template-specific guidance or in a notice.

ii. If FS revises a standard OpSpec template in which nonstandard text had previously been issued, no ASI may reissue the nonstandard text from the previous template without obtaining prior approval from AFS-52.

iii. When requesting AFS-52 approval under these circumstances, ASIs may base the request on prior AFS-52 approval. This is only allowable when the nonstandard authorization is being reissued exactly as originally approved by AFS-52, and the ASI provides documentation of having received the prior approval. The request must be made via email in accordance with the instructions contained in subparagraph 1.9.4b)2).

2) An ASI or Foreign Air Carrier Initiates a Revision to a Nonstandard Template or Nonstandard Text. ASIs must obtain AFS-52 approval to make any changes and/or otherwise revise a nonstandard template or nonstandard text, in accordance with the requirements specified in subparagraph 1.9.4a), b), or c). This is always required unless template-specific guidance states otherwise. ASIs must include the AFS-52 approval information in the nonstandard template or nonstandard text, in accordance with the instructions provided in subparagraph 1.9.4e)1) or 2), as applicable.

3) There is a Change to the Foreign Air Carrier. AFS-52 permission is required to reissue a nonstandard template or nonstandard text to a foreign air carrier that has had a change to its AOC or operating authority. This includes a partial or total change to AOC and mergers and acquisitions.

g) Retention of OpSpec Authorization Emails. ASIs must retain OpSpec authorization emails as part of the OpSpec amendment file.