

allow a screening program to provide the same level of security as a retrofit flightdeck door.

Part 129

Seven of the 32 commenters to Amendment 129–33 addressed all-cargo operations. Except for the following three comments, commenters raised similar issues described in the discussion of part 121 above. One commenter stated that of all the various types of operators serving the U.S., cargo operators, particularly those that operate on a charter basis, pose the least risk of having their aircraft used as weapons by terrorists. The commenter contends that cargo charter operations do not publish a schedule for services and it would be difficult to know in advance when or where the airplane would be operated.

Another commenter explained that crewmembers leave the flightdeck on a regular basis to visit the galley or lavatory and to perform in-flight duties. There is no flight attendant to ensure the area is clear and secure before a flight crewmember leaves. Also, in the event of an intrusion when a flightcrew member is absent from the flightdeck, a reinforced door will prevent reentry to assist other flightcrew members. This commenter also states that this rule will place it at a competitive disadvantage compared to operators whose fleets are designed and operated with no doors.

At the public meeting, one foreign cargo operator explained that he might not know until 3 hours before a flight which airplane would be used on flights to or from the U.S. The operator believed it would be much more efficient and effective to establish security procedures controlling who has access to the airplanes rather than modifying the doors.

Requests for Exemptions

Since January 30, 2002, 11 cargo operators have filed exemption requests from the reinforced door requirements. Two sought relief from the requirement for internal locking devices on existing doors (Special Federal Aviation Regulation (SFAR) 92), three sought relief from part 121, and six sought relief from part 129. In supporting the need for an exemption, requesters cited economic burden caused by the need to make modifications to their airplanes. In several instances, operators indicated that they have a small fleet of airplanes and engineering and design costs would be borne by them alone. The requesters also identified a safety concern with the requirements to close and lock the flightdeck doors. The safety concern is the lack of adequate emergency exits

available to persons on either side of a locked reinforced door. Also, four operators indicated their security measures for allowing riders on their cargo airplanes are strict and would compensate for not reinforcing the door.

Petition for Rulemaking

Atlas Air submitted a petition for rulemaking that requested the FAA allow cargo carriers to adopt enhanced security plans in lieu of the reinforced flightdeck doors. Most of the issues raised by Atlas were also raised by commenters on the prior reinforced flightdeck rulemakings discussed above. Atlas supported its request with the following points:

- The original rule was premised on the inadequacy of then existing security procedures
- The FAA has since issued detailed procedures for access to cargo airplane flightdecks
- The TSA has since issued additional security requirements that cover certain cargo airplanes
- Reinforced doors are necessary on passenger but superfluous on cargo airplanes
- Cargo operations do not depend on riders
- The number of persons on cargo airplanes is quite small
- Pilots of cargo airplanes are more willing to exclude suspicious persons
- Cargo operators can impose more screening without disrupting schedules
- Access to cargo airplanes is tightly controlled by practice and regulation
- A reinforced door is less effective on a cargo airplane since a terrorist may have an unfettered opportunity to penetrate it
- Keeping terrorists off cargo airplanes is a better alternative
- Cargo doors are expensive and resources could be better utilized elsewhere
- Cost of reinforced doors is much higher than the FAA estimates
- Money is better spent on security procedures keeping terrorists off cargo airplanes
- Passenger airplanes are a higher priority for reinforced doors than cargo airplanes
- Congress is urging a review of reinforced door requirements for cargo airplanes
- ATSA mandated reinforced doors on passenger airplanes, not cargo airplanes
- Two proposed bills before Congress would require reexamination of the issue

Why Are the Changes Better Than the Old Rule?

This rule provides an alternative means of compliance for operators. It allows them to meet the security needs for their particular operation through security procedures rather than doors. This option will be available through the security expertise of the TSA. As the economic analysis later in this rule reflects, many operators have airplanes both with and without flightdeck doors. If they adopt security procedures for the airplanes with the doors, they must apply those same procedures to airplanes without doors. By providing the option, operators can decide where to concentrate their limited economic resources. Also, nothing in this rule prevents operators from using both doors and security procedures if they choose.

What Factors Influenced the Decision To Change the Rule?

Viability of Enhanced Security Procedures

In acting quickly to establish current standards, the FAA included cargo airplanes with doors in the same security category with passenger carrying airplanes. At the time, security procedures for riders on cargo airplanes had not been enhanced. With a diverse population flying on commercial passenger airplanes, a reinforced door to the flightdeck is essential. In comparison, cargo operations transport far fewer riders, those riders are authorized by the company, and cargo operators have greater discretion in deciding who rides on the airplane. Security procedures can be adapted to fit the needs of cargo operations making the reinforced door less significant in terms of airplane security.

Safety Issues Unique to Cargo Designs

People behind the locked doors on passenger airplanes have multiple exits from the plane. Cargo riders may not. On several models of cargo airplanes, some exits are blocked by cargo or by airplane modifications. Often, modifications of cargo airplanes result in emergency exits being on the other side of the flightdeck door. As a result, rider safety may be significantly compromised if a locked door blocks access to the exits. Without a better security option, the FAA originally concluded that this safety concern was outweighed by the security concern with hijacking. However, since enhanced security procedures are now a viable option, the safety of occupants in an emergency evacuation takes on a higher priority.