

VOLUME 12 INTERNATIONAL AVIATION**CHAPTER 4 PART 129 OPERATIONS****Section 9 Configuration Deviation List, Minimum Equipment List, and Nonessential Equipment and Furnishings****9.1 GENERAL.**

9.1.1 Purpose. This section provides Federal Aviation Administration (FAA) policy, information, and guidance for approval and oversight of Configuration Deviation Lists (CDL), minimum equipment lists (MEL), and nonessential equipment and furnishings (NEF) lists under Title 14 of the Code of Federal Regulations (14 CFR) part 129. This policy applies to foreign air carriers and foreign persons operating U.S.-registered aircraft within or outside the United States in common carriage.

9.1.2 Scope. This section is applicable to all FAA Flight Standards Service (FS) personnel, International Field Offices (IFO) and Flight Standards District Offices (FSDO) having responsibilities associated with part 129 operations.

9.1.3 Program Tracking and Reporting Subsystem (PTRS) Activity Codes.

- a) Operations: 1321, 1322, 1622, 1627.
- b) Maintenance: 3312, 3313, 3627, 3634.
- c) Avionics: 5312, 5313, 5627, 5628, 5634.

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

9.1.5 Use of the Term “Foreign Operator.” Unless otherwise noted, the term “foreign operator,” when used in this section, applies to both foreign air carriers and foreign persons.

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

9.3 CONFIGURATION DEVIATION LIST (CDL). A CDL is a list, established by the organization responsible for type design with the approval of the State of Design, which identifies any external parts of an aircraft type which may be missing at the commencement of a flight. The CDL may contain, where necessary, information on associated operating limitations and performance corrections. Most U.S.-built part 25 aircraft, and many part 23 U.S.-built aircraft, develop CDLs during aircraft certification and tailor them for each make and model (M/M) aircraft. The FAA Aircraft Certification Service office is the approving authority for all U.S.-built aircraft CDLs.

9.3.1 FAA CDL Policy. Volume 4, Chapter 4, Section 1, Configuration Deviation List, contains FAA policy on the use of a CDL. Unless otherwise indicated in this section, the policy

found in Volume 4, Chapter 4, Section 1 is applicable to foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage under part 129.

9.4 MINIMUM EQUIPMENT LIST (MEL). An FAA-approved MEL provides for the operation of the associated aircraft with certain instruments and equipment in an inoperable condition.

9.4.1 International Civil Aviation Organization (ICAO) Annex 6, Part I, 6.1.3. The operator shall include in the operations manual an MEL approved by the State of the Operator which will enable the pilot in command (PIC) to determine whether a flight may be commenced or continued from any intermediate stop should any instrument, equipment, or system become inoperative. Where the State of the Operator is not the State of Registry, the State of the Operator shall ensure that the MEL does not affect aircraft compliance with the airworthiness requirements applicable in the State of Registry. Refer to ICAO Annex 6, Part I, Attachment E for supplementary MEL information.

9.4.2 Part 129. In accordance with part 129, § 129.14, no foreign operator may operate a U.S.-registered aircraft with inoperable instruments or equipment without meeting the following conditions:

- a) A Master Minimum Equipment List (MMEL) exists for the aircraft type.
- b) The foreign operator submits an MEL, based on the aircraft MMEL, to the IFO for review and approval. The foreign operator must show, prior to MEL approval, that the maintenance procedures used in their maintenance program are adequate to support use of the MEL.
- c) For foreign operators leasing U.S.-registered aircraft maintained and operated under a U.S. operator's Continuous Airworthiness Maintenance Program (CAMP), refer to § 129.14(b) (3).

Note: A general requirement imposed by part 129 requires that U.S.-registered aircraft operated in common carriage by any foreign operator will be maintained in accordance with a maintenance program that has been approved by the Administrator.

d) The FAA part 129 operations specification (OpSpec) D095 is issued to foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage. OpSpec D095 permits the use of an FAA-approved MEL.

- 1) The foreign operator must carry D095 aboard the aircraft.
- 2) An approved MEL, as authorized by D095, constitutes an approved change in aircraft type design without requiring recertification (see Volume 12, Chapter 4, Section 5, Part 129 Part D Operations Specifications—Aircraft Maintenance, for additional policy information on D095).
- e) The aircraft records available to the flightcrew must include an entry describing the item for which the MEL is applied.

f) The aircraft is operated under all applicable conditions and limitations contained in the MEL and the D095.

g) Where the State of the Operator is not the State of Registry, the State of the Operator ensures that the MEL does not affect the aircraft's compliance with the airworthiness requirements applicable in the State of Registry. Refer to ICAO Annex 6, Part I, Chapter 6, 6.1.3, for commercial transport—airplanes; and Part III, Chapter 4, 4.1.3 for international operations—helicopters (provisions that require an approval).

9.4.3 FAA MEL Policy. Volume 4, Chapter 4, Section 3, MEL Requirements for 14 CFR Parts 91 Subpart K (Part 91K), 121, 125, 125 LODA, and 135 Operations, contains FAA policy on the use of an MEL. Unless otherwise indicated in this section, the policy found in Volume 4, Chapter 4, Section 3 is applicable to foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage.

9.4.4 MEL Approval. Each foreign operator operating U.S.-registered aircraft within or outside the United States in common carriage must obtain approval for an MEL under § 129.14 and ICAO Annex 6, Part I, Chapter 3.

a) The IFOs are responsible for MEL approval of the foreign operator's U.S.-registered aircraft.

b) Non-IFO FAA offices receiving a request from a foreign operator for review and approval of an MEL will notify the appropriate IFO of the request. The IFO will take a positive hand-off of the request for further action as appropriate.

c) The ASI assigned the request should consult the foreign operator's Civil Aviation Authority (CAA) during the MEL approval process to ensure the CAA concurs with the MEL management program as approved by the FAA.

9.4.5 MEL Management Program Development and Time Allowance for § 129.14. Each foreign operator operating a U.S.-registered aircraft in accordance with § 129.14 has 6 months from the date of application for an FAA-approved MEL to develop and submit their MEL management program. The FAA will not issue D095 to authorize the foreign operator to use an MEL unless the FAA determines that the MEL management program is satisfactory. The MEL management program requirements found in Volume 4, Chapter 4, Section 3 are applicable to part 129 OpSpec holders and will be included in part 129 MEL management programs.

9.4.6 Additional MEL Approval Requirements for Part 129 Foreign Operators.

a) Receive the application letter. The foreign operator must submit their application letter for part 129 OpSpecs. Ensure that the application includes the following documents for each U.S.-registered aircraft operated by the applicant:

1) Registration markings, as required by part 45;

2) The lease agreement or a written memorandum of the terms thereof signed by both parties, if applicable;

- 3) A proposed MEL tailored to the foreign operator's operations and based on the FAA-approved MMEL, if applicable;
- 4) A maintenance program that satisfies the requirements of § 129.14 and part 129 subpart B;
- 5) An application for Special Purpose Airman Certificates, if applicable; and
- 6) A company letter stating compliance to ICAO Annex 6, Part I, Chapters 8 and 11 for transport aircraft or Part III, Chapters 6 and 9 for helicopters.

b) Verify the approval of OpSpec paragraphs. Ensure that a principal inspector (PI) has approved the OpSpec paragraphs before proceeding with approval of the MEL.

c) Evaluate the MEL content and maintenance program elements.

- 1) Determine which of the operator's manuals or portions of them (pages, sections, and chapters) require specific FAA approval (e.g., List of Effective Pages (LEP) review).

- 2) Ensure that the foreign operator's maintenance program includes all applicable items found in Advisory Circular (AC) 129-4, Maintenance Programs for U.S.-Registered Aircraft Operated under 14 CFR Part 129, as it pertains to the MEL.

- 3) See Volume 4, Chapter 4, Sections 3 and 4, as applicable.

- 4) Ensure that the foreign operator's maintenance program includes the requirements of ICAO Annex 6, Part I, Chapters 8 and 11 for transport aircraft operations or Part III, Chapters 6 and 9 for helicopter operations.

d) Evaluate a U.S. operator's aircraft MEL for use by a foreign operator. For leased aircraft maintained under an adopted maintenance program and an adopted MEL, ensure that:

- 1) The foreign operator is capable of meeting and authorized to meet the requirements of the lessor's adopted maintenance program; and

- 2) The foreign operator is capable of meeting the maintenance and operational requirements of the lessor's MEL.

Note: A lessee's ability to meet the maintenance requirements may require further assessment and evaluation. Additional instructions may be needed to facilitate a greater understanding of the requirements.

e) Inform the foreign operator of notification requirements. Instruct the foreign operator to send notification of any changes or revisions to its MEL to the responsible IFO. The manual must include the mandatory notifications.

f) Evaluate revisions to an FAA-approved maintenance program as it may pertain to the MEL. Evaluate revisions to the maintenance program as in the original approval. Approve all revisions in accordance with procedures provided in the maintenance program.

g) When the foreign operator operates a mixed fleet of both U.S.-registered and foreign-registered aircraft, ensure the contents of the FAA-approved MEL are consistent with FAA requirements relative to U.S.-registered aircraft.

9.4.7 Flightcrew Access to the MEL.

a) Part 129 does not specifically require the flightcrews of foreign operators conducting operations in accordance with § 129.14 to have direct access to the MEL. However:

- 1) Section 129.14 requires OpSpec authorization to use an MEL; and
- 2) OpSpec D095 for part 129 requires an MEL management program.

b) PIs of foreign operators operating U.S.-registered aircraft must ensure that each MEL management program contains a method of providing flightcrews with direct access to the MEL at all times prior to flight.

9.4.8 Continuing Authorization—Single Extension. The foreign operator is authorized to use a continuing authorization—single extension for approving a one-time extension to the maximum repair interval for category B and C items as specified in the approved MEL, provided the responsible IFO receives notification within 24 hours of any extension approval.

a) Additional extension requests to an inoperative item by a foreign air carrier (after exercising their single extension authority), may be approved only by an FAA aviation safety inspector (ASI) for category B and C items. This scenario may exist when parts are not available due to high demand or production issues. The foreign operator must present substantiation documents to support these requests.

b) Individual FAA ASIs are not authorized to approve additional extension requests based on financial difficulties or lack of planning.

c) Foreign operators conducting operations in accordance with § 129.14 must carry a copy of the MEL extension approval on board each applicable U.S.-registered aircraft.

d) An extension is not authorized to the maximum repair interval for category A and D items, as specified in the approved MEL and in accordance with OpSpec D095.

e) The IFO may deny use of continuing authorization—single extension if abuse is evident.

9.5 NONESSENTIAL EQUIPMENT AND FURNISHINGS (NEF) PROGRAM. An NEF program allows part 129 foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage to use the deferral authority granted in the MMEL to provide deferral relief for inoperative, damaged, or missing nonessential items located throughout the aircraft. Foreign operators develop their NEF programs within their MEL. NEF programs are

FAA-approved and tailored to meet the operators' individual needs. An NEF program encompasses:

- a) An NEF list (or equivalent);
- b) A process for evaluating an item in accordance with NEF requirements;
- c) Reporting procedures; and
- d) Repair and/or replacement policy and procedures.

9.5.1 FAA NEF Policy. Volume 4, Chapter 4, Section 4, Nonessential Equipment and Furnishings (NEF) Program, contains FAA policy on the development and use of an NEF program. Unless otherwise indicated in this section, the policy found in Volume 4, Chapter 4, Section 4 is applicable to part 129 foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage in accordance with § 129.14.

9.5.2 Program Submission. Part 129 foreign operators operating U.S.-registered aircraft within or outside the United States in common carriage must submit their NEF program to the IFO with oversight responsibility for approval via the normal MEL approval process. Once approved, foreign operators must incorporate a reference proviso to the program into MEL section 25. This proviso indicates approval of the part 129 foreign operators' NEF program.

9.5.3 Revisions. The IFO assigned oversight responsibility will review all additions and revisions to an FAA-approved NEF program in accordance with FAA NEF policy. Review of all additions and revisions to an FAA-approved NEF program is for providing oversight to ensure program effectiveness.

9.5.4 Criteria Elements for NEF Item Selection. PIs must ensure that part 129 foreign operators address the required elements when submitting items to the IFO for review prior to inclusion into their approved NEF program. Before a foreign operator can defer an NEF item, they must follow their FAA-approved program for determining if an item can be considered an NEF item.

9.5.5 Approved NEF Program Under Part 129. MEL section 25 must include the required proviso to an approved NEF program under part 129. The reference proviso is copied verbatim. However, as indicated in the proviso, the portion of the foreign operator's manual that contains the NEF program, processes, and procedures must be specific per Volume 4, Chapter 4, Section 4.

9.6 MEL APPLICATION—ASI TASK OUTCOMES.

9.6.1 Complete the PTRS Record. See paragraph 9.1.3.

9.6.2 Complete the Task.

a) Application Approval. If the applicant meets the operating and maintenance requirements of parts 43, 91, and 129, accomplish the following, as applicable:

- 1) Issue OpSpecs for maintenance program approval.
- 2) Coordinate with the Principal Operations Inspector (POI) to confirm issuance of MEL OpSpec D095.
 - b) Application Disapproval. Accomplish the following:
 - 1) Inform the applicant in writing of any deficiencies or omissions requiring corrective actions.
 - 2) If deficiencies cannot be satisfactorily resolved, terminate the application process and return the application and associated data to the applicant with a letter describing the reasons for the termination.
 - c) Document the Task. File any supporting paperwork in the operator's office file.