

Title 14—Aeronautics and Space
CHAPTER 1.—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13514; Amdt. No. 129-5]

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

Foreign Air Carrier Security Program

The purpose of this amendment to Part 129 of the Federal Aviation Regulations is to require the use of a security program by each foreign air carrier in scheduled passenger operations conducted with large aircraft to, from, and within the United States. The security program includes requirements for the screening, by weapon-detecting procedures or facilities, of all passengers and all property intended to be carried in the aircraft cabin prior to boarding.

This amendment is based on a notice of proposed rule making (Notice No. 74-3) published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3293) and certain requirements of the Air Transportation Security Act of 1974 (Public Law 93-366, section 202, approved August 5, 1974; 49 U.S.C. 1356).

A majority of the 42 comments received in response to Notice 74-3 expressed disagreement with the proposal, basically because the proposal did not take into consideration the applicability of security laws and requirements in foreign countries and would create a potential for conflict with them.

The Department of State, while endorsing rules having the objective that foreign carriers landing or taking off in the United States use a security program, emphasized that foreign states may adopt different approaches to meet the particular security problems they face, and suggested that the rules recognize that procedures other than the precise security program applicable in the United States would also be acceptable, as long as they are effective.

It is recognized that subsequent to the issuance of Notice 74-3, ICAO on March 22 adopted Annex 17, "Safeguarding International Civil Aviation Against Acts of Unlawful Interference" which became applicable on February 27, 1975. However, neither that Annex nor any other ICAO Annex contains an "International Standard" that would require the screening of all passengers and carry-on baggage prior to boarding of an aircraft for foreign air transportation. The more recent enactment of section 202 of Public Law 93-366 amended the Federal Aviation Act of 1958 and expressly directs the Administrator to prescribe screening requirements for foreign air carriers. Specifically, that law added a new section 315(a) to the 1958 Act which provides as follows:

The Administrator shall prescribe or continue in effect reasonable regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting procedures or facilities employed or operated by employees or agents of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation.

Security programs, including screening provisions, currently required for U.S. air carriers under § 121.538 of the Federal Aviation Regulations comply with the statutory mandate in section 202 of Public Law 93-366. Adoption of the security requirements set forth in this amendment for foreign air carriers is necessary to achieve compliance with that law as it pertains to foreign air carriers.

In many countries, including the United States, a "sterile concourse" concept is used at airports to achieve adequate security. The discharge of unscreened passengers with carry-on baggage into an otherwise sterile concourse defeats the security systems. Thus, a state that is without an adequate security system will create security problems beyond its borders for those other states with which it is linked in international air transportation. Moreover, those states without adequate and well defined security systems can be expected to be likely targets for future attacks against air commerce. All states must have adequate and well defined security systems in all passengers, crewmembers and aircraft are to be protected. The adoption of this amendment to Part 129 is consistent with this objective.

This amendment is also consistent with security recommendations of the International Air Transport Association (IATA). On May 21, 1974, the IATA Executive Committee adopted procedures developed by its Security Advisory Committee and recommended that certain "minimum security procedures" be implemented at international airports. One of these procedures provides for the screening of all passengers and items entering sterile areas. Another provides for the protection of aircraft parked at ramps. This amendment meets these IATA recommended "minimum security procedures."

The wording of proposed § 129.25(a), (b) (1), (b) (3), and (c) has been changed to achieve conformity with new section 315(a) of the Federal Aviation Act of 1958, which was enacted by Public Law 93-366, and to recognize the need for a certain degree of flexibility with respect to procedures required by the United States for foreign air carriers in foreign countries to avoid conflict with applicable security laws and requirements of those countries, and for purposes of clarification. This is consistent with the responsibilities and obligations of the Administrator under section 1102 of the 1958 Act. In addition, paragraphs (d) and (e) of the proposal have been revised for purposes of clarification and consolidated in paragraph (d) of the amendment.

The change made in the wording of § 129.25(a) is intended to take into consideration the comments of certain foreign air carriers and governments suggesting that the specific operational procedures in the security program be developed by the foreign air carriers in conjunction with their respective governments. In this manner, screening of all passengers and all property can be accomplished taking into account the

applicable law and particular circumstances for each foreign air carrier. These changes are within the scope of Notice 74-3, while recognizing that a security program for a foreign air carrier may be different from the precise procedures required in the United States and still be effective. However, the intent of this requirement is that all passengers and all property intended to be carried in the aircraft cabin be screened prior to boarding in accordance with that air carrier's security program.

(Secs. 313(a), 315, 601, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1421, and 1502); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)))

In consideration of the foregoing, Part 129 of the Federal Aviation Regulations is amended, effective October 9, 1975, as follows:

1. By adding a new § 129.25 after § 129.23 to read as follows:

§ 129.25 Aircraft security.

(a) After October 9, 1975, each foreign air carrier landing or taking off a large aircraft in the United States, in scheduled passenger operations, shall use a security program in the conduct of those operations that requires all passengers and all property intended to be carried

in the aircraft cabin to be screened by weapon-detecting procedures or facilities prior to boarding, and meets the requirements prescribed in paragraph (b) of this section.

(b) Each foreign air carrier conducting operations governed by paragraph (a) of this section shall, in the conduct of those operations, use a security program designed to:

(1) Prevent or deter the carriage aboard its aircraft of any explosive or incendiary device or weapon in property intended to be carried in the aircraft cabin or on or about the persons of passengers, except as provided in § 129.27, through screening by weapon-detecting procedures or facilities;

(2) Prevent or deter unauthorized access to aircraft;

(3) Assure that baggage is accepted by a responsible agent or representative of the foreign air carrier; and

(4) Prevent cargo and checked baggage from being loaded aboard its aircraft unless handled in accordance with the foreign air carrier's security procedures.

(c) Each foreign air carrier conducting operations governed by paragraph (a) of this section shall, upon the request of the Administrator and in accordance with applicable law, provide information with respect to the security program applicable to its operations and the implementation thereof.

(d) No foreign air carrier may land or take off a large aircraft in the United States, in scheduled passenger operations, after the foreign air carrier has received a bomb threat or air piracy threat against that aircraft, unless:

(1) If the aircraft is on the ground when a bomb threat is received and the next scheduled flight of the aircraft is to or from a place in the United States, the foreign air carrier assures that the pilot in command is advised to submit the aircraft immediately for a security inspection and that an inspection of the aircraft is conducted before the next flight: or

(2) If the aircraft is in flight to a place in the United States when a bomb threat is received, the foreign air carrier assures that the pilot in command is immediately advised to take the emergency action he considers necessary under the circumstances and that a security inspection of the aircraft is conducted immediately after the next landing: and

(3) If information is received of a bomb threat or air piracy threat against an aircraft engaged in an operation specified in subparagraph (1) or (2) of this paragraph, the foreign air carrier assures that notification of the threat is given to the appropriate authorities of the state in whose territory the aircraft is located, or if the aircraft is in flight, the appropriate authorities of the state in whose territory the aircraft is to land.

2. By adding a new § 129.27 after § 129.25 to read as follows:

§ 129.27 Prohibition against carriage of weapons.

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—

- (a) Officials or employees of the state of registry of the aircraft who are authorized by that state to carry arms; and
- (b) Crewmembers and other persons authorized by the foreign air carrier to carry arms.

Issued in Washington, D.C., on July 3, 1975.

J. M. COCHRAN,
Acting Administrator.

[FR Doc.75-18000 Filed 7-10-75;8:45 am]