

TSA approved security program in lieu of installing reinforced doors. The second rule, 14 CFR 129.28(c), applies to the operation of transport category all-cargo airplanes by foreign operators within the United States. This amendment permits foreign operators to adopt a TSA approved security program in lieu of installing reinforced doors.

#### *Why Were the Old Rules Adopted?*

The former rules were adopted in response to the terrorist attacks against the United States on September 11, 2001, and the ATSA enacted by Congress on November 19, 2001. The terrorist acts demonstrated a need to improve design as well as operational and procedural security of the flightdeck.

#### *What Are the Flightdeck and the Flightdeck Door?*

The flightdeck, or cockpit, is that area where the pilots fly the airplane. The flightdeck door is what separates the pilots from the passengers on passenger airplanes. On passenger airplanes, there are operating rules that require a door between the flightdeck and the passenger compartment. These rules do not require that cargo airplanes have a flightdeck door. Some cargo airplanes have flightdeck doors and many do not.

Traditionally, the door merely served as a privacy door to assure that the pilots were able to concentrate on flying the airplane. As discussed in the original reinforced door rulemakings, efforts were underway prior to the September 11, 2001, attacks to develop standards for a stronger door. The attacks led to the immediate adoption of those standards and the requirement for installation of stronger doors.

#### *What Did the Old Rules Require?*

On January 15, 2002, parts 25 and 121 were amended to set new standards for flightdeck doors (Amendments 25-106 and 121-288; 67 FR 2118; Docket No. FAA-2002-11032). Section 25.795 was amended to set standards for reinforcing flightdeck doors. The new standards require them to resist forcible intrusion and ballistic penetration.

Section 121.313(f) was amended to mandate installation of the reinforced doors on certain airplanes not later than April 9, 2003. The affected airplanes included transport category all-cargo airplanes operated under part 121 which had flightdeck doors installed on or after January 15, 2002.

On June 21, 2002, part 129 was amended to apply similar standards to foreign operators operating into the United States (Amendment 129-33; 67 FR 42450; Docket No. FAA-2002-

12504). Section 129.28 requires installation of the reinforced door not later than April 9, 2003. The affected airplanes include transport category all-cargo airplanes operated under part 129 which had flightdeck doors installed on or after June 21, 2002.

On December 23, 2002, the FAA issued amendment No. 129-36 as a result of input received from a public hearing held on July 30, 2002, and comments received as a result of the rulemaking. Amendment 129-36 clarifies the applicability of the part 129 regulation for foreign operators.

In effect, section 355 of the Consolidated Appropriations Resolution, Pub. L. 108-007, postponed the compliance date for this section as to all-cargo aircraft until October 1, 2003. We have changed the cargo portion of the rule to replace the April 9, 2003, compliance date with October 1, 2003, to correspond to the Congressional action.

#### *What Has Happened Since the Old Rules Were Adopted?*

The old rule was an FAA response to the potential security threat to cargo airplanes. Because of the urgency of the response, there was little time for receiving and evaluating a broad range of inputs on the issues and alternatives. But with time, and with additional input from knowledgeable parties, the FAA has identified several elements that convince us that a change is needed. Over the last year, the FAA has received information from parties through comments responding to several rulemakings, as well as petitions for exemption and a petition for rulemaking.

#### **Public Comments on Prior Reinforced Flightdeck Door Rulemakings**

As discussed above, the FAA has had two rulemaking actions that established reinforced door requirements. We received public comments on both rules. The following discussion is limited to those comments related to this specific rule change. The FAA will respond to the other comments in a separate document that will be published later in the **Federal Register**.

#### *Part 121*

Three pilot groups (Air Line Pilots Association International (ALPA), FedEx Pilots Association, and the Coalition of Airline Pilots Association (CAPA)), a public safety group (Aviation Policy Institute), and one individual suggested expanding the reinforced door requirement to all cargo airplanes. This would require installation of reinforced doors on cargo airplanes that do not

already have any door. The principal arguments of those parties were centered on increased flightdeck security. Those commenters expressed concerns about the qualification, screening, and identification of the people authorized to ride on the subject airplanes.

ALPA stated that meetings with safety representatives from many of the cargo airlines revealed it is potentially easier for an intruder to gain access to cargo airplanes because of limited ground security procedures, less secure ramp areas, and less scrutiny of persons carried on board cargo flights. ALPA stated that flight attendant and passenger intervention have been discussed as a strategy to defeat the attempts of an intruder to commandeer a passenger airplane. But cargo operators lack the potential benefit of flight attendant or passenger intervention.

Additionally, three commenters proposed enhancement of flightdeck security beyond that provided by the reinforced doors, suggesting the use of dual doors (FedEx Pilots Association) and reinforcing the bulkheads between the flightdeck and other airplane areas (ALPA and the CAPA).

Three operators and the Cargo Airline Association (CAA) and the Air Transport Association opposed the installation of the reinforced flightdeck doors in airplanes operated for the carriage of cargo. Those comments included two comments that the application of the reinforced flightdeck doors was impractical for the types of airplanes involved and the installation of doors would compromise emergency egress. They also stated it would be difficult to address issues, such as the rapid decompression, when retrofitting flightdeck doors to airplanes in which no door had been previously installed. Six commenters were opposed to the installation of flightdeck doors on cargo airplanes based upon economic considerations, including cost of the doors, installation costs, and lost revenues while airplanes were out of service for modifications. Further, two commenters indicated that the costs should be borne by the government.

The CAA represents 13 all-cargo operators, including the largest operators. In its comments, the CAA argued that the ATSA did not require that cargo airplanes be equipped with the reinforced flightdeck door. Therefore, the FAA rule was procedurally deficient because there was inadequate justification for adopting the rule without prior public comment. The CAA also argued that the unique nature of cargo operations would