

[Docket No. 15286; Amdt. Nos. 121-128 and 129-6]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS
Aircraft Security

The purpose of these amendments to Part 129 of the Federal Aviation Regulations is to ensure that X-ray systems used by foreign air carriers for carry-on baggage inspection in the United States meet minimum guidelines and standards prescribed by the U.S. Food and Drug Administration and are operated in accordance with certain operating requirements. Parts 121 and 129 of those regulations are also amended to be consistent with certain provisions of the Air Transportation Security Act of 1974 (Public Law 93-366) that apply to air carriers and foreign air carriers in the conduct of operations governed by Parts 121 and 129.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a Notice of Proposed Rule Making (Notice No. 75-42) issued December 31, 1975, and published in the FEDERAL REGISTER on January 6, 1976 (41 FR 1085). The FAA received five public comments, all of which were generally in agreement with the proposal. Two commentators recommended changes to the proposal with respect to those sections that pertain to photographic film. The FAA is considering those proposals and will take whatever action is deemed appropriate. One of the two commentators also recommended changes to the standards set forth in both § 121.538a and proposed § 129.26. As explained in the preamble to Notice No. 75-42, and as more fully explained in Notice No. 74-22 (39 FR 22275; published June 21, 1974), the performance standards for X-ray systems that are proposed for new § 129.26, and that were adopted in § 121.538a by Amendment 121-117, are based on guidelines and standards that have been adopted by the U.S. Food and Drug Administration (FDA), Department of Health, Education, and Welfare, to ensure the protection of public health and safety. The FAA believes those guidelines and standards provide an appropriate level of safety and they are, therefore, adopted as proposed.

These amendments and the reasons therefor are the same as those contained in Notice No. 75-42. As was stated in Notice No. 75-42, the FAA considers the environmental analysis prepared in conjunction with the adoption of Amendment 121-117 to Part 121 to be appropriate support for its conclusion that the use of an X-ray system in accordance with the requirements prescribed in § 129.26 by this proposal will not have a significant impact on the human environment. A copy of the FAA's environmental analysis prepared in conjunction

with rule making involving Amendment 121-117 is on file at the FAA. Copies may be obtained by writing to the Federal Aviation Administration, Civil Aviation Security Service, Attention: ACS-200, 800 Independence Avenue, S.W., Washington, D.C. 20591.

(Secs. 313(a), 315, 316, 601, and 1111 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, 1421, and 1511), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, Parts 121 and 129 of the Federal Aviation Regulations are amended, effective August 23, 1976, as follows:

1. By amending § 121.538 by adding a new paragraph (k) to read as follows:

§ 121.538 Aircraft security.

(k) Each certificate holder shall refuse to transport—

(1) Any person who does not consent to a search of his person in accordance with the screening system prescribed by paragraph (b) of this section; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the screening system prescribed by paragraph (b) of this section.

2. By adding a new paragraph (e) to § 129.25 to read as follows:

§ 129.25 Aircraft security.

(e) Each foreign air carrier conducting operations governed by paragraph (a) of this section shall refuse to transport—

(1) Any person who does not consent to a search of his person in accordance with the security program prescribed by paragraphs (a) and (b) of this section; and

(2) Any property of any person who does not consent to a search or inspection of that property in accordance with the security program prescribed by paragraphs (a) and (b) of this section.

(3) By adding a new § 129.26 after § 129.25 to read as follows:

§ 129.26 Use of X-ray system.

(a) No foreign air carrier may use an X-ray system in the United States, to inspect carry-on baggage or items, unless:

(1) For a system manufactured prior to April 25, 1974, it meets either the guidelines issued by the Food and Drug Administration (FDA), Department of Health, Education, and Welfare and published in the FEDERAL REGISTER (38 FR 21442, August 8, 1973); or the performance standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in 21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(2) For a system manufactured after April 24, 1974, it meets the standards for cabinet X-ray systems designed primarily for the inspection of carry-on baggage issued by the FDA and published in

21 CFR 1020.40 (39 FR 12985, April 10, 1974);

(3) A program for initial and recurrent training of operators of the system has been established, which includes training in radiation safety, the efficient use of X-ray systems, and the identification of weapons and other dangerous articles;

(4) Procedures have been established to ensure that each operator of the system will be provided with a personnel dosimeter (such as a film badge or thermoluminescent dosimeter), each dosimeter used will be evaluated at the end of each calendar month, and records of operator duty time and the results of dosimeter evaluations will be maintained by the foreign air carrier; and

(5) The system has the capability of distinguishing an insulated 24-gauge, solid copper wire.

(b) No foreign air carrier may use an X-ray system as specified in paragraph (a) of this section—

(1) Unless within the preceding 6 calendar months a radiation survey has been conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the Food and Drug Administration in the FEDERAL REGISTER of August 8, 1973 (38 FR 21442);

(2) After the system is initially installed or after it has been moved from one location to another, unless a radiation survey is conducted which shows that the system meets the applicable performance standards in 21 CFR 1020.40 or guidelines published by the Food and Drug Administration in the FEDERAL REGISTER on August 8, 1973 (39 FR 21442); except that a radiation survey is not required for an X-ray system that is moved to another location, if the foreign air carrier shows that the system is so designed that it can be moved without altering its performance;

(3) That is not in full compliance with any defect notice or modification order issued for that system by the Food and Drug Administration, Department of Health, Education, and Welfare, unless that Administration has advised the FAA that the defect or failure to comply is not such as to create a significant risk or injury, including genetic injury, to any person; and

(4) Unless a sign is posted in a conspicuous place which notifies passengers that carry-on baggage or items are being inspected by an X-ray system and advises them to remove all X-ray and scientific film from their carry-on baggage and items before inspection. If the X-ray system exposes any carry-on baggage or item to more than one milliroentgen of radiation during the inspection, the foreign air carrier shall post a sign which advises passengers to remove film of all kinds from their carry-on baggage and items before inspection. If requested by a passenger, his photographic equipment and film packages shall be physically inspected without exposure to an X-ray system.

4. By revising § 129.27 to read as follows:

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§ 129.27 Prohibition against carriage of weapons.

(a) No person may, while on board an aircraft being operated by a foreign air carrier in the United States, carry on or about his person a deadly or dangerous weapon, either concealed or unconcealed. This paragraph does not apply to—

(1) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and

(2) Crewmembers and other persons authorized by the foreign air carrier to carry arms.

(b) No foreign air carrier may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated in the United States by that carrier, in checked baggage, a deadly or dangerous weapon, unless:

(1) The passenger has notified the foreign air carrier before checking the baggage that the weapon is in the baggage; and

(2) The baggage is carried in an area inaccessible to passengers.

Issued in Washington, D.C., on July 15, 1976.

J. W. COCHRAN,
Acting Administrator.

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