



WELLINGTON NEW ZEALAND

PURSUANT TO Section 30 of the Civil Aviation Act 1990

I, WILLIAM ROBSON STOREY, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

this *1st* day of *October* 1992

by WILLIAM ROBSON STOREY

Minister of Transport

A handwritten signature in black ink, appearing to read 'W. Robson Storey', written over the printed name.

Civil Aviation Rules Part 139

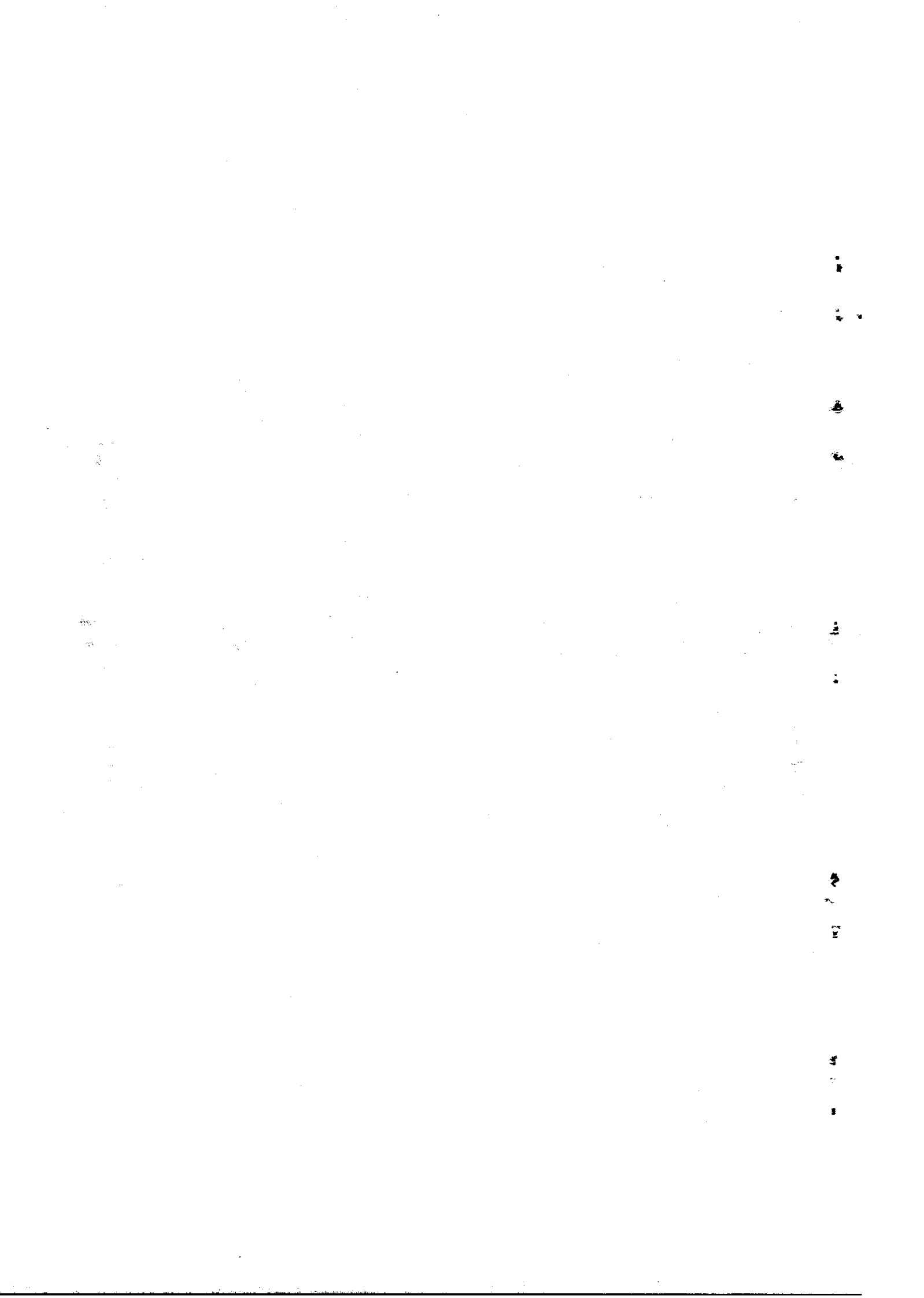
Aerodromes — Certification Operation and Use

Docket Nr. 1011



**Civil Aviation Rules  
Part 139**

**AERODROMES  
CERTIFICATION, OPERATION AND USE**



## **RULE OBJECTIVE AND EXTENT OF CONSULTATION**

The objective of Part 139 is to define a regulatory safety boundary for —

- (a) the certification and operation of aerodromes, and
- (b) the security measures applicable to aerodromes, and
- (c) the use of aerodromes by aircraft operators.

In May 1990 the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process. This register was identified as the Regulatory Review Consultative Group. Thirty-nine organisations and individuals registered their wish to be consulted in the development of rules for aerodromes.

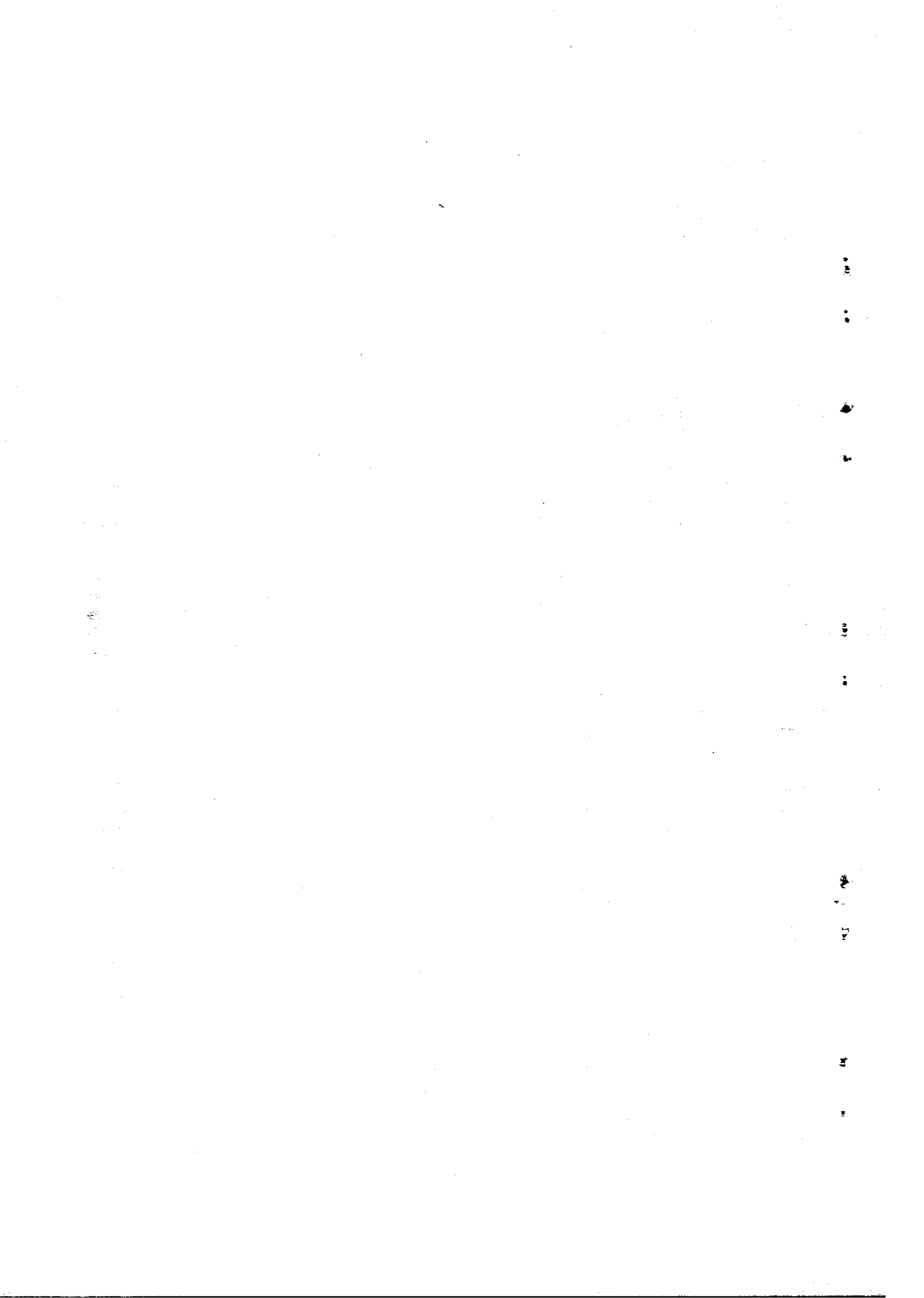
A draft document was developed by the rules rewrite team in consultation with the members of the consultative group. An informal draft was published and distributed in October 1991.

An intensive period of informal consultation followed. This included written submissions from the consultants and meetings between the responsible technical specialist and various industry groups at regional venues. This informal consultative process culminated in the issue of Notice of Proposed Rule Making 92-1 under Docket number 1011 NR on 29 January 1992. The publication of this notice was advertised in the daily newspapers in the five main provincial centres on 29 January 1992.

The notice was mailed to all members of the Regulatory Review Consultative Group and to other parties, including overseas Aviation Authorities and organisations, who were considered likely to have an interest in the proposal.

A period of sixty-five days was allowed for comment on the proposed rules. Twenty-two written submissions were received in response to this notice. Further meetings were held with members of the consultative group to address their concerns and to discuss proposed remedies. These submissions and discussions were considered and where appropriate the proposed rules amended to take account of the concerns raised.

Those rules as amended were then referred to and signed by the Minister of Transport.



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## Subpart A — General

### 139.1 Applicability

- (a) This Part prescribes —
- (1) rules governing the certification and operation of aerodromes; and
  - (2) rules for security at certificated and licensed aerodromes; and
  - (3) rules for operators of aircraft using aerodromes.

### 139.5 Requirement for Certificate

- (a) No person shall operate an aerodrome serving any aeroplane having a certified seating capacity of more than 30 passengers that is engaged in regular air transport operations except under the authority of, and in accordance with the provisions of, an aerodrome operating certificate issued for that aerodrome under this Part.
- (b) An aerodrome operator who is not required under paragraph (a) to hold an aerodrome operating certificate may apply for an aerodrome operating certificate under this Part.

### 139.7 Application and Issue

- (a) An application for the grant of an aerodrome operating certificate shall be made on form CAA 24139/01 and submitted to the Director with —
- (1) the exposition required by 139.77; and
  - (2) a plan of the aerodrome and its facilities certified by a registered surveyor; and
  - (3) evidence of lawful entitlement to use the place as an aerodrome.
- (b) An applicant is entitled to an aerodrome operating certificate if —
- (1) the applicant and the applicant's senior person or persons required by 139.55(a)(1) and
  - (2) are fit and proper persons; and

- (2) the applicant pays any applicable fees or charges prescribed by regulations made under the Act; and
- (3) the applicant provides an exposition that is acceptable to the Director and the applicant meets all other requirements of Subpart B; and
- (4) the granting of the certificate is not contrary to the interests of aviation safety.

### 139.9 Duration of Certificate

- (a) An aerodrome operating certificate may be granted or renewed for a period of up to five years.
- (b) An aerodrome operating certificate remains in force until it expires or is suspended or revoked.
- (c) The holder of an aerodrome operating certificate that expires or is revoked shall forthwith surrender the certificate to the Director.
- (d) The holder of an aerodrome operating certificate that is suspended, shall produce the certificate to the Director for appropriate endorsement.

### 139.11 Renewal of Certificate

- (a) An application for the renewal of an aerodrome operating certificate shall be made on form CAA 24139/01.
- (b) The application shall be submitted to the Director before the application renewal date specified in the certificate or, if no such date is specified, not less than 30 days before the certificate expires.

### 139.13 Safety Inspections and Audits

Each holder of an aerodrome operating certificate is required under the Act to permit persons duly authorised by the Director to carry out inspections and audits of the holder's aerodrome, documents and records in accordance with the Act, to determine compliance with Subparts A, B, C, and D.

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### 139.15 Exemptions

The Director may exempt the holder of an aerodrome operating certificate from any requirement in Subpart A, B, C, or D in accordance with the Act.

### 139.17 Deviations

- (a) The holder of an aerodrome operating certificate may deviate from any requirement of Subpart A, B, C, or D to the extent required to meet an emergency condition requiring immediate action for the protection of life or property involving carriage by air.
- (b) A certificate holder who deviates from a requirement of Subpart A, B, C, or D under paragraph (a) shall provide a written report to the Director as soon as practicable, but in any event not later than 14 days after the emergency. The report shall cover the nature, extent and duration of the deviation.

## Subpart B — Certification Requirements

### 139.51 Aerodrome Design Requirements

- (a) Each applicant for the grant of an aerodrome operating certificate shall ensure that the aerodrome is provided with —
  - (1) physical characteristics; and
  - (2) obstacle limitation surfaces; and
  - (3) visual aids for —
    - (i) navigation; and
    - (ii) denoting obstacles; and
    - (iii) denoting restricted use areas; and
  - (4) equipment and installations —

that are commensurate with, the characteristics of the aircraft it intends to serve, the lowest meteorological minima for each runway, and the ambient light conditions during the operation of aircraft.

- (b) The physical characteristics, obstacle limitation surfaces, visual aids, and equipment and installations provided at the aerodrome must be acceptable to the Director.

*[CAA Advisory Circulars in the 139 series contain aerodrome design standards that are acceptable to the Director]*

### 139.53 Aerodrome Limitations

Each applicant for the grant of an aerodrome operating certificate shall, when necessary for the safety of aircraft operations at their aerodrome, establish any limitations on the use of the aerodrome that arise from the aerodrome design or the facilities or services provided at the aerodrome.

### 139.55 Personnel Requirements

- (a) Each applicant for the grant of an aerodrome operating certificate shall engage, employ or contract:
  - (1) a senior person identified as the Chief Executive who is acceptable to the Director, and who has the authority within the applicant's organisation to ensure that all activities undertaken by the organisation can be financed and carried out in accordance with the requirements prescribed by Subparts A, B, C, and D;
  - (2) a senior person or group of senior persons who are acceptable to the Director, and who are responsible for ensuring that the aerodrome and its operation comply with the requirements of Subparts A, B, C, and D. Such nominated person or persons shall be ultimately responsible to the Chief Executive;
  - (3) sufficient personnel to operate and maintain the aerodrome and its services and facilities in accordance with the requirements of Subparts A, B, C, and D.
- (b) The applicant shall establish a procedure for initially assessing and for maintaining the competence of personnel required to operate and maintain the aerodrome and its services and facilities.

**139.57 Aerodrome Emergency Plan**

- (a) Each applicant for the grant of an aerodrome operating certificate shall develop and maintain an aerodrome emergency plan designed to minimise the possibility and extent of personal injury and property damage at, or in the vicinity of, their aerodrome in an emergency.
- (b) The aerodrome emergency plan shall include —
  - (1) the types of emergencies planned for; and
  - (2) procedures for prompt response to the emergencies planned for; and
  - (3) sufficient detail to provide adequate guidance to each person who must carry out the plan; and
  - (4) the agencies involved in the plan and the responsibility and role of each agency; and
  - (5) for international aerodromes, provision for an adequately equipped emergency operations centre and command post for each type of emergency; and
  - (6) a description of available equipment including medical equipment and the location of the equipment; and
  - (7) information on names and telephone numbers of offices and persons to be contacted in the case of a particular emergency; and
  - (8) a grid map of the aerodrome and its immediate vicinity.
- (c) The applicant shall —
  - (1) co-ordinate its aerodrome emergency plan with law enforcement agencies, security providers, rescue and firefighting agencies, medical personnel and organisations, the principal tenants of the aerodrome, and all other persons who have responsibilities in the plan; and
  - (2) to the extent practicable, provide for participation by all agencies and personnel specified in paragraph (c)(1) in the development of the aerodrome emergency plan.

**139.59 Rescue and Firefighting — Category Determination**

- (a) Each applicant for the grant of an aerodrome operating certificate for an international aerodrome shall determine the rescue and fire fighting category of the aerodrome which, subject to paragraph (b), shall be according to the largest aeroplane type regularly using the aerodrome as provided in Table 1.

**Table 1. Aerodrome category for rescue and firefighting**

Aerodrome category	Aeroplane over-all length	Maximum fuselage width
(1)	(2)	(3)
1	0 up to but not including 9 m	2 m
2	9 m up to but not including 12 m	2 m
3	12 m up to but not including 18 m	3 m
4	18 m up to but not including 24 m	4 m
5	24 m up to but not including 28 m	4 m
6	28 m up to but not including 39 m	5 m
7	39 m up to but not including 49 m	5 m
8	49 m up to but not including 61 m	7 m
9	61 m up to but not including 76 m	7 m

*Note (1) To categorise the aerodrome according to the largest aeroplane type regularly using the aerodrome, first evaluate their over-all length and, second, the fuselage width of the aeroplane.*

*(2) If, after selecting the category appropriate to an aeroplane's over-all length, that aeroplane's fuselage width is greater than the maximum width in column (3) for that category, then the aerodrome category for that aeroplane size is actually one category higher.*

*(3) Length and width are shown in metres.*

- (b) An applicant for the grant of an aerodrome operating certificate for an international aerodrome may —
  - (1) when the number of aeroplane movements at the aerodrome of those aeroplanes in the aerodrome category applying under Table 1 is less than 700 in the busiest consecutive 3 months of the year, determine the aerodrome category to be one less than that aerodrome category;
  - (2) when the number of aeroplane movements at the aerodrome of those aeroplanes in the aerodrome category applying under Table 1 is less than 700 in the busiest consecutive 3 months of the year and there is a wide range in the dimensions of those aeroplanes, determine the aerodrome category to be 2 less than that aerodrome category.

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(c) Each applicant for the grant of an aerodrome operating certificate for a domestic aerodrome shall determine the rescue and firefighting category of the aerodrome as follows:

(1) when the aerodrome serves any turbojet aeroplane with a certified seating capacity of more than 30 passengers engaged in regular air transport operations, it shall be that category according to the largest aeroplane type regularly using the aerodrome as provided in Table 1 reduced by two categories but in any case shall not be less than category 4:

(2) when the aerodrome does not serve any turbojet aeroplane of the kind specified in paragraph (c)(1), but serves any non-turbojet aeroplane with a certified seating capacity of more than 30 passengers engaged in regular air transport operations and has more than 700 aeroplane movements of such aeroplanes in the busiest consecutive three months of the year, it shall be category 3.

**139.61 Rescue and Firefighting — Extinguishing Agents**

Each applicant for the grant of an aerodrome operating certificate shall have the minimum extinguishing agents required for the category determined under 139.59, as provided in Table 2.

**Table 2. Minimum usable amounts of extinguishing agents**

Aerodrome Category	Foam meeting performance level B		Complementary agents		
	Water (L)	Discharge rate foam solution/minute (L)	Dry chemical powders (kg)	or Halons (kg)	or CO <sub>2</sub> (kg)
(1)	(2)	(3)	(4)	(5)	(6)
1	230	230	45	45	90
2	670	550	90	90	180
3	1200	900	135	135	270
4	2400	1800	135	135	270
5	5400	3000	180	180	360
6	7900	4000	225	225	450
7	12100	5300	225	225	450
8	18200	7200	450	450	900
9	24300	9000	450	450	900

*Volume units are litres and mass units are kilograms*

**139.63 Rescue and Firefighting — Vehicles**

(a) Each applicant for the grant of an aerodrome operating certificate shall have the minimum rescue and firefighting vehicles for the category determined under 139.59, as provided in Table 3.

**Table 3. Minimum rescue and firefighting vehicles.**

Aerodrome category	Rescue and fire fighting vehicles
1	1
2	1
3	1
4	1
5	1
6	2
7	2
8	3
9	3

(b) Subject to paragraph (c), each vehicle required by paragraph (a) shall be equipped for two-way voice radio communications with at least —

(1) every other required rescue and firefighting vehicle required for the aerodrome; and

(2) the aerodrome control service or aerodrome flight information service serving the aerodrome; and

(3) other stations as specified in the applicant's aerodrome emergency plan.

(c) Where only one vehicle is required by paragraph (a) and there is no aerodrome control service or aerodrome flight information service serving the aerodrome and the aerodrome emergency plan does not provide for contact with other stations, the vehicle need not be equipped for two-way voice radio communications.

(d) Each vehicle required by paragraph (a) shall —

(1) have a flashing or rotating beacon; and

(2) be marked in a single conspicuous colour of red or yellowish green.

### 139.65 Rescue and Firefighting — Personnel Requirements

Each applicant for the grant of an aerodrome operating certificate shall establish a procedure to ensure that all rescue and firefighting personnel at their aerodrome are —

- (1) equipped with adequate protective clothing and rescue equipment needed to do their duties; and
- (2) trained, medically and physically fit, and competent in the use of the rescue and firefighting equipment; and
- (3) receiving recurrent training and regular practices to maintain their competency; and
- (4) sufficient in number and readily available to operate the rescue and firefighting vehicle or vehicles and the equipment at maximum capacity; and
- (5) alerted by siren, alarm, or other means to any existing or impending emergency requiring their assistance.

### 139.67 Rescue and Firefighting — Response Capability

Each applicant for the grant of an aerodrome operating certificate shall, when required by the Director, demonstrate the following rescue and fire fighting response capability in optimum conditions of visibility and surface conditions:

- (1) within 3 minutes of the time of the alarm, the rescue and firefighting vehicles and personnel needed to discharge foam at a rate of at least 50 percent of the discharge rate specified in 139.61 Table 2 for the aerodrome category shall reach the furthest point of the movement area from their assigned posts and be in position at that point to apply that amount of foam:
- (2) within one minute after the arrival of the first responding vehicle or vehicles and personnel, all other vehicles required for the aerodrome category by 139.63(a) Table 3 and all the necessary personnel shall be in position to apply continuous foam application at the discharge rate specified in 139.61 Table 2 for the aerodrome category.

### 139.69 Public Protection

(a) Each applicant for the grant of an aerodrome operating certificate shall provide at their aerodrome —

- (1) safeguards to prevent inadvertent entry of animals to the movement area, and safeguards to deter the entry of unauthorised persons or vehicles to the aerodrome operational area; and
- (2) reasonable protection of persons and property from aircraft blast.

(b) The safeguards required by paragraph (a)(1) shall —

- (1) in areas adjacent to the aerodrome operational area to which the public has direct vehicle or pedestrian access —
  - (i) be continuous barriers that may include existing structures, gates and doors with secured or controlled access; and
  - (ii) be at least 1200 millimetres in height; and
- (2) in other areas, be of a construction and height appropriate to prevent incursion by animals likely to endanger aircraft operations.

### 139.71 Wildlife Hazard Management

Each applicant for the grant of an aerodrome operating certificate shall, where any wildlife presents a hazard to aircraft operations at their aerodrome, in areas within their authority, establish an environmental management programme to minimise or eliminate any such wildlife hazard.

### 139.73 Notification of Aerodrome Data and Information

(a) Each applicant for the grant of an aerodrome operating certificate shall establish a procedure to notify the Aeronautical Information Service —

- (1) of the aerodrome data and information; and

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(2) of any limitation established under 139.53 on the use of the aerodrome; and

(3) as soon as practicable, of any change that affects the use of the aerodrome.

(b) The items notified under paragraph (a) shall be those required by Part 175.

*[Until Part 175 comes into force, the items required to be notified to the Aeronautical Information Service under paragraph (a) shall be those items that are currently published in the New Zealand Aeronautical Information Publication]*

### 139.75 Aerodrome Internal Quality Assurance

(a) Each applicant for the grant of an aerodrome operating certificate shall establish internal quality assurance procedures to ensure compliance with, and the adequacy of, the procedures, plans, systems and programmes, required by Subparts B, C, and D.

(b) The senior person who has the responsibility for internal quality assurance shall have direct access to the Chief Executive on matters affecting the safety of aircraft operations and the performance of the aerodrome services and facilities.

### 139.77 Aerodrome Certification Exposition

(a) An applicant for the grant of an aerodrome operating certificate shall provide the Director with an exposition which shall contain —

(1) a statement signed by the Chief Executive, on behalf of the applicant's organisation, confirming that the exposition and any included manuals —

(i) define the organisation and demonstrate its means and methods for ensuring ongoing compliance with this Part; and

(ii) will be complied with at all times; and

(2) the titles and names of the senior person or persons required by 139.55(a)(1) and (2); and

(3) the duties and responsibilities of the senior person or persons specified in paragraph (a)(2) including matters for which they have responsibility to deal directly with the Director or the Authority on behalf of the organisation; and

(4) an organisation chart showing lines of responsibility of the senior person or persons specified in paragraph (a)(2); and

(5) any limitations established under 139.53; and

(6) each current exemption granted to the applicant from the requirements of Subparts A, B, C, or D; and

(7) the aerodrome emergency plan required by 139.57; and

(8) a statement of the rescue and firefighting category determined under 139.59 with a description of the extinguishing agents and vehicles required by 139.61 and 139.63, the procedure and personnel required by 139.65 and the procedures required by 139.111(d)(1) and (2); and

(9) a description of the safeguards for public protection required by 139.69; and

(10) the environmental management programme when required by 139.71; and

(11) the procedures required by 139.73 for the notification of aerodrome data and information; and

(12) the internal quality assurance procedures required by 139.75; and

(13) the aerodrome maintenance programme required by 139.103(a); and

(14) the procedures required by 139.105 for the preventive maintenance and checking of the aerodrome visual aids for navigation; and

(15) the procedures and precautions required by 139.107 for any works on the aerodrome; and

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- (16) the procedures required by 139.109 for the maintenance of the aerodrome emergency plan; and
  - (17) the aerodrome inspection programme, procedures and reporting system required by 130.117; and
  - (18) the procedures required by 139.119 for the control of ground vehicles; and
  - (19) the procedures required by 139.125 for limiting aircraft operations if a non complying aerodrome condition occurs; and
  - (20) a description of measures taken to comply with the security requirements in Subpart D, including the programme and procedures required by 139.203(d)(8) and (9); and
  - (21) the procedures to control, amend and distribute the exposition.
- (b) The applicant's exposition must be acceptable to the Director.

### Subpart C — Operating Requirements

#### 139.101 Continued Compliance

Each holder of an aerodrome operating certificate shall —

- (1) hold at least one complete and current copy of their aerodrome certification exposition on the aerodrome; and
- (2) comply with all procedures, plans, systems and programmes detailed in their exposition; and
- (3) make each applicable part of their aerodrome certification exposition available to personnel who require those parts to carry out their duties; and
- (4) continue to meet the standards and comply with the requirements of Subpart B prescribed for aerodrome certification under this Part.

#### 139.103 Aerodrome Maintenance

- (a) Each holder of an aerodrome operating certificate shall employ a maintenance programme, including preventive maintenance where appropriate, to maintain the aerodrome facilities in a condition that does not impair the safety, security, regularity or efficiency of aircraft operations.
- (b) The certificate holder shall keep the surface of paved manoeuvring areas clear of any loose stones or other objects that might endanger aircraft operations.
- (c) The certificate holder shall maintain the surface of paved runways in a condition so as to provide good friction characteristics and low rolling resistance.

#### 139.105 Visual Aids for Navigation — Maintenance and Checking

Each holder of an aerodrome operating certificate shall establish procedures to ensure that a system of preventive maintenance and checking of the aerodrome visual aids for navigation is employed in order to —

- (1) ensure that each visual aid for navigation provides reliable and accurate guidance to the user; and
- (2) establish a percentage of allowable unserviceable lights that will ensure continuity of guidance to the user; and
- (3) restore any unserviceable or deteriorated items back into service without undue delay.

#### 139.107 Works on Aerodrome

Each holder of an aerodrome operating certificate shall establish procedures and take precautions to ensure that any works carried out on the aerodrome do not endanger aircraft operations.

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### 139.109 Aerodrome Emergency Plan — Maintenance

Each holder of an aerodrome operating certificate shall establish procedures that —

- (1) ensure that all aerodrome personnel having duties and aerodrome emergency responsibilities under the holder's aerodrome emergency plan are familiar with their assignments and are properly trained; and
- (2) test the aerodrome emergency plan by requiring —
  - (i) a full-scale aerodrome emergency exercise at intervals not exceeding 2 years; and
  - (ii) special emergency exercises in the intervening year to ensure that any deficiencies found during the full-scale aerodrome emergency exercise have been corrected; and
- (3) review the plan after each of the exercises specified in subparagraph (2) or after an actual emergency, to correct any deficiency found.

### 139.111 Rescue and Firefighting — Operational Requirements

- (a) Except as provided in paragraph (c), each holder of an aerodrome operating certificate shall provide on the aerodrome, during operations by aeroplanes having a certified seating capacity of more than 30 passengers that are engaged in regular air transport operations, the rescue and firefighting capability meeting the minimum requirements of 139.61 and 139.63.
- (b) Except as provided in paragraph (c), if an increase in the movements or a change in the type of air transport aeroplanes using the aerodrome results in an increase in the category applying under 139.59, the certificate holder shall increase its rescue and firefighting capability to the minimum required for that higher category under 139.61 and 139.63.
- (c) Subject to paragraph (d), during any period of operations limited to aeroplanes having a lower specification than that normally applicable under

139.59, the certificate holder may reduce the rescue and firefighting capability to a lower level required for the aerodrome category corresponding to the highest specification aeroplane regularly using the aerodrome.

- (d) Any reduction in the rescue and firefighting capability under paragraph (c) shall be subject to the following conditions:
  - (1) procedures for, and the persons having the authority to implement, the reductions are to be included in the aerodrome certification exposition;
  - (2) procedures for recall of the full aerodrome rescue and firefighting capability are to be included in the aerodrome certification exposition;
  - (3) the reductions may not be implemented unless the information is forwarded to the Aeronautical Information Service for appropriate publication.
- (e) Each certificate holder shall employ a system of preventive maintenance of their rescue and firefighting vehicle or vehicles to ensure effectiveness of the equipment and compliance with the required response time throughout the life of each vehicle.
- (f) Each certificate holder shall immediately replace any required rescue and firefighting vehicle that becomes inoperative to the extent that the certificate holder cannot meet the response capability required by 139.67, with a vehicle that enables the certificate holder to meet that capability. If a replacement vehicle is not available immediately, the certificate holder shall provide the notification required by 139.123. If the required response capability is not restored within 72 hours, the certificate holder shall limit air transport operations on the aerodrome to those aeroplanes compatible with the aerodrome category corresponding to the remaining operative rescue and firefighting vehicle or vehicles.
- (g) Each certificate holder shall, with the rescue and firefighting equipment required under this Part and the number of trained personnel which will assure an effective operation, respond to each emergency during operations of the kind specified in paragraph (a).



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### 139.113 Aerodrome Aircraft Traffic Management

Each holder of an aerodrome operating certificate shall ensure the provision of an aerodrome flight information service or an aerodrome control service or both at their aerodrome when so required by the Director in the interest of safety.

### 139.115 Apron Management Service

- (a) Each holder of an aerodrome operating certificate shall ensure that the aerodrome is provided with an appropriate apron management service, when such a service is warranted by the volume of traffic and operating conditions.
- (b) When an aerodrome control service is in operation at an aerodrome certificated under this Part which has an apron management service, and that aerodrome control service does not participate in the apron management service, the certificate holder shall facilitate the transition of aircraft between the apron management service and the aerodrome control service.

### 139.117 Aerodrome Inspection Programme

Each holder of an aerodrome operating certificate shall conduct an aerodrome inspection programme to ensure compliance with this Part and shall provide —

- (1) equipment for use in conducting the aerodrome inspection programme; and
- (2) procedures to ensure that qualified aerodrome personnel perform the aerodrome inspection programme; and
- (3) a reporting system to ensure prompt correction of unsafe aerodrome conditions noted during any inspection.

### 139.119 Ground Vehicles

Each holder of an aerodrome operating certificate shall —

- (1) limit access to the aerodrome operational area to those ground vehicles that are necessary for aerodrome and aircraft operations; and

- (2) when an aerodrome control service is in operation at the aerodrome, provide adequate procedures for the safe and orderly access to, and operation on the aerodrome operational area of, ground vehicles. These procedures shall ensure that each ground vehicle operating on the aerodrome operational area is controlled by —

- (i) two-way radio communications between the vehicle and the aerodrome control service; or
- (ii) if the vehicle has no radio, an accompanying vehicle with two-way communication with the aerodrome control service; or
- (iii) if it is not practical to have two-way radio communications or an escort vehicle, adequate measures such as signs, signals or guards for controlling the vehicle; and

- (3) when an aerodrome control service is not in operation at the aerodrome, provide adequate procedures to ensure that ground vehicles operating on the aerodrome operational area are controlled by signs or prearranged signals; and

- (4) ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the aerodrome which has access to the aerodrome operational area is familiar with, and complies with, the certificate holder's rules and procedures for the operation of ground vehicles.

### 139.121 Protection of Navigation Aids

Each holder of an aerodrome operating certificate shall —

- (1) prevent the construction of facilities on the aerodrome that would adversely affect the operation of any electronic or visual navigation aid or air traffic service facility on the aerodrome; and
- (2) prevent, as far as it is within the certificate holder's authority, any interruption of visual or electronic signals of navigation aids.

## Part 139 Aerodromes — Certification, Operation and Use

### 139.123 Aerodrome Condition Notification

Each holder of an aerodrome operating certificate shall, in accordance with the procedure established under 139.75, notify the Aeronautical Information Service, as soon as practicable (for the issue of a NOTAM), of any aerodrome operational condition or defect at the aerodrome that may affect the safe operation of aircraft.

### 139.125 Non-complying Conditions

Whenever the requirements of Subparts A, B, C, and D cannot be met to the extent that uncorrected unsafe conditions exist on the aerodrome, the holder of an aerodrome operating certificate shall, in accordance with procedures established for that purpose, limit aircraft operations to those portions of the aerodrome not rendered unsafe by those conditions.

### 139.127 Changes to Certificate Holder's Organisation

- (a) Each holder of an aerodrome operating certificate shall ensure that their exposition is amended to remain a current description of the aerodrome and its associated plans, programmes, services, systems, procedures, and facilities.
- (b) The certificate holder shall ensure that any amendments made to the holder's exposition meet the applicable requirements of this Part and comply with the amendment procedures contained in the holder's exposition.
- (c) The certificate holder shall provide the Director with a copy of each amendment to the holder's exposition as soon as practicable after its incorporation into the exposition.
- (d) Where a certificate holder proposes to make a change to any of the following, prior notification to and acceptance by the Director is required:
  - (1) The chief executive;
  - (2) The listed senior persons.
- (e) The Director may prescribe conditions under which a certificate holder may operate during or following any of the changes specified in paragraph (d).

- (f) Where any of the changes referred to in this rule requires an amendment to the aerodrome operating certificate, the certificate holder shall forward the certificate to the Director as soon as practicable.
- (g) The certificate holder shall make such amendments to the holder's exposition as the Director may consider necessary in the interests of safety.

## Subpart D — Aerodrome Security

### 139.201 Applicability

This Subpart prescribes aviation security rules applicable to aerodromes certificated under this Part or licensed as an aerodrome under the Civil Aviation Regulations 1953, to govern the operation of —

- (1) security designated aerodromes; and
- (2) non security designated aerodromes.

### 139.203 Requirements for Security Designated Aerodromes

#### Barrier requirements

- (a) Each holder of an aerodrome operating certificate or an aerodrome licence issued for a security designated aerodrome shall, in addition to complying with the requirements of 139.69 (Public Protection), provide safeguards to prevent inadvertent unauthorised access and to deter intentional unauthorised access, to any security area within their aerodrome.
- (b) The safeguards required by paragraph (a) shall —
  - (1) consist of fences, gates, doors and other barriers between public and security areas with adequate locking or control systems; and
  - (2) ensure control of any duct, drain or tunnel giving access to the security area or security areas.
- (c) The construction and height of each barrier required by paragraph (b)(1) shall, considering the surrounding topography, provide an effective measure against penetration of the security area or security areas and shall in no case be less than 2440 millimetres in height.

## Part 139 Aerodromes — Certification, Operation and Use

### Other requirements

- (d) Each holder of an aerodrome operating certificate or an aerodrome licence issued for a security designated aerodrome shall —
- (1) designate an isolated aircraft parking position at their aerodrome for the parking of an aircraft that is known or believed to be the subject of unlawful interference, or which for other security reason needs isolation from normal aerodrome activities; and
  - (2) provide and maintain lighting, and emergency lighting in the event of failure of the normal lighting system, on any parking areas at their aerodrome used at night by aeroplanes having a certified seating capacity of 30 or more passengers that are engaged in air transport operations for the carriage of passengers; and
  - (3) provide lighting, or have portable lighting available within 30 minutes, on any designated isolated aircraft parking area at their aerodrome intended to be used at night; and
  - (4) provide the following areas at their aerodrome for the screening of passengers and baggage:
    - (i) areas for the screening of international passengers, baggage, or both, prior to aircraft boarding;
    - (ii) sterile areas where international passengers subject to screening are prevented from having access to unauthorised articles or contact with unscreened persons;
    - (iii) areas for the separation of arriving passengers from departing passengers during international deplaning to prevent arriving transit and transfer passengers having contact with any person who has been subject to screening; and
  - (5) when considered necessary by the Director in any case to respond to a security threat, provide areas at their aerodrome of the kind required by paragraph (d)(4) (for the screening of international passengers and their baggage) for the screening of domestic passengers and their baggage; and
  - (6) ensure that concession areas at their aerodrome that are situated in an area accessible to screened passengers are designed in such a way that they provide access control measures sufficient to prevent delivery to any screened person of —
    - (i) any firearm; or
    - (ii) any other dangerous or offensive weapon or instrument of any kind; or
    - (iii) any ammunition; or
    - (iv) any explosive substance or device, or any injurious substance or device of any kind that could be used to endanger the safety of an aircraft or of the persons on an aircraft; and
  - (7) design all areas required by paragraph (d)(4), (5) and (6) in such a way that they provide access control measures sufficient to prevent any unauthorised persons from entering the area; and
  - (8) ensure that personnel engaged, employed or contracted by the certificate holder undergo a security awareness programme, and that each person required to carry out specific security tasks is trained for those tasks; and
  - (9) establish procedures for identifying, reporting to the Director, and dealing with, breaches of and deficiencies in, any security procedures established by the holder and any provisions of any enactment relating to security at the aerodrome; and
  - (10) make provision for the security of services including, but not limited to, energy supplies, communications, sewerage and water supplies, in order to minimise the risk of such services being used to interfere unlawfully with aviation operations; and
  - (11) when so required by the Director, affix signs at the perimeter of security areas within their aerodrome.

### 139.205 Requirements for Non-security Designated Aerodromes

Each holder of an aerodrome operating certificate or an aerodrome licence issued for an aerodrome that is not a security designated aerodrome shall, in addition to complying with the requirements of 139.69 (Public Protection) —

- (1) have a contingency plan to provide at their aerodrome those areas that must be provided by the holder of a certificate issued for a security designated aerodrome under 139.203(d)(4) (as if those requirements applied to domestic passengers and baggage) when so required by the Director in response to a security threat at the aerodrome; and
- (2) comply with the requirements in 139.203 (d)(2), (3), (8) and (9) that are prescribed for the holder of an aerodrome operating certificate issued for a security designated aerodrome.

## Subpart E — Use of Aerodromes

### 139.301 Applicability

This Subpart prescribes the requirements for any person operating an aircraft using any place as an aerodrome.

### 139.303 Use of Aerodromes — General

No person operating an aircraft shall —

- (1) use any place certificated as an aerodrome under this Part or licensed as an aerodrome under the Civil Aviation Regulations 1953 unless that person can comply with the limitations and operational conditions placed on the use of the aerodrome; or
- (2) use any place for the purpose of landing at or taking off from at night unless the runway or heliport to be used at that place is equipped with lighting, and that lighting is operating; or
- (3) use any manoeuvring area or part of any manoeuvring area that has been notified as or marked unsafe for aircraft use by the aerodrome operator.

### 139.305 Use of Aerodromes — Air Transport Aeroplanes

No person operating an aeroplane engaged on an air transport operation shall use any place for the purpose of landing at or taking off from unless —

- (1) the place has physical characteristics, obstacle limitation surfaces, and visual aids commensurate with the characteristics of the aeroplane being used, the lowest meteorological minima to be used, and the ambient light conditions; and
- (2) the place is suitable for landing at and taking off; and
- (3) the runway used is clear of all persons, animals, vehicles or other obstructions during the landing or take-off; and
- (4) that person is employing a checking system to determine that the condition of the place is safe for that operation; and
- (5) if the aeroplane has a certified seating capacity of more than 30 passengers and is engaged on a scheduled flight, the place is certificated as an aerodrome under this Part or licensed as an aerodrome under the Civil Aviation Regulations 1953; and
- (6) if the place is not certificated under this Part, the aeroplane can be manoeuvred in the aerodrome traffic circuit clear of any obstructions, and not in conflict with the aerodrome traffic circuit or instrument approach procedure of any other aerodrome.

*[CAA Advisory Circulars in the 139 series contain aerodrome design standards that are acceptable to the Director.]*

### 139.307 Use of Aerodromes — Non-Air Transport Aircraft Other Than Helicopters

No person operating an aircraft other than a helicopter, that is engaged on an operation other than an air transport operation, shall use any place for the purpose of landing at or taking off from unless —

- (1) the place is suitable for landing at and taking off; and

## Part 139 Aerodromes — Certification, Operation and Use

- (2) the runway or place used is clear of all persons, animals, vehicles or other obstructions during the landing or take off other than persons and vehicles essential to the operation; and
- (3) the aircraft can be manoeuvred in the aerodrome traffic circuit clear of any obstructions, and not in conflict with the aerodrome traffic circuit or instrument approach procedure of any other aerodrome.

### 139.309 Use of Heliports

- (a) Except for a person operating a helicopter on an external load operation, no person operating a helicopter shall use any place within a populous area as a heliport unless the heliport has physical characteristics, obstacle limitation surfaces and visual aids commensurate with the characteristics of the helicopter being operated and the ambient light conditions during operations, and the person has complied with paragraph (c).

*[CAA Advisory Circulars in the 139 series contain heliport design standards for heliports in populous areas that are acceptable to the Director.]*

- (b) No person operating a helicopter in a place outside a populous area, and no person operating a helicopter on an external-load operation, shall use any place as a heliport unless —
  - (1) the place is suitable for the helicopter to hover clear of obstructions; and
  - (2) the surface is suitable for touchdown and lift-off if that is the intention; and
  - (3) the person has complied with paragraph (c).
- (c) Before using any place as a heliport, a person operating a helicopter shall ensure that —
  - (1) the heliport is clear of all persons, animals, vehicles or other obstructions during the hover, touchdown or lift-off other than persons and vehicles essential to the operation; and

- (2) the selected approach and take off paths are such that, if the helicopter is not a performance-Class 1 helicopter, an autorotative landing can be conducted without any undue risk to any person on the ground; and
- (3) the helicopter can be manoeuvred in the aerodrome traffic circuit clear of any obstructions, and not in conflict with the aerodrome traffic circuit or instrument approach procedure of any other aerodrome.

- (d) In this rule, *external load operation* means an operation in which a load is suspended from the helicopter.

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## CONSULTATION DETAILS AND TRANSITIONAL ARRANGEMENTS

*(This statement does not form part of the rules contained in Part 139. It provides details of consultation undertaken in making the rules and also explains transitional arrangements.)*

### Background to the Rules

In April 1988 the Swedavia - McGregor Report on Civil Aviation Regulation in New Zealand was completed. As a result, the Government enacted the Civil Aviation Act 1990 to carry out the first stage of the report's recommendations. To carry out the remaining recommendations of the report the Air Transport Division of the Ministry of Transport commenced a complete review of all existing civil aviation legislation.

Considerable research was carried out to decide the format for the new legislation. The Authority decided that the most suitable legislative framework should incorporate the advantages from the system being developed by the European Joint Aviation Authorities (JAA) and from the existing United States of America Federal Aviation Administration (FAA) system. The European Joint Aviation Requirements (JAR) are being structured in a manner similar to the Federal Aviation Regulations (FAR) of the FAA and aim to achieve maximum harmonisation while allowing for national variations.

New Zealand's revised requirements will be published, in several Parts, as Civil Aviation Rules (CAR). Each Part will set out a series of individual rules that relate to a particular aviation activity.

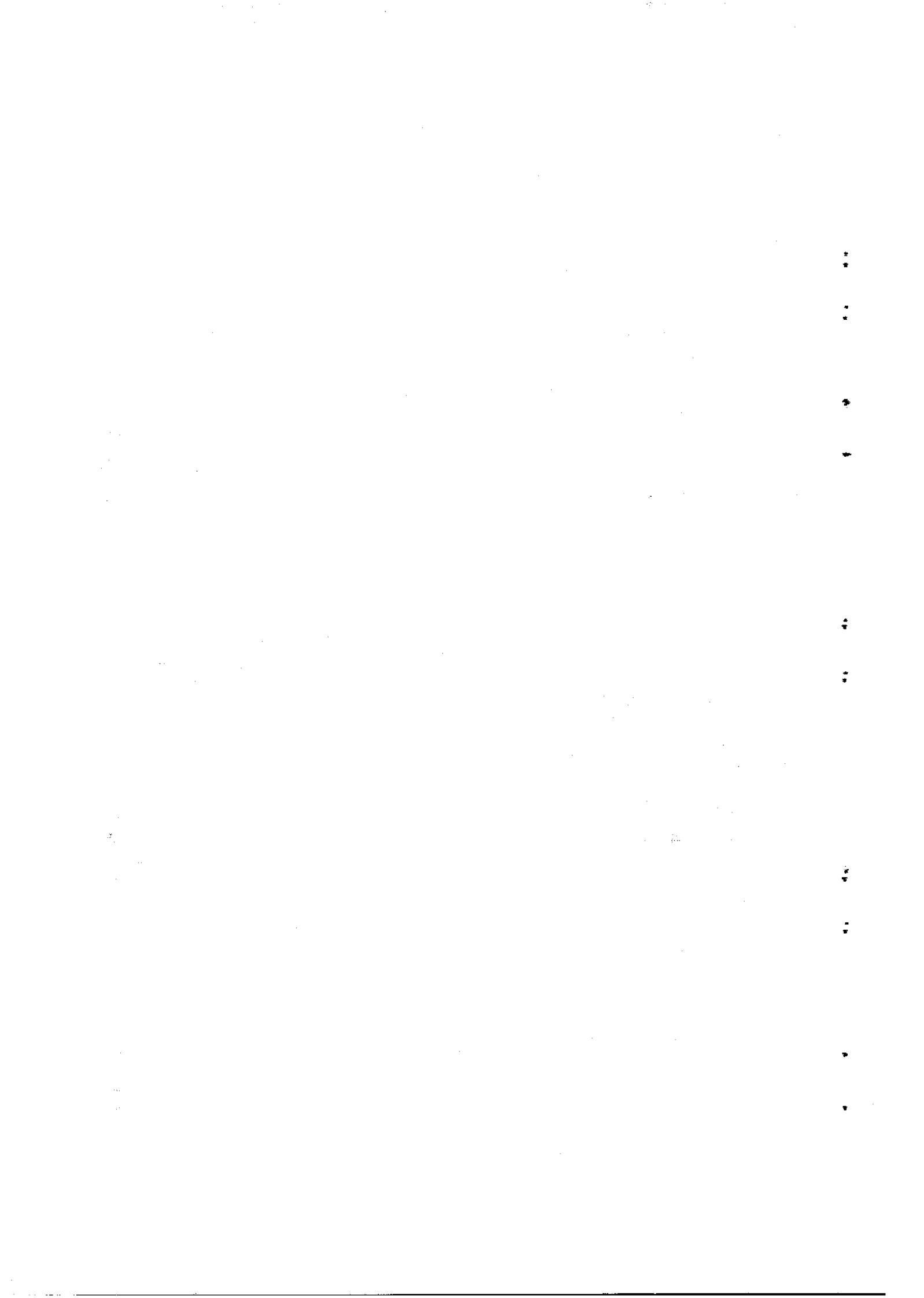
Accompanying each Part of the CAR will be at least one associated Advisory Circular (AC). These will expand, in an informative way, specific requirements of the CAR Part and show an acceptable means of compliance. For example, an AC will contain the minimum acceptable practice or practices that will be necessary to meet the rules.

The CAR numbering system is based on the FAR Part numbering system. As a general principle the subject matter of a CAR Part will harmonise with the FAR, although the title may differ to suit New Zealand terminology. Where a proposed CAR Part does not readily equate with a FAR number code, a number has been selected that does not conflict with any existing FAR Part.

The FAR has been used as the start point for the development of many of the CAR, but there are likely to be significant differences in the content of each Part of the Rules. The structure and content of Part 139 follow the content and arrangement of the latest draft of FAA FAR 139. Changes have been made to conform to New Zealand legal practices and terminology.

The objective of the new rules system is to strike a balance of responsibility between the state authority and those who provide services and exercise privileges in the civil aviation system. This balance must enable the state authority to maintain continuing regulatory control and supervision while providing the maximum flexibility for participants to develop their own means of compliance.

Section 7 of the Civil Aviation Act 1990 (the Act) provides for the requirement to hold an aviation document to carry out particular civil aviation activities. Section 12 of the Act requires the holders of documents to carry out their activities safely and according to the relevant prescribed safety standards and practices.





## Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on, the proposed new rules, the Authority, on 29 January 1992, issued Notice of Proposed Rule Making 92-1 under Docket Number 1011 NR. This notice proposed the introduction of Civil Aviation Rules Part 139 to provide a regulatory boundary for —

- (a) the certification and operation of aerodromes; and
- (b) the security measures at aerodromes; and
- (c) the use of aerodromes by aircraft operators.

## Supplementary Information

All comments made on the Notice of Proposed Rule Making are available in the rules docket for examination by interested persons. A report summarising each substantive contact with the Air Transport Division contact person concerning this rule has been filed in the docket.

## Summary of comments to Docket Number 1011 NPRM

We received twenty-two written submissions.

All the commenters supported the new rules and indeed most of them expressed enthusiasm of the principle that the provider of a service should bear primary responsibility and have autonomy for its operation.

## General comments on the NPRM

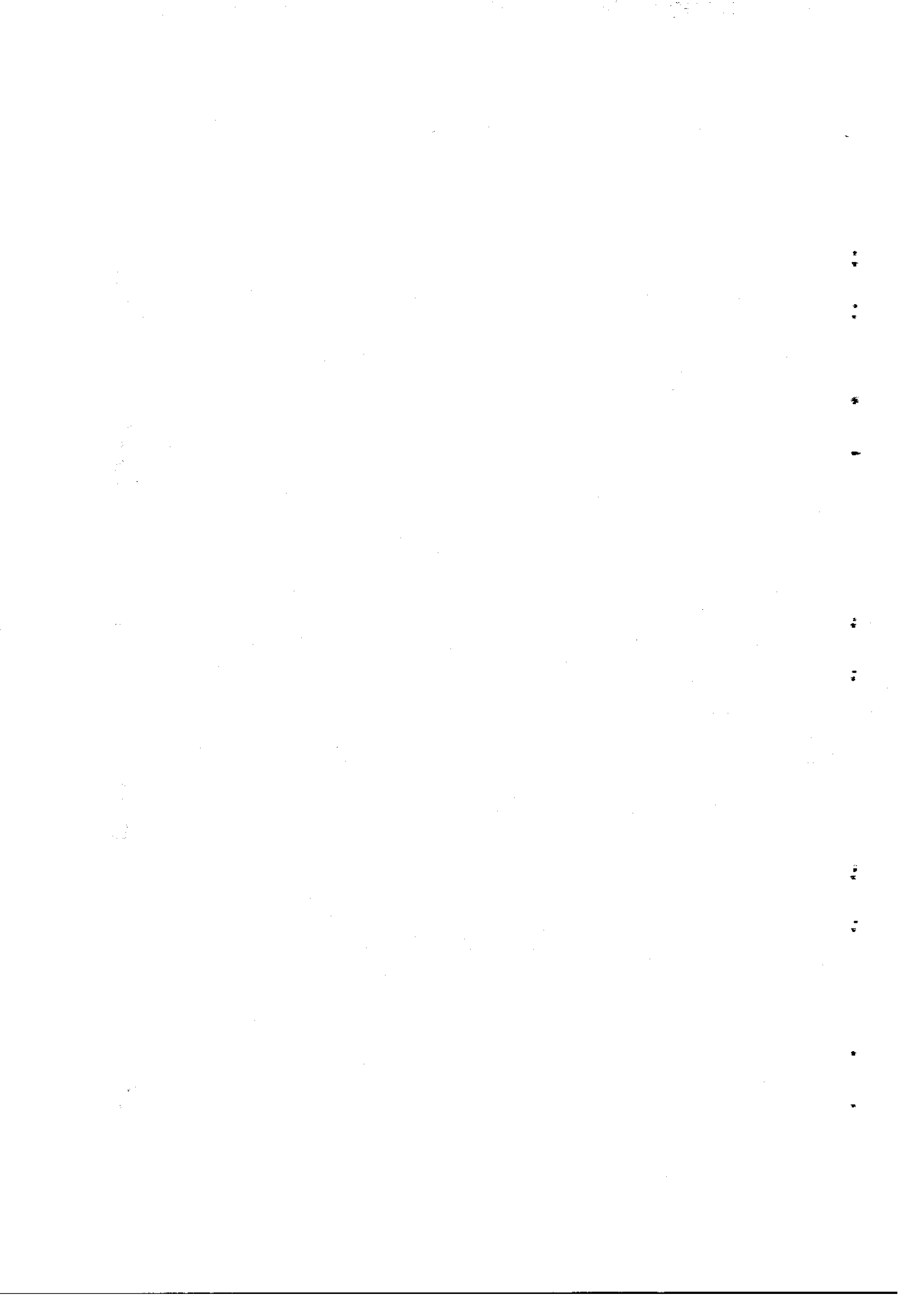
One commenter said that the NPRM docket was "poorly written, being difficult to interpret in parts and contradictory".

**Authority response:** This was an isolated comment which did not provide any examples. The other comments that we have received do not support this comment.

The Auckland International Airport Limited (AIAL) said that while it is eager to accept primary responsibility for all safety standards at its aerodrome, it must have control over all aerodrome users to ensure compliance with the rules. It advised that a number of facilities and services at the aerodrome are provided by independent operators and contractors and submitted that the authority for the aerodrome operator to undertake controls over all aerodrome users should be acknowledged in the rules.

AIAL said that control by compliance must bring with it effective enforcement procedures. They are concerned that there are inadequate "teeth" for enforcement in the new rules and noted that this was a major criticism made in the Swedavia - McGregor Report regarding the present Civil Aviation Regulations.

The "control" mechanisms referred to must apply, not only to the provisions of Part 139, AIAL submitted, but in respect of all aerodrome operations. Specifically, the aerodrome operator must be awarded statutory recognition to control its commercial operations. It must be able to enforce payment of a debt which must include limiting or preventing of services and if necessary detention of aircraft such as by the use of liens as is permitted in the United Kingdom.



## Part 139 Aerodromes — Certification, Operation and Use

The Airport Division of the Aviation Industry Association of NZ (Inc.), (AIA), advised that "[We] endorse the Auckland International Airport Ltd submission in respect of CAR Part 139". Further, it is very concerned that, although the new CAR Part will place responsibilities upon airport licensees, present legislation does not give licensees the authority to discharge those responsibilities, particularly regarding control of activities by aerodrome users and control of the standard of maintenance of facilities or equipment owned by other parties using aerodromes.

It submits that CAR Part 139 will prove unworkable should the power to control activities and standards be withheld from airport licensees. As does AIAL, the AIA contends that responsibility cannot be exercised without authority and the Rules should provide that authority.

**Authority response:** The Authority accepts that airport companies must have the ability to enforce safety standards but takes the view that any enforcement powers given to airport companies should be contained in primary legislation.

It does not believe CAR Part 139 is the mechanism for these powers to be granted. The Part is concerned with the certification, operation and use of aerodromes and the proper place for additional enforcement powers to be given to airport authorities is in primary legislation such as the Airport Authorities Act 1966 or the Civil Aviation Act 1990.

This applies particularly in respect of the ability to place liens on aircraft to facilitate the recovery of unpaid debts as this power is not generally available in New Zealand's commercial environment.

Section 28 (5) of the Civil Aviation Act 1990 seems to confirm the validity of ordinary Rules which confer any discretion upon the Secretary for Transport or any other person or which allows the Secretary or any other person to impose requirements as to the performance of any activities. It is argued that this section is wide enough to allow the Rules to give greater discretionary powers to an airport company being "any other person".

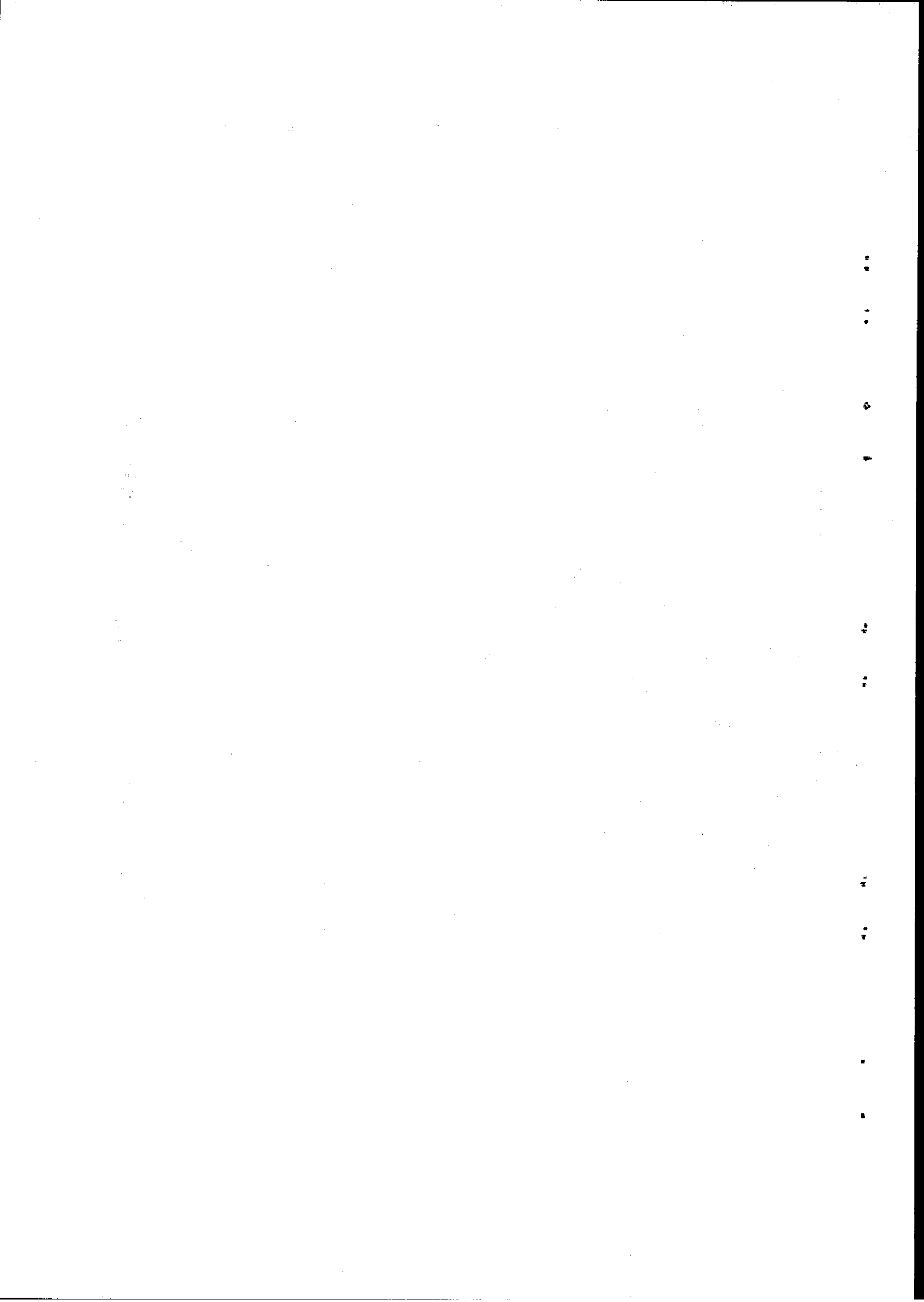
The Authority, however, would prefer to see a clearer statutory indication given before incorporating wider discretionary enforcement powers into the Rule and understands submissions where made by AIAL separately to the select committee considering the Civil Aviation Amendment (No. 2) Bill 1992. The Authority further understands the Committee has not accepted that there is a need to amend the legislation and the Authority is not prepared to introduce these extra powers into the Rule Part at this stage.

The Whakatane District Council submitted that aerodromes who are not required to be certificated should have the opportunity to be licensed at a lower level of compliance. The reason is to allow one off landings at this lower level of compliance by aeroplanes with more than 30 passenger seats.

**Authority response:** The United States Federal Aviation Regulations has been used as a basis for the selection of 30 passenger seats as a defined break for certification purposes. This break point has also been selected by the Australian Civil Aviation Authority.

The rule has been amended by adding the word "regular". This will allow non certificated aerodromes to serve aeroplanes with more than 30 passenger seats on an irregular or infrequent basis. The aircraft operator will bear the responsibility for ensuring that the aerodrome is suitable and safe for the operation of the aircraft.

The Royal New Zealand Aero Club (Inc.), (RNZAC), expressed concern that most aerodromes would not be certificated and that the aerodrome data and information would not be promulgated in the Aeronautical Information Publication. This would provide difficulty for



## Part 139 Aerodromes — Certification, Operation and Use

their members to determine the status and the information about these aerodromes. They also stated that all non certificated aerodromes should have a nominated person who is available to advise operators on current aerodrome conditions.

**Authority response:** We recognised the need to promulgate information for some non certificated aerodromes and to show their location on aeronautical charts. There will be provision for the promulgation of non certificated aerodrome data and information in the AIP and the promulgation of their location on aeronautical charts.

The Airports and Helicopter divisions of the Aviation Industry Association and one other commenter said that the aerodrome design documents were better suited as Advisory Circulars rather than being incorporated as part of the Rule.

**Authority response:** We agree with the statement. The certification of aerodromes and the rules about the use of aerodromes gives sufficient control for compliance with the design standards. This would be similar to the way other state authorities, Australian CAA and the United States FAA, administer aerodrome standards. Part 139 has been amended to make the aerodrome standards documents into advisory circulars.

The New Zealand Air Line Pilot's Association (ALPA) considered that the overriding objectives of NPRM 92-1 must be to ensure the meeting of New Zealand's obligation under Annex 14 to the Convention of International Civil Aviation that contains the International Standards and Recommended Practices accepted and amended by ICAO pursuant to Article 37 of the Convention.

**Authority response:** We have written the rules in terms of section 33 of the Civil Aviation Act 1990 that requires the rules to be consistent with the standards of ICAO relating to safety and security, to the extent adopted by New Zealand. In complying with section 33, the rules adopt the ICAO standards as a requirement for International aerodromes but not necessarily for domestic aerodromes.

ALPA considered that the costs and benefit statement did not properly address the objectives, the alternatives and the costs and benefits for the rule. They cited the FAA rule making procedure as a good example to follow and consider that a meaningful cost benefit analysis of proposed regulatory action is likely to be of advantage to all industry participants.

**Authority response:** As part of these rule making procedures, we are obliged to examine the potential benefits and costs of each proposed rule making action to ensure that the public and the aviation industry are not burdened with rules whose costs outweigh the benefits.

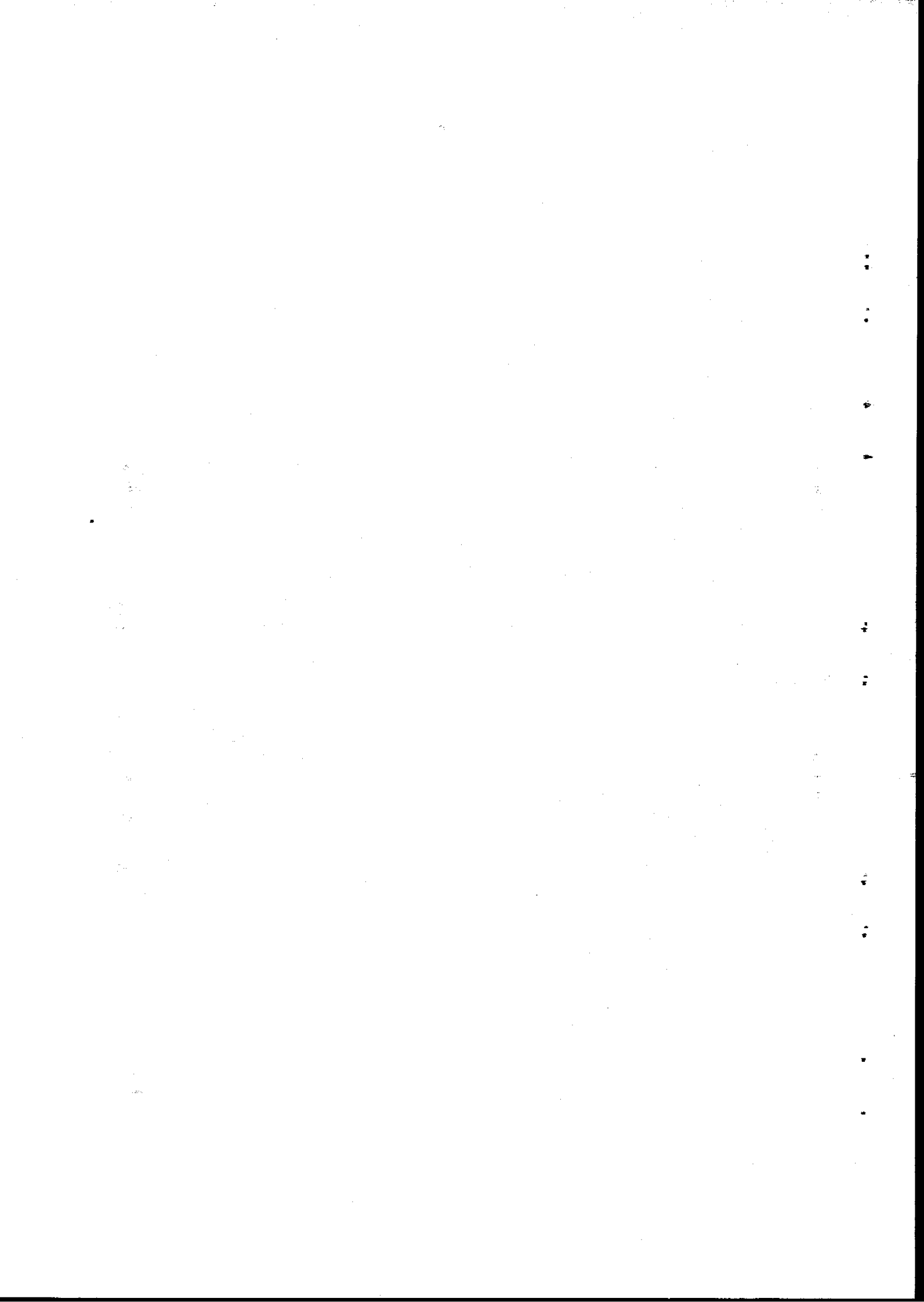
The requirements set out in this Part are modelled on the basic principles used by the FAA (FAR 139) for the certification of aerodromes. The FAA carries out a cost benefit analyses on all proposed Federal Aviation Regulations, and we are confident that the certification system on which the Part is based represents a safe and economic system. A more detailed cost benefit study will be undertaken in cases where unique requirements are placed upon the New Zealand environment that are more onerous, in cost terms, than the FAR.

The following submissions relate specifically to the Part 139 rules.

### Subpart A — General

#### NPRM 139.3 Definitions

ALPA considers that an "international aerodrome need only be one designated as such, whether or not the incidents of international air navigation are in fact carried out there".



They proposed that the definition be amended.

**Authority response:** The definition used in Part 139 "international airport" is the definition contained in the Civil Aviation Act 1990 which in turn is that of ICAO. The purpose of designating international airports as such, is to facilitate and expedite navigation by aircraft between the territories of contracting states and to prevent unnecessary delays. The present definition supports this approach. International aerodrome will be defined in Part 1 as an "international airport" which will be defined as it is in the Act.

### **NPRM 139.11 Duration of Certificate**

**Airports Division AIA, Christchurch International Airport Ltd (CIAL), Mount Cook Airline, and Nelson Airport Authority,** disagreed with the termination of the certificate. Comments ranged from "bureaucratic nonsense" to an "arbitrary requirement" with the consensus that ongoing audits by the authority make it unnecessary.

**Authority response:** The Swedavia - McGregor Report recommended that no Certificate of Approval for an organisation should be non-terminating (13.3). The validity period recommended ranged from 3 to 6 months at the startup of activity to a maximum of five years for well established organisations. The termination of the certificate would allow the authority to conduct a reassessment against the then current requirements in the form of a new entry control.

### **NPRM 139.17 Exemptions**

ALPA considered that the exemption powers of the Act reside with the Director and consequently this rule should be amended to substitute the Director for the Authority.

**Authority response:** The Authority was used in error and is replaced by the Director as in section 37 of the Act.

### **NPRM 139.19 Deviations**

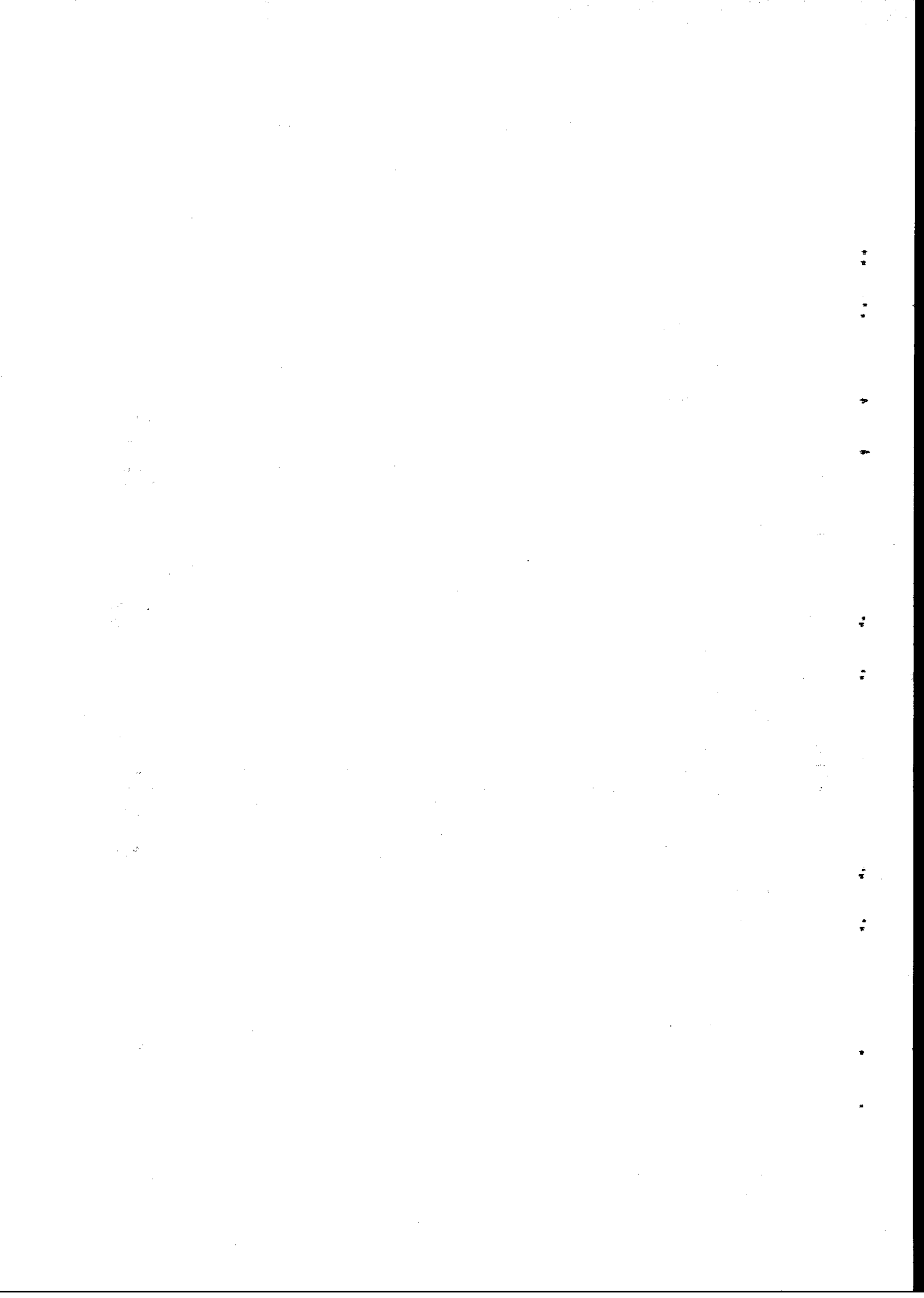
**AIAL and Tauranga District Council** said that the words "involving carriage by air" should be deleted. AIAL stated "where immediate action for the protection of life or property is concerned it should not be relevant whether or not carriage by air is involved". Tauranga District Council stated "An aerodrome operator may be required to deviate to meet any unexpected emergency condition e.g. earthquake, tsunami".

**Authority response:** The purpose of this rule is for the aerodrome operator to respond to a pilot enacting the emergency provisions under section 13 of the Civil Aviation Act 1990. The inclusion of "involving carriage by air" in this rule is a correct usage within the boundaries of the Civil Aviation Act 1990.

## **Subpart B — Operating Requirements**

### **NPRM 139.51 Aerodrome Design Requirements**

**Wellington International Airport Ltd (WIAL)** said that, many aerodromes did not provide visual aids for navigation. They suggested that; each applicant "... shall provide or ensure provision of ...". They felt that if a change is not made along these lines that all aerodrome operators will be required to take over provision of navigation aids when the rule is promulgated.





**Authority response:** The wording has been amended to take this into account. The rule now allows for any of the equipment or services to be provided by another party by contractual or other arrangement as happens at some aerodromes. The aerodrome operator should identify the aids, equipment, and services required for the scope of aircraft operations they wish to serve, and ensure that they are provided, operated, and maintained to comply with Part 139.

### **NPRM 139.53 Personnel Requirements**

**CIAL and Mount Cook Airline** disagreed with the inclusion of "finance" as a responsibility of the Chief Executive. CIAL said that finance is not a safety factor to be considered by the Authority. Mount Cook Airline said that in many organisations a single person will not have the financial control required under this Part and is therefore meaningless.

**Authority response:** Section 12 (4) of the Act requires that each participant shall "if so required by the rules establish and follow a management system" and "shall provide sufficient resources". This requirement is appropriate to aerodromes as the Chief Executive is responsible for compliance with the rules. Finance is one component of resource for the achievement of ongoing compliance.

**WIAL** said that they accepted the requirement for senior persons to be acceptable to the Authority but considered the requirement for approval of the Chief Executive to be excessive.

**AIAL** said that the requirement for senior persons to be acceptable to the Authority is unnecessarily interventionist. It considers that it should have the liberty to make its own appointments for the running of the airport and that the rules set standards and not methods. Furthermore, this requirement conflicts with the responsibility of its Board and it is not appropriate to subject their powers to approval by a regulatory body.

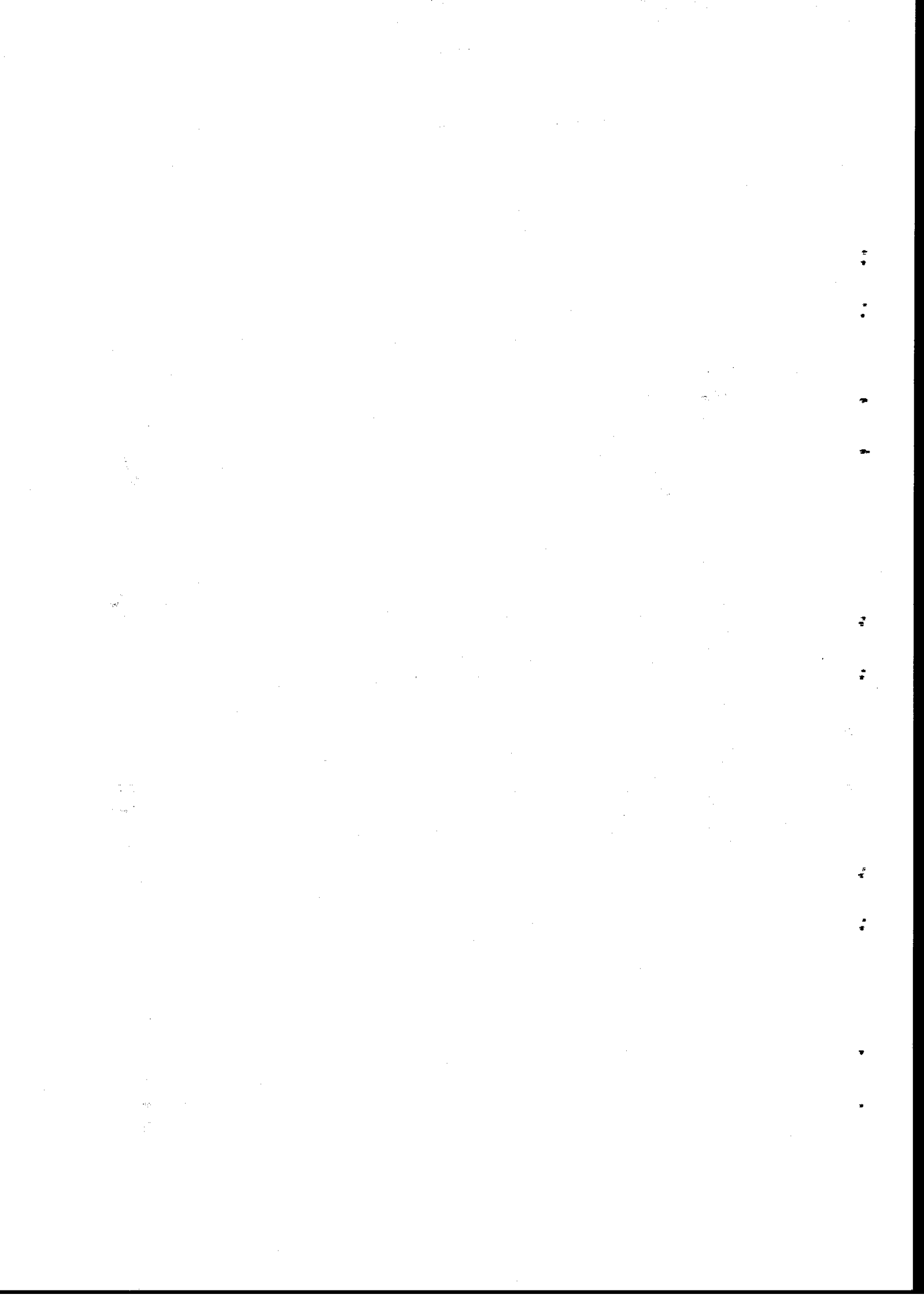
**Authority response:** The Swedavia - McGregor Report recommended that the Authority should limit its involvement in approved organisations to the organisational structure and senior levels of personnel.

Section 9(1)(b) of the Act requires that "the applicant and any person who is to have or is likely to have control over the exercise of the privileges under the document ... to be a fit and proper person to have such control or hold the document". The CEO is one of the persons who has control over the exercise of the privileges under the document. This does not mean that the Authority is involved in the selection of the CEO and senior persons. However it means that whoever the organisation does select must be subjected to the fit and proper person test. This is a statutory requirement.

**Mount Cook Airline** considered that the rule had an absolute requirement to have staff. An aerodrome could be run by one person designated as the Chief Executive not in compliance with the rule.

**Tauranga District Council** said that the requirement will not be appropriate to all certificated aerodromes. Many provincial aerodromes operate with minimal staffing levels. This rule also conflicts with NPRM 139.7(b).

**Authority response:** The rule does not have an absolute requirement regarding the number of staff that an aerodrome operator must have in their employment. It is foreseen that a smaller aerodrome may place all the responsibilities on the Chief Executive. We do not accept that there is a conflict with NPRM 139.7(b). The rule also allows for the contracting of services.



The Airways Corporation said that the term "sufficient personnel" is used in this rule and elsewhere. They ask how sufficiency would be determined and would it be applied evenly at each aerodrome with similar requirements. They consider that the rules should identify the number of personnel rather than use the term "sufficient".

**Authority response:** Each aerodrome will have different requirements for personnel dependent on the size and services required to be provided. It would be extremely difficult for the Authority to establish specific numerical requirements for personnel that would satisfy the many various situations that could exist. We will assess the "sufficiency" at each aerodrome during entry into the aviation system and during subsequent audits.

AIAL said that the standards in the Part 139 (or at least some of them) should be permitted to be satisfied by other agencies contracted by AIAL. The wording of the rule does not allow for this now, although it is clearly anticipated. Specifically add a new subrule to 139.53 — "The applicant may contract out to other responsible persons or agencies the performance of any of the services at the aerodrome required under this Part".

**Authority response:** The intent is to allow some services to be conducted by other parties and the rule has been amended for clarification. The certificated aerodrome operator cannot however divest its safety responsibilities through the provision of contracting services.

### **NPRM 139.55 Aerodrome Emergency Plan**

The Airways Corporation said that the requirements should be more explicit to achieve the same standard at each aerodrome and that the ICAO format should be standard for all aerodromes whatever their size.

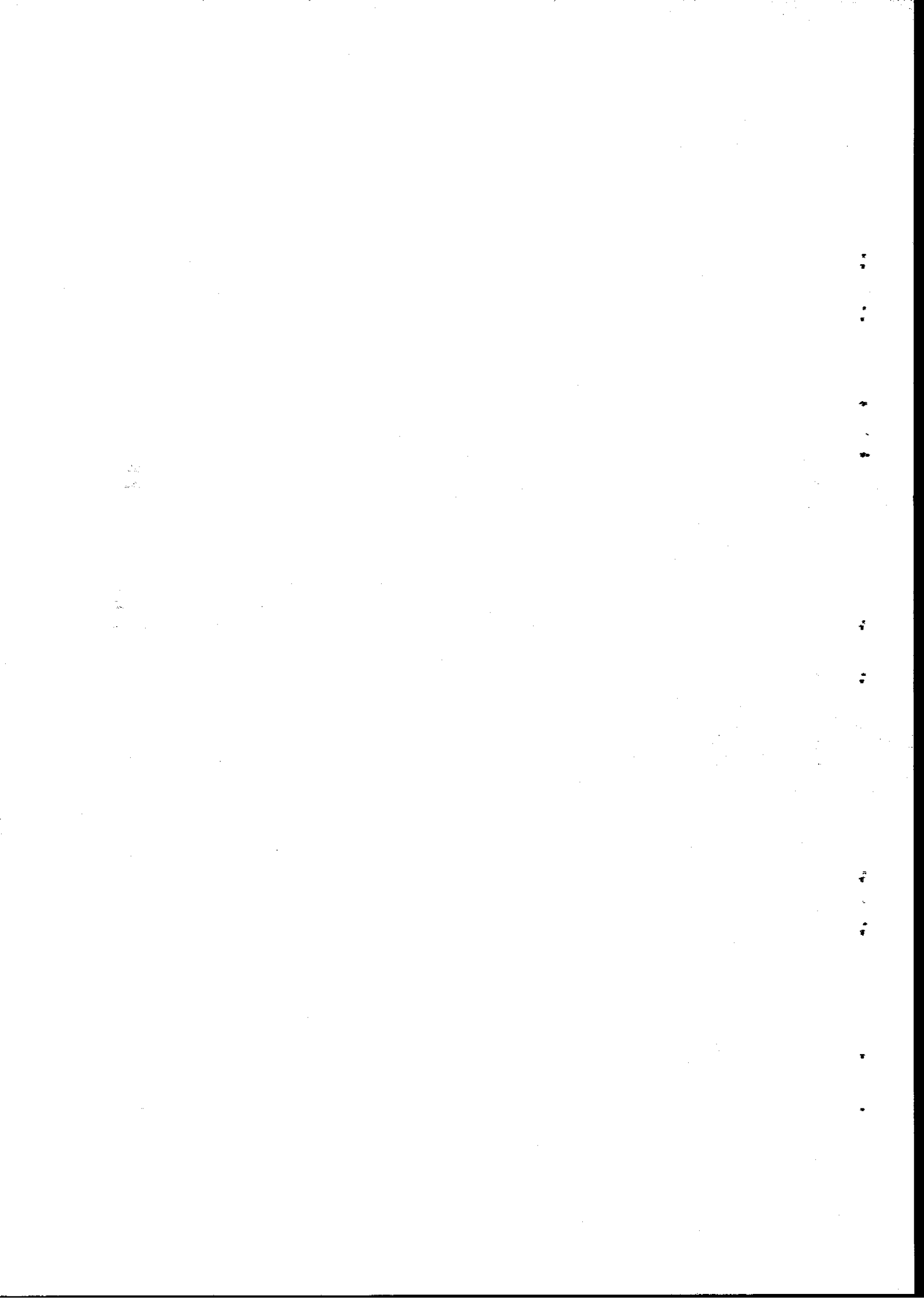
**Authority response:** The advisory material provided will be the ICAO Doc-AN/898 Airport Services Manual Part 7, Airport Emergency Planning, and it is anticipated that this will achieve standardisation.

The Tauranga District Council said that paragraph (a)(6) should include the word "aerodrome" after the word "available".

**Authority response:** This is not agreed as the equipment required goes beyond that normally associated at the aerodrome and could be provided by any of the agencies involved in the emergency plan.

### **NPRM 139.57 Rescue and Fire Fighting — Category Determination**

The Airways Corporation and ALPA said that the ICAO standard should apply to all aerodromes rather than international aerodromes. One commenter noted that the category determination for domestic aerodromes in NPRM 139.57(c) has not changed with the introduction of a second jet operator in New Zealand resulting in the presence of two, and sometimes three, jet aircraft simultaneously at a domestic aerodrome. "Similarly, increased quantities of dangerous goods are more regularly being carried". The commenter considered that the differentiation between international and domestic aerodromes in respect of the provision of rescue and fire fighting services bears little scrutiny. In particular that the minimal rescue and fire fighting capabilities at domestic aerodromes make those aerodromes even less likely to meet the actual operational requirements in an emergency.



**Authority response:** The standard for rescue fire fighting capabilities at domestic aerodromes was decided in 1987 where the recommendations of the National Aviation Advisory Committee were adopted by the Air Transport Division. The standard was established based on cost versus risk at domestic aerodromes. The other twenty commenters did not include a statement about this issue.

The same commenters said that the present standard is based on the jet aircraft now in domestic service and does not take the likely introduction of larger jet aircraft into account.

**Authority response:** This comment is accepted and the requirements at aerodromes serving turbojet aircraft are amended. The requirement will be by determination under paragraph (a) reduced by two categories. This will maintain the present standard for the present turbojet aircraft and require an increase in category when larger turbojet aircraft come into domestic service.

ALPA said that the words "movements" and "normally" require definition wherever they appear in this rule.

**Authority response:** The word "movements" is replaced with "aeroplane movement" which is defined in NPRM 139.3. The word "normally" is replaced by the word "regularly" which equates with the certification requirement criteria of "regular air transport operations".

ALPA said that paragraph (b) should be renumbered to provide the alternatives according to ICAO Annex 14 pointing out that the proper alternatives are (b)(1) and (b)(1)(ii). They also considered that NPRM 139.57 (b)(1)(i) should be rewritten for greater definition and for compliance with the supplementary guidance material in Annex 14, to state:

*"(ii) if there is a difference of more than two categories between the aeroplanes which are included in reaching 700 movements, determine the rescue category to be two less than the category applicable to the largest of those aeroplanes."*

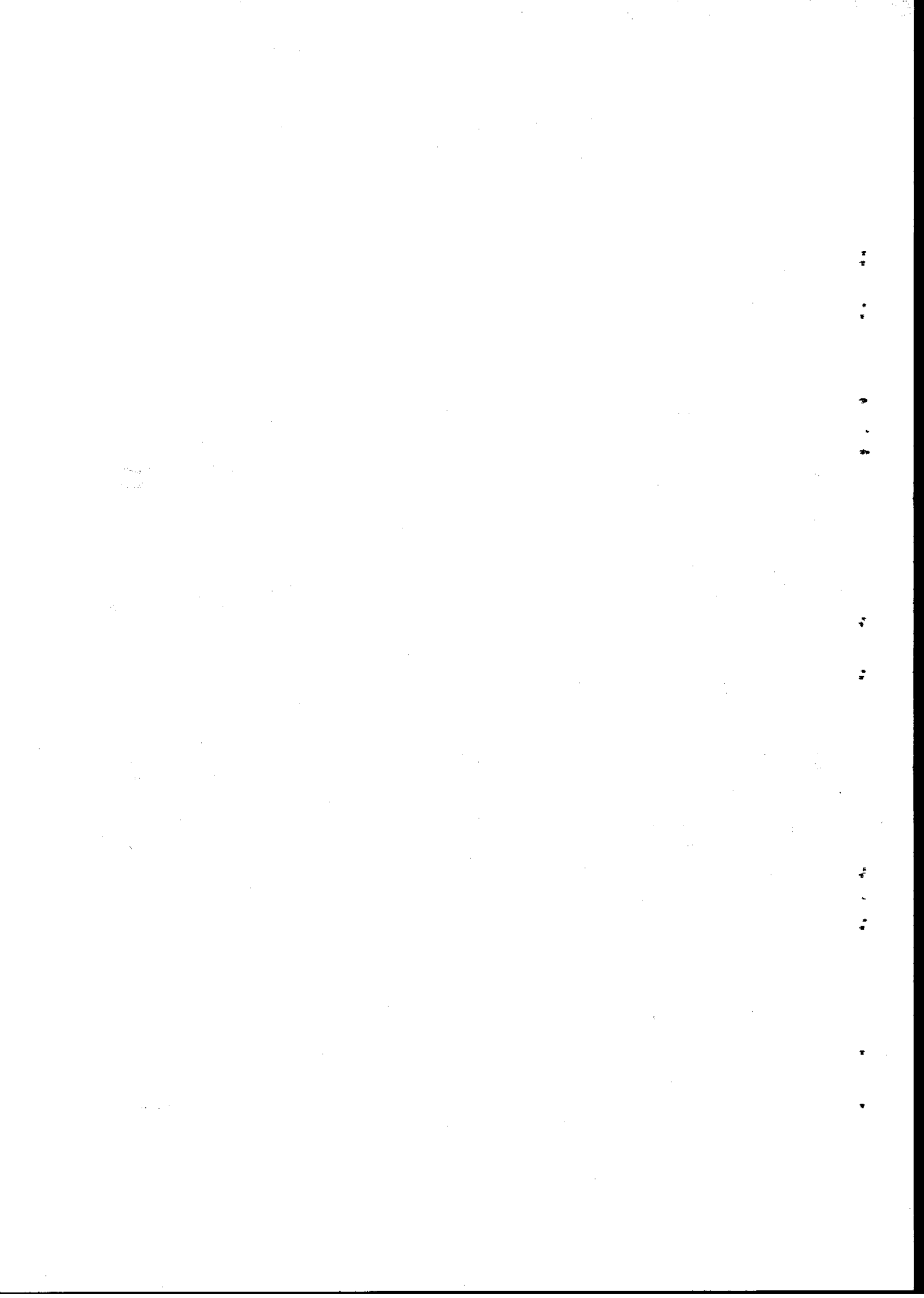
Air New Zealand (Engineering Services) said that the language in paragraph (b) is difficult to understand. They questioned if paragraph (b)(1)(i) should really be (b)(2) and not a subparagraph of (b)(1).

**Authority response:** We accept that the rule was difficult to understand and interpret. The rule is amended to reflect the ICAO recommendation contained in Annex 14, Attachment A, paragraph 17.2.

ALPA and one other commenter said that the absence of any requirements for domestic aerodromes with less than 700 movements of non-turbojet aircraft were entirely objectionable to them.

**Authority response:** The advice received from professional fire fighters is that the equipment and extinguishing agents of the Domestic D2, equivalent to ICAO Category 1, is completely inadequate for aeroplanes with more than thirty passenger seats. This requirement cannot therefore be justified on a cost benefit analysis. The other twenty commenters did not comment on this issue.

Mount Cook Airlines said that the use of "certified seating capacity" is incorrect and should be actual seating capacity as there are optional seating configurations available to the operator.



**Authority response:** The aircraft dimensions are the basis for the ICAO aerodrome rescue and fire fighting category determination. The certified seating capacity is a practical means of expressing an aircraft's overall dimensions and its risk potential. Certified seating capacity relates directly to the basis for aircraft type certification and does not relate to optional seating configurations. This criterion is also applicable to the requirement for the certification of aerodromes and is thus a constant factor used in the part.

**Airways Corporation** said that the provisions of paragraph (b) are unclear about the downgrading to domestic level at an aerodrome during periods without international operations.

**Authority response:** The paragraph is quite clear in that international aerodromes maintain the international firefighting category during all operations. There is no provision, or intention, to allow for downgrading to domestic standards at these aerodromes.

**The Tauranga District Council** said that paragraphs (c)(1) and (2) need clarification to allow aircraft to deviate to an alternate aerodrome for, say, weather related reasons where the alternate aerodrome is at a lower category than would otherwise be provided for that aircraft if it were a regular scheduled service.

**Authority response:** This is a requirement placed on the aircraft operator rather than the aerodrome operator. Aircraft operators are authorised to nominate alternate, or diversionary aerodromes, which have a lesser rescue fire fighting category than that normally required for the aircraft type. In these circumstances the aerodrome operator can decide whether the aerodrome is available as an alternate or diversionary aerodrome and meet any rescue fire fighting capability required by the aircraft operator.

## **NPRM 139.59 Rescue and Fire Fighting — Extinguishing Agents and Vehicles**

Two comments were received about the vehicle marking requirement for a single conspicuous colour. WIAL said that they couldn't see the merit of a single colour. Airways Corporation considered that the requirement should be the same as ICAO Annex 14 Chapter 6 paragraph 6.2.6. The ICAO recommendation is based on sound research.

**Authority response:** The comment about the ICAO recommendation is accepted and adopted. As stated, the ICAO recommendations are based on sound research and without any other data or research it is adopted as an effective safety measure.

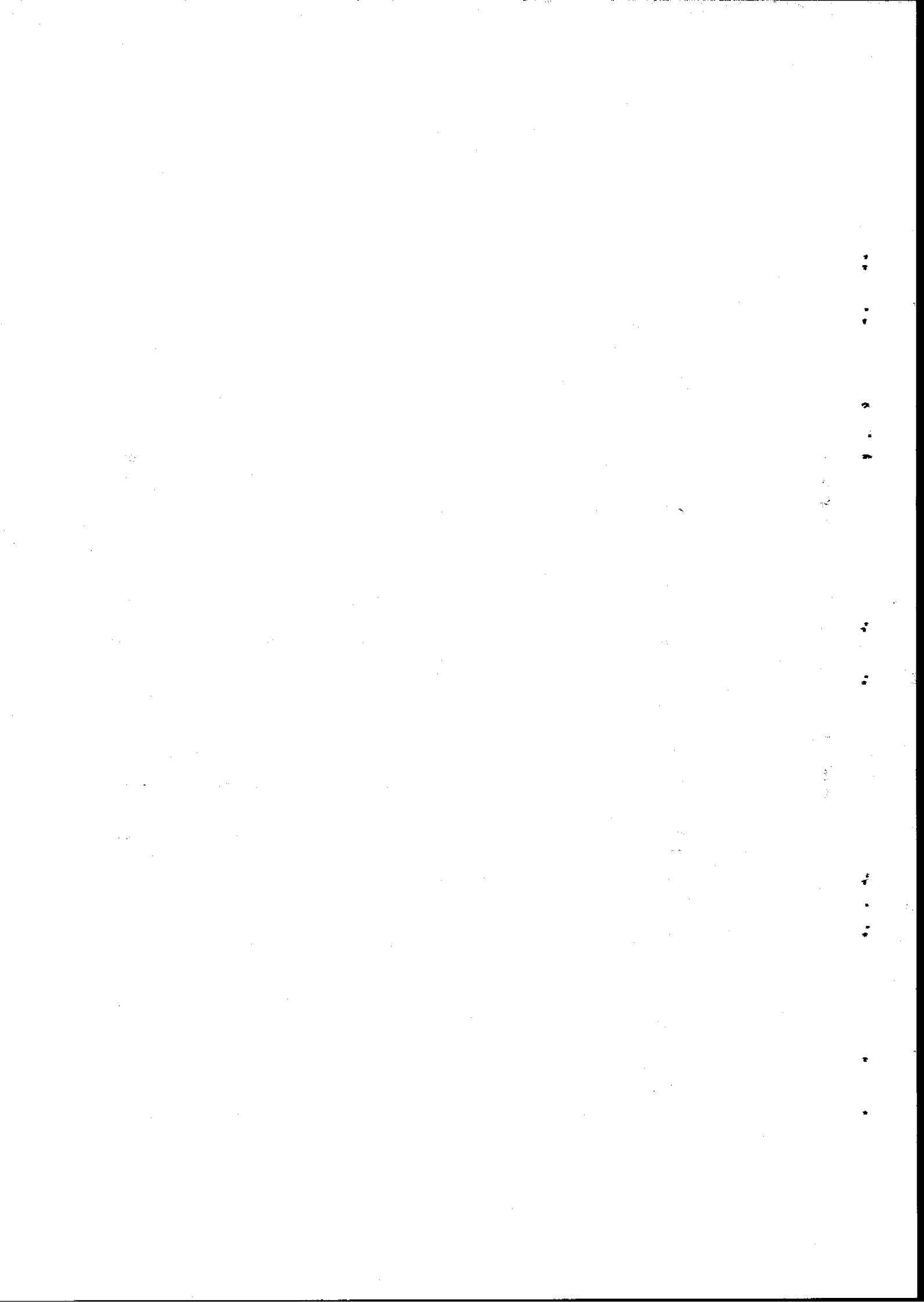
**ALPA** said that vehicles should be required to communicate on a discreet frequency with aircraft, and paragraph (c) should require communication equipment on the local aerodrome frequency.

**Authority response:** This suggestion has merit but may not be acceptable at all aerodromes and by all aircraft operators. This matter is best left to each aerodrome to resolve with their rescue fire fighting unit and the aircraft operators rather than placed in a rule.

## **NPRM 139.61 Emergency Access Roads**

Two commenters said that the provision of access up to 1000 metres from the threshold may not be achievable as access is dependent on other parties with authority over the land.

**Authority response:** The Authority has determined that the provisions of this rule are of an advisory nature and the requirement for providing emergency access roads is one to be determined by the aerodrome operator for compliance with the response capability requirement. The rule has therefore been deleted.





## **NPRM 139.63 Public Protection**

Mount Cook Airline disagreed with this requirement said that the need varied from aerodrome to aerodrome and it would lead to a gross waste of finance. Pedestrian access is available at any point around every aerodrome the rule will require a 1200 millimetre fence around the entire perimeter which does nothing to prevent access.

**Authority response:** There have been several occasions when inadvertent entry by persons, vehicles and animals has endangered aircraft operations. While this commenter suggested that fences would not prevent access, the rule requirement is to prevent "inadvertent" access. The suggestion that a 1200 millimetre fence is required around the perimeter of every aerodrome is not a correct interpretation of this rule. This type of fence is required in areas next to the aerodrome operational areas to which the public have direct vehicle or pedestrian access. In other areas the fencing standard is decided by the type of animals about the aerodrome and these same fences should deter the inadvertent incursion by any person.

ALPA considered that a 2000 millimetre fence provides a better physical and visual barrier.

**Authority response:** The 1200 millimetre fence is the New Zealand standard for this type of fence and has been erected by most aerodromes under the previous regulatory requirements. This type of fence has proven to be adequate to prevent inadvertent incursion in the past and this suggestion has not been adopted.

Tauranga District Council said that the term "movement area" in paragraph (b)(1) should be more specific, for example, "main movement area", "terminal area".

**Authority response:** The word "movement area" is replaced with the word "aerodrome operational area" which, as defined, provides a specific description of the aerodrome areas requiring protection. The requirements in (b)(1) are quite specific and we feel that they cannot be improved on.

## **NPRM 139.65 Wildlife Hazard Management**

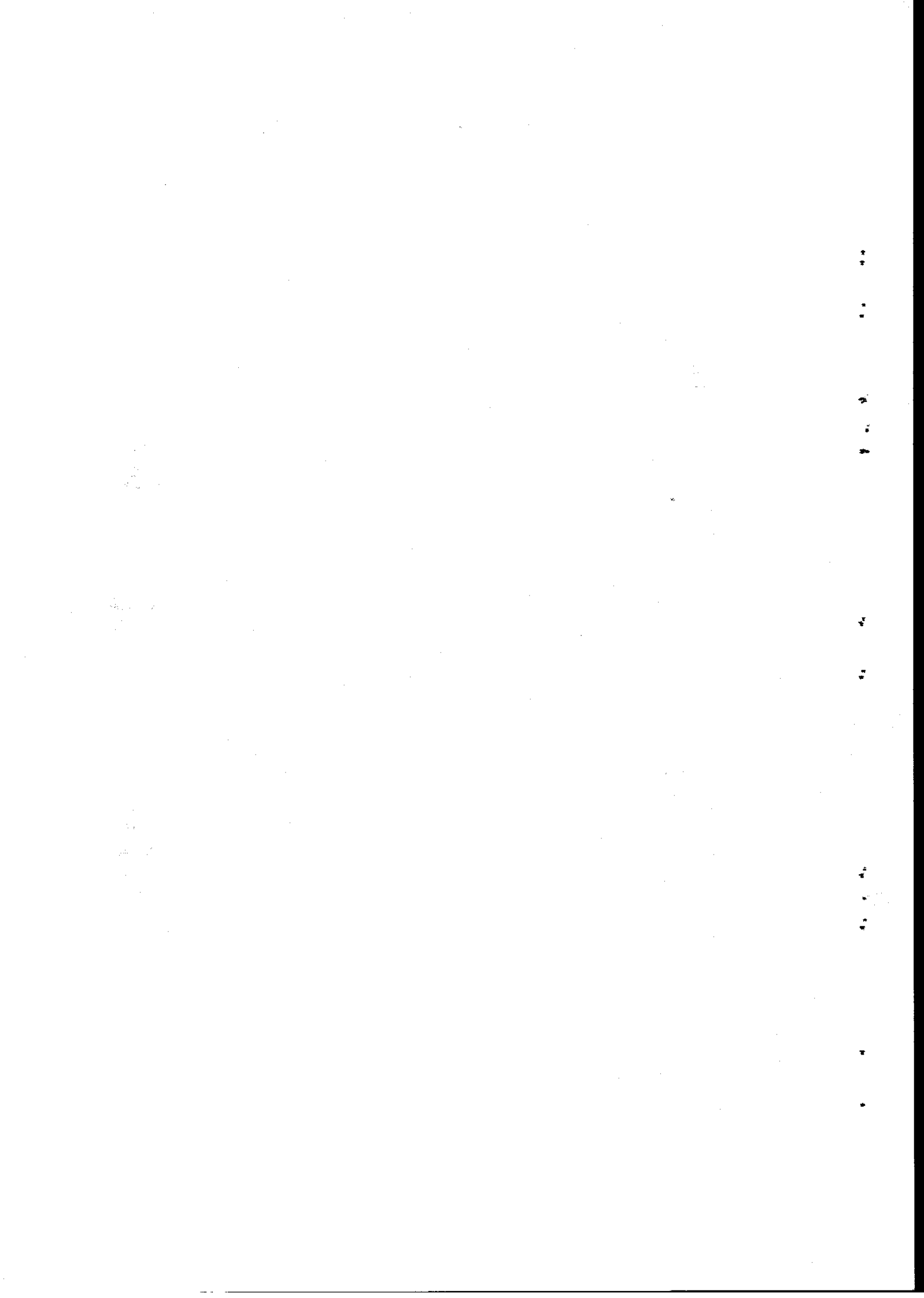
One commenter said that the requirement for a management programme will not be justified and a programme should only be required when there is an actual hazard.

**Authority response:** The rule is amended to require a programme only where any wildlife at the aerodrome presents a hazard to aircraft operations.

## **NPRM 139.71 Aerodrome Certificate Exposition**

One commenter said that "paragraph (a)(1), (2), (3) and (4) assumes large airports employing a number of staff and will not be appropriate to many aerodromes". Because the requirements listed and numbered (1) to (21) may not be required in some aerodrome's exposition, the wording in paragraph (a) should be changed and after the last word "contain" add "if appropriate to that aerodrome".

**Authority response:** For a very small operator with a limited and uncomplicated scope of operation, the operator's exposition could be quite a simple and concise document. Nevertheless the basic criterion generally applies to all aerodrome operators. The listed items to be included in the exposition apply to all aerodromes to some extent and therefore must be included in the exposition.



Three commenters said that the rule does not properly recognise the existing circumstances where some services, notably visual aids, are provided and operated by another party, or are supplied under contract to the aerodrome operator. They suggest that these items should have an addition to the rule stating "where these are provided by the aerodrome operator".

**Authority response:** The matter of who provides the services is not material to this requirement. The aerodrome operator has the primary responsibility for compliance with this Part. If a service is provided by contractual or other arrangements, the aerodrome operator must ensure that the other party also complies with this Part. This will require a statement of relationship in the exposition and the procedures being adopted by the aerodrome operator for the assurance of continued compliance by the other party.

Mount Cook Airline stated "that no person can make the statement" required under paragraph (a)(1)(ii). "The statement can require staff to comply but how can a Chief Executive state that no person will ever deviate from the requirements".

**Authority response:** It is reasonable to expect the head of the organisation to make a statement to the effect that the "exposition will be complied with at all times". This is a general statement of corporate intent which directs the staff to be compliant not a personal undertaking with personal legal implications. The commenter seems to have misunderstood the intent of the text.

Airways Corporation considered that paragraph (a)(8) was difficult to interpret and should be edited for clarity.

**Authority response:** This has been edited to improve clarity. The rule addresses the basic information required and this is expanded upon in the Advisory Circular.

AIAL did not accept that it is necessary to list the specific extinguishing agents in the ACE although of course it would be happy to list the generic character of the extinguisher.

**Authority response:** No reason was stated in support of this comment and, lacking any other submission, this will remain unaltered.

## Subpart C — Operating Requirements

### NPRM 139.103 Aerodrome Maintenance

One commenter questioned why a maintenance programme including preventive maintenance was required. They said that if a defect occurs, the aerodrome operator merely gets a contractor to fix it. Another commenter also questioned the requirement saying that surface inspections will determine the need for maintenance, and major repairs must be budgeted anyway.

**Authority response:** The thrust of this requirement is the prevention of defects through a scheduled maintenance programme. This has been found to be far more effective than random inspection for defects. The philosophy of *prevention being better than a cure* is fundamental to all aviation safety activities and this includes aerodrome operations.



## **NPRM 139.105 Visual Aids for Navigation — Maintenance and Checking**

One commenter considered that further investigation will be required to ensure that the rule can be complied with at an aerodrome where the aids are owned and maintained by another party.

**Authority response:** We do not accept that there is any difficulty for the aerodrome operator to comply in these circumstances.

ALPA considered that the rule should be amended to "ensure that each aid for navigation provides reliable and accurate ... in accordance with the tolerances established in Civil Aviation Document 139.01, Aerodrome Design ..."

**Authority response:** Although the Civil Aviation Authority Document 139.01 was proposed to be incorporated by reference in the NPRM it will now have the status of an Advisory Circular. This will provide an acceptable means of compliance with the rules. This is a similar approach to the way other state authorities, Australian CAA and USA Federal Aviation Administration, administer their aerodrome standards.

## **NPRM 139.109 Aerodrome Emergency Plan — Maintenance**

ALPA said that paragraph (a)(3) should be amended by adding "... in consultation with the emergency services".

**Authority response:** The Advisory Circular on aerodrome emergency planning does call for the participation of the other emergency services and we do not support the argument that the provision is necessary in the rule.

Tauranga District Council suggested amendments as follows —

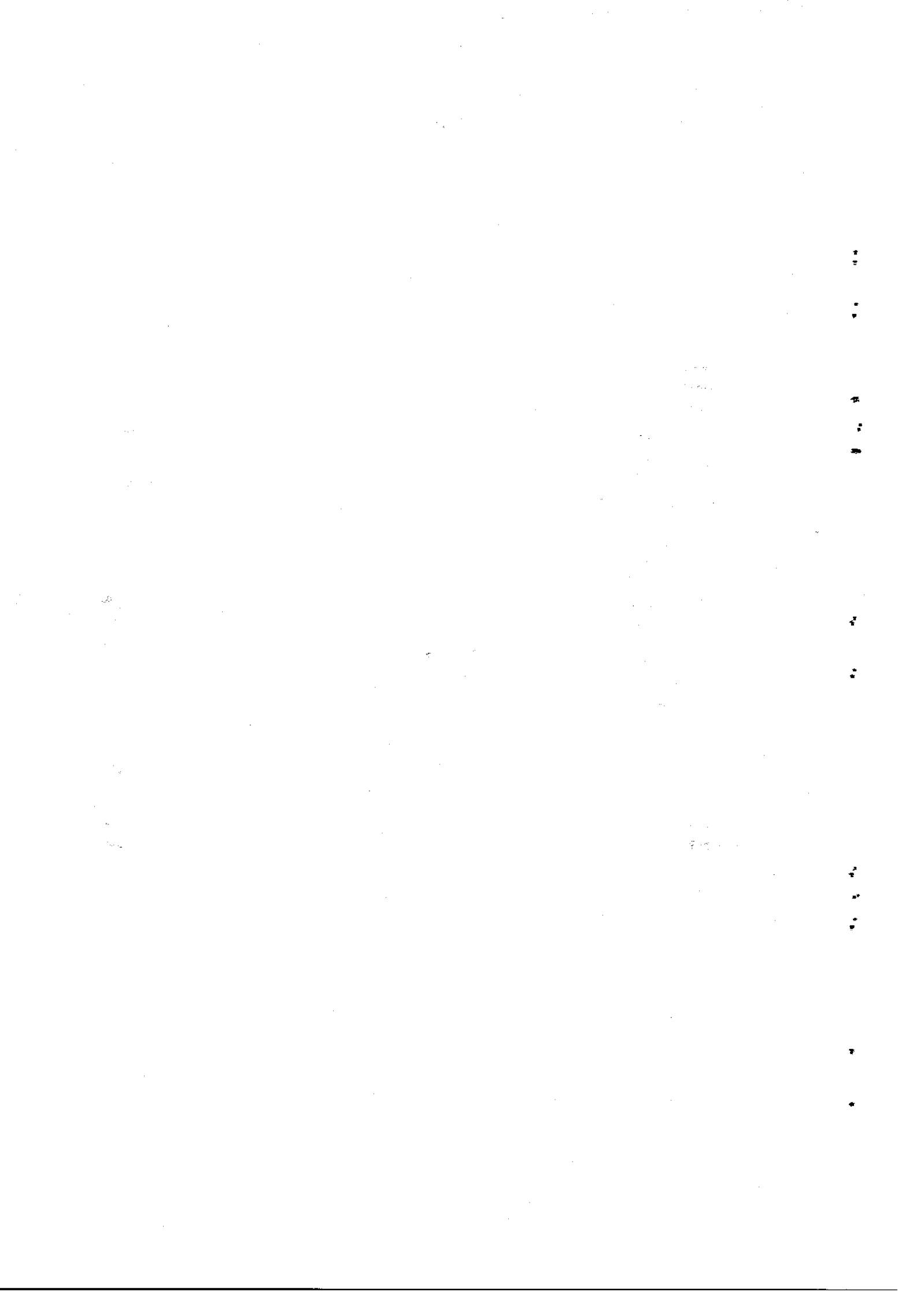
- paragraph (a)(2)(ii): insert the words "or table-top" after the word "partial".
- paragraph (a)(2)(ii): delete all after "intervening year" because the various agencies use the exercises as training and involve new people for experience, it cannot be expected to correct every deficiency.
- paragraph (a)(3): change the wording to read "... any serious omission ..."

**Authority response:** The "table-top" exercise is complementary rather than an option to the other emergency exercises. The ICAO Airports Services Manual Part 7, Chapter 13, paragraph 13.2.3 addresses this issue saying "It is desirable that, in addition to the full scale and speciality emergency exercises, a "table-top" exercise, involving the airport emergency plan co-ordination committee, be held at least annually but not coincidental with any of the above (full scale and speciality exercises) emergency exercises". The rule is amended by replacing the word "partial" with "special" as used in the ICAO documents.

The comments about (a)(2)(ii) and (a)(3) are not accepted as the commenter has placed a literal rather than a practical interpretation on these requirements.

## **NPRM 139.111 Rescue and Fire Fighting — Operational Requirements**

Mount Cook Airline considered that the operational requirement for rescue and fire fighting should be placed on the aircraft operator. They stated "who provides it is immaterial".



**Authority response:** This suggestion is a fairly radical departure from what is currently accepted practice. The practicalities of taking the suggested approach have not been considered in the drafting of the NPRM. The aerodrome operator presently has to anticipate the requirements of all the aerodrome users and it is not intended to change this approach.

**ALPA and the Airways Corporation** restated their earlier comments to NPRM 139.59 that the ICAO standard should apply to all aerodromes.

**Authority response:** Our response to their comments on NPRM 139.59 is the same for these comments, that is, the domestic rescue fire standard was previously formulated and agreed to by the aviation industry.

**ALPA** rejected paragraph (c) saying that the types of aircraft being operated "are precisely incapable of prediction". Unless full rescue and fire fighting capabilities are available at, say fifteen minutes notice, the entire rationale behind providing an emergency service is debased. Bearing this comment in mind, this commenter considered that the adequate periods of notice in respect of paragraph (d)(3) would be 4 hours for domestic aerodromes and 24 hours for international aerodromes.

**Authority response:** The types of aircraft to be operated at an aerodrome are predictable given that most of the types of aircraft requiring this service, operate to a scheduled timetable. All aircraft are also required to be on a flight plan and normal administration processes should allow for advance notice of any arrivals. The need for the proposed amendment is not accepted.

**One commenter** stated in relation to paragraph (d)(2), "why have the necessity in to recall the service if there are no aircraft operating that require the service".

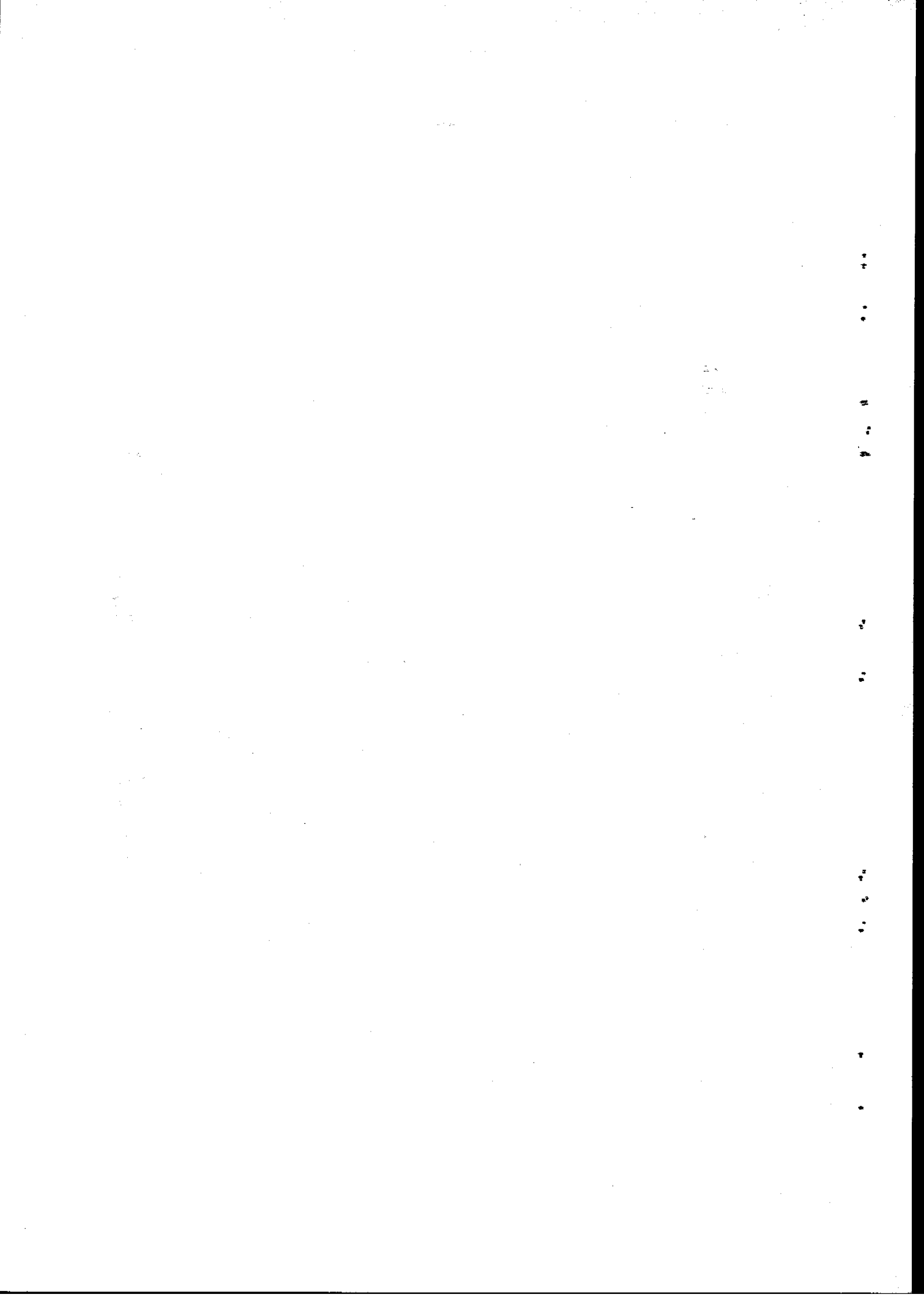
**Authority response:** This is a literal interpretation of the rule where the practical interpretation allows for the complete stand down of the services during periods of operation without the aircraft types requiring the service. In this event, which is a common overnight occurrence, the procedures are for recall of the service when next required. The rule remains unchanged.

**One commenter**, concerning paragraph (d)(3), considered that private aerodromes should have the option to use NOTAM or another method.

**Authority response:** The rules require all certificated aerodromes to have their information and data promulgated in the New Zealand Aeronautical Information Publication (AIP). This approach supports the discharge of responsibilities by New Zealand as a Contracting State to ICAO. The NOTAM system is the means by which notification of change to aerodrome information and data is provided to aircraft operators. The types of operation into, and the use of, the aerodrome is not considered relevant to the approach proposed in the NPRM. This represents no change to the present situation.

**One commenter** stated that the 72 hours allowed for restoration of service in paragraph (f) are too restrictive and that 7 days should be allowed.

**Authority response:** The period of 72 hours has been selected on the basis that the same provision has been given to some aircraft operators, in this country and other states, and is a rational practice. This period matches the maximum acceptable exposure for aircraft operating at a reduced rescue and fire fighting service.





## Part 139 Aerodromes — Certification, Operation and Use

**Airports Division AIA** considered that the final sentence in paragraph (f) should be deleted, saying that the aeroplane operator is the one who should make the decision to operate aeroplanes in the event of reduced equipment availability. The aeroplane operator will bring appropriate pressure to bear on the certificate holder to maintain the required level of equipment.

**Authority response:** The operator requirement will be determined by the appropriate operating rules at a later date. The requirement placed on the aerodrome operator by Part 139 gives an assurance of a reasonable level of continuity of a rescue and fire fighting capability on which aircraft operators can plan their ongoing operations.

**ALPA** submitted the following amendment to paragraphs (g) and (h):

- (g) Each certificate holder shall, with the rescue and fire fighting equipment required under this Part and the number of trained personnel which will assure an effective operation, respond appropriately to every emergency.
- (h) The response required by paragraph (g) shall achieve, during operations by aeroplanes having a certificated seating capacity of more than 30 passengers, the following performance —

**Authority response:** The proposed amendment to paragraph (g) would require the aerodrome operator to provide the service and respond to an emergency incurred by any aircraft and any other unspecified emergency. This would be at variance with the requirements of paragraph (a) that requires the fire fighting capability to be provided during operations by aeroplanes having a seating capacity of more than 30 passenger seats. The provision of capability and the response to other emergencies is one for the aerodrome operator to decide.

**WIAL, Air New Zealand (Engineering Services), Mount Cook Airline, and ALPA** commented that the wording used in paragraph (h)(1) about response time was "curious", "confusing", "contradictory", and suggested alternatives. ALPA suggested that the requirement should be within 3 minutes, and the others within 2 minutes in optimum conditions or three minutes in all other circumstances.

**Authority response:** This requirement is now placed in Final Rule 139.67 which is amended to make a clear concise statement of the required performance criteria.

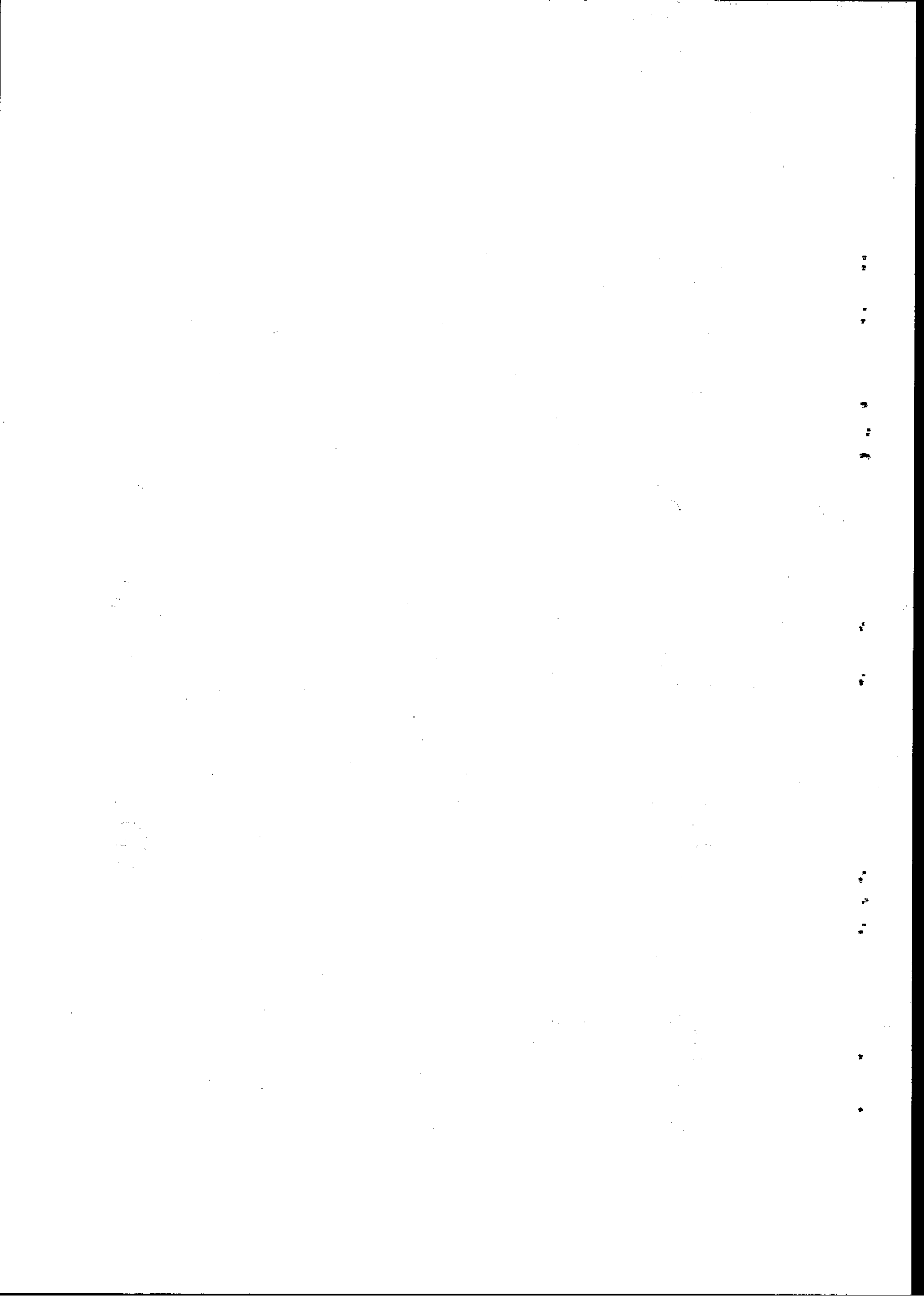
**Airways Corporation** said that in paragraph (h), the discharge rate of 50 percent is incorrect with reference to ICAO Annex 14, Table 9.2.

**Authority response:** The paragraph is written to reflect the ICAO recommendation in Annex 14, Chapter 9, paragraph 9.2.17, Note 1 and is therefore correct as written.

**ALPA** recommended that paragraph (h) to be renumbered (l)(5) and state:

- (5) alerted by siren alarm or other means capable of being operated from any fire station, air traffic control or flight service station to any existing or impending emergency requiring their assistance.

**Authority response:** It is not seen as necessary to specify where the alarm will be operated from. This general application will be specified in detail by the aerodrome operator in the aerodrome exposition addressing this requirement. The aerodrome operator is responsible for ensuring that the alerting system in use is effective.



## **NPRM 139.113 Aerodrome Aircraft Traffic Management**

Airports Division AIA, Mount Cook Airline, and Tauranga District Council, said that they disagreed with the use of trigger levels to require a study to decide if an air traffic service is required. They said that the need for consultation between the certificate holder and the aircraft operators, and the Authority (where appropriate) would establish whether or not an air traffic service is required.

ALPA recommended an amendment to paragraph (c)(5) to state:

- (5) any other safety factors, including the types of air traffic involved, the density of air traffic and the meteorological conditions, bearing on the matter of which the Authority is aware.

WIAL said that paragraph (e) is information and probably not a rule.

**Authority response:** It is concluded that it is not possible to define the precise criterion or trigger level to identify the need for aerodrome air traffic services. The Director will now continue to have the authority to require the provision of air traffic services. We agree that the need for consultation between the aerodrome certificate holder, the aircraft operators and the Authority will provide a better forum for decision making than a defined trigger level.

## **NPRM 139.115 Apron Management Service**

AIAL asked what is meant by "when warranted by the volume of traffic and operating conditions?" Tauranga District Council said that the volume of traffic must be more specific, for example, international aerodromes.

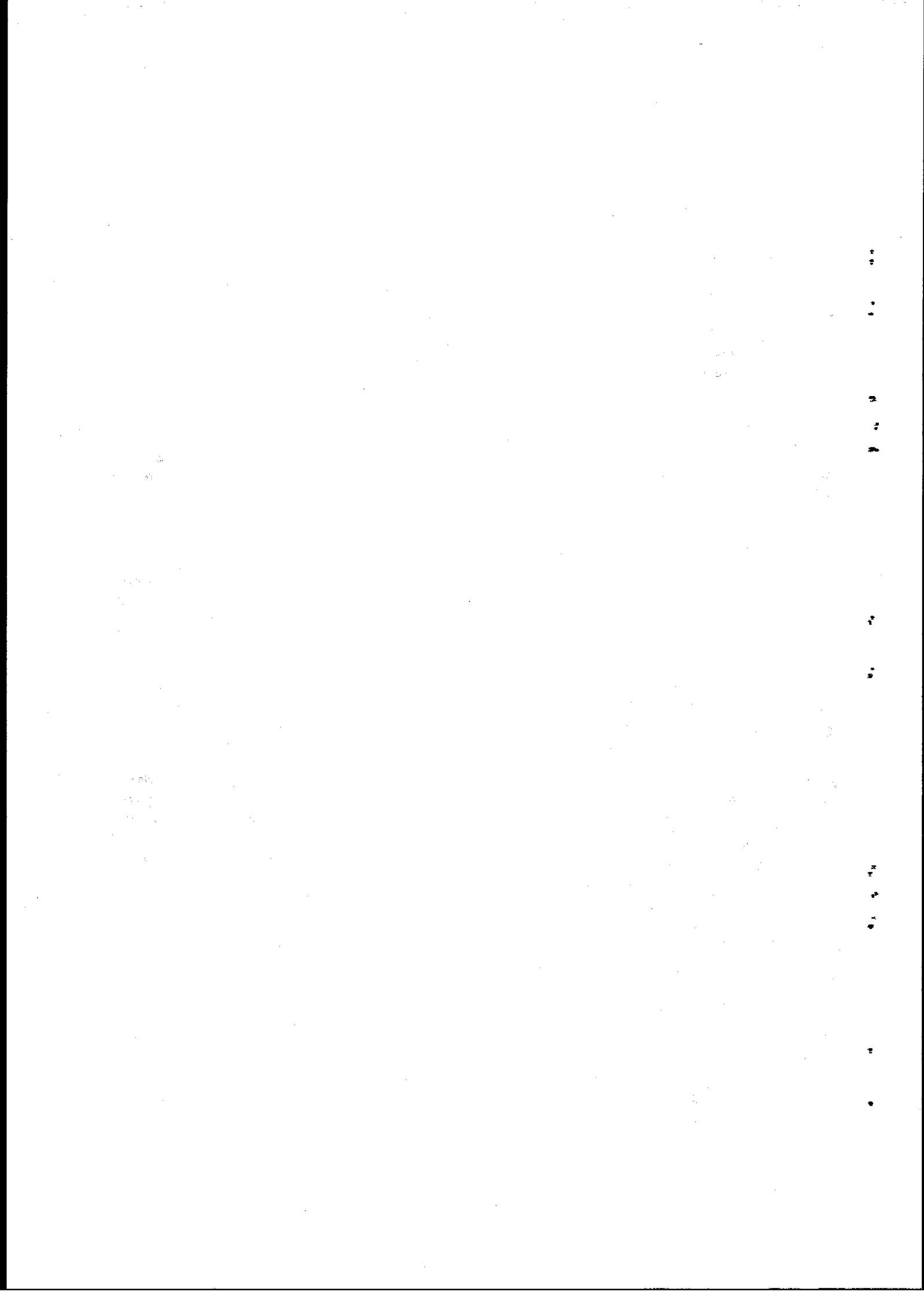
**Authority response:** There is no precise guidance in terms of volume of traffic for this requirement. Each holder of an aerodrome operating certificate must exercise judgement about their own situation in the light of experience and in consultation with aeroplane operators.

ALPA recommended the addition of the requirement for surface movement radar for use in low visibility if appropriate.

**Authority response:** Surface movement radar is an adjunct, and not an alternative, to provision of visual guidance and control facilities and manoeuvring area protection measures of the surface movement guidance and control systems adopted at aerodromes. In particular the need for surface movement radar is generated by extensive movement areas, low visibility operations, and high density traffic. This is not a requirement specific to the apron area and therefore this comment is not accepted. However, ICAO Document 9476, Manual of surface movement guidance and control systems (SMGCS), will be referred to the aerodrome operator. Should a New Zealand aerodrome have those elements that require surface movement radar they would be expected to comply with this recommended practice.

## **NPRM 139.119 Ground Vehicles**

One commenter said that "some allowance in this rule must be made for aerodromes who support the clubs and recreational users. Many airport authorities allow vehicle access to areas on their aerodromes where this activity takes place, for example, parachuting, gliding, model aeroplanes. Aerodromes are a public amenity and as long as access to vehicles for specified activities is controlled, it must be allowed to continue".



**Authority response:** This provision should not be an impediment to the continuation of these activities. However their movements, and other movements, must be controlled with procedures established to ensure that they do not create a hazard to the safety of aircraft operations.

### **NPRM 139.121 Protection of Navigation Aids**

ALPA recommended an amendment to paragraph (2) by adding "through the use of secondary power supplies, circuit design, and monitoring equipment".

**Authority response:** The criteria for the provision of secondary power supplies, circuit design, and monitoring equipment are contained in the aerodrome design manual. The purpose of this paragraph is to prevent any activity that may be detrimental to any guidance output of a visual or electronic navigation aid on the aerodromes.

### **NPRM 139.123 Aerodrome Condition Reporting**

Mount Cook Airline said that there is no need for private aerodromes to utilise the NOTAM system and private aerodromes should be permitted to directly notify the aircraft operators by another system.

**Authority response:** This has been addressed previously in response to NPRM 139.111 Rescue and Fire Fighting Operational Requirements.

ALPA recommended that paragraph (a) be amended by adding after the words "aerodrome condition" the words "or deficiency".

**Authority response:** The paragraph is amended by adding the word "defect" rather than "deficiency".

AIAL recommended that paragraph (a) be amended by adding after the words "aerodrome condition" the words "of which it is aware". The same commenter also said that this is a very general provision and that there is a need to be more specific as to the nature of the "condition" and the degree of risk.

**Authority response:** The aerodrome operator systems and procedures should ensure awareness and specify the criteria to identify the conditions that may affect the safe operations of aircraft. Guidance is provided in Advisory Circulars in the 139 series.

### **NPRM 139.127 Changes to an Organisation Holding an Aerodrome Operating Certificate**

Airports Division AIA, AIAL, WIAL, and Mount Cook Airline stated that the prior notification and acceptance of the Chief Executive and the senior listed persons is not required as the Authority have the power to reject a person if that person is found not fit and proper. One commenter extended the objection to the provisions of paragraph (d)(2), quality assurance procedures, suggesting that the requirement be acceptable to the Authority but not require prior notification.

**Authority response:** Acceptance by the Director and the fit and proper person test are the same thing. The application of a fit and proper person test will be carried out before acceptance by the Director of either the chief executive or listed senior persons. This rule allows the process to take place without invalidation of the certificate.

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We agree that the requirement about the internal quality control procedures is too restrictive and it is now deleted.

## Subpart D — Aerodrome Security

### NPRM 139.203 Requirements for Security Designated Aerodromes

ALPA said that paragraph (d) should be amended by adding "in consultation with the appropriate security service".

**Authority response:** This rule relates to the provision of security facilities not security services and the inclusion of consultation is not appropriate in the rule. This does not preclude consultation taking place between the certificate holder and the provider of the security service.

WIAL said that the seating capacity of 25 in paragraph (d)(2) should be amended to "having a certified seating capacity of more than 30 passengers". This would equate to the criteria for aerodrome certification.

**Authority response:** We agree and the rule is amended.

WIAL said that the requirement of paragraph (d)(4)(i) for hold stow baggage screening facilities could impose substantial capital costs on operators. The commenter questioned the need for this requirement given the current level of threat and asked whether a cost benefit assessment had been conducted. The same commenter stated that the same comments applied to the requirements for domestic aerodromes.

**Authority response:** This is the same as the previous requirement under Regulation 9 of the Civil Aviation (Security) Regulations 1989. This rule does not make a requirement for hold stow baggage screening facilities as suggested.

CIAL said that while responsibility for day to day Aviation Security operations remains segregated from other aspects of aerodrome management, the term "facilities" needs to be defined. As intended in this rule, it does not include equipment or furniture. It is also open ended in that paragraph (d)(4) includes the word "including -". They suggested that we reword this rule as follows:

- "(4) provide areas for the screening of international passengers, baggage, or both, prior to aircraft boarding; and
- (5) provide sterile areas where international passengers subject to screening are prevented from having access to unauthorised articles, or contact with un-screened passengers; and
- (6) provide areas for the separation of arriving passengers from departing passengers during international deplaning to prevent arriving transit and transfer passengers having contact with any person who has been subject to screening; and
- (7) when deemed necessary by the Authority, to respond to a security threat, ...".

**Authority response:** We agree that the word "including" in paragraph (4) makes the rule open ended. We have amended paragraph (d)(4) to say "provide the following areas for the screening of passengers" as a simpler means of affecting the amendments suggested by CIAL.

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AIAL questioned the necessity for the provisions in paragraph (d)(4)(iii) as opposed to a preferred practice stipulated in the Advisory Circular or the Aerodrome Certification Exposition stating "this specific provision appears to impinge on methods of operation as opposed to standards". AIAL further stated "the objective of the new rules is to allow participants maximum flexibility to develop their own means of compliance with standards in the rules". They submit that the methods of compliance should not be set down in rules at least until the whole question of responsibility for aviation security has been resolved.

**Authority response:** We do not agree with this comment as this paragraph is a continuation of the specifications for the security facilities required at designated security aerodromes. This is not a method of operation. This paragraph is a recently adopted ICAO Standard promulgated in Annex 17.

CIAL said that the requirements of paragraph (d)(7) is an operational requirement rather than a facility requirement and should be in Part 110. This paragraph should be rewritten to say;

"(7) ensure that concession areas situated in an area accessible to screened passengers are designed in such a way that provides access control measures sufficient to preclude the delivery to any screened person ..."

**Authority response:** We agree that the rule as written is an operational requirement. The suggested amendment is adopted as it properly relates to the provision of security facilities.

## **NPRM 139.205 Requirements for Non-Security Designated Aerodromes**

Mount Cook Airline said that the requirement under paragraph (2) for the lighting of any parking area used at night should not be mandatory.

**Authority response:** This is a repeat of an existing requirement. However, 139.203(d)(3) is amended to allow the option of portable lighting.

Tauranga District Council strongly opposed the requirements of this rule as totally unrealistic, financially and practically impossible, and cannot be justified by experience.

**Authority response:** There seems to be some misunderstanding of this provision by the commenter. The requirement is for a contingency plan, not a separate expensive facility as suggested. There may be a requirement for passenger and baggage screening at any domestic aerodrome any time a security threat is identified. If a domestic aerodrome cannot provide these facilities when requested, the aircraft operation requiring the security service could not take place at that aerodrome.

## **Subpart E — Use of Aerodromes**

### **NPRM 139.303 Use of Aerodromes — Air Transport Operations**

The proposed paragraph (b) which provided for the use of a runway having a width less than the standard design width has been deleted. There are no established criteria to define standards, that provide the same level of safety, for runway widths less than those recommended by ICAO in Annex 14. In the absence of such a standard the Authority has decided to adopt the ICAO Annex 14 as the standard for all aircraft above 5700 kgs MCTOW that are engaged in air transport operations.



This is in accord with the Authority's ICAO obligation to protect international civil aviation. ICAO has considered the cut-off point between aeroplanes used for (international) air transport operations as being 5700 kg MCTOW on the basis that such aircraft can and do provide for the ongoing travel of international air travellers. The Authority is not aware of any country that has not, in principle, adopted a policy of applying ICAO requirements to domestic air transport operations by aeroplanes in excess of 5700 kg MCTOW. One reason for this is obvious. ICAO standards, recommended practices and procedures have been developed by specialists from all over the world who are the most competent people the member states could provide for the task. Their proposals have passed through an extensive process of scrutiny, in which member states have had opportunity to voice their opinions. Given the broad spectrum of nations belonging to ICAO it is unlikely that the standards are unduly high.

Except for the major aviation countries, lack of resources to conduct research and development makes it impracticable for countries such as New Zealand to determine a level of requirement different from ICAO.

The few approvals given to operators to operate lesser width approvals have served their purpose for establishing air services which otherwise may not have been developed.

Those aircraft operators holding approvals to operate lesser width runways will be allowed to continue such operations for a reasonable period of time for them to consider their options.

ALPA suggested that the requirements of [NPRM 139.305(a)(2)] could be usefully repeated in this rule.

**Authority response:** This suggestion has been adopted in the rewritten rule.

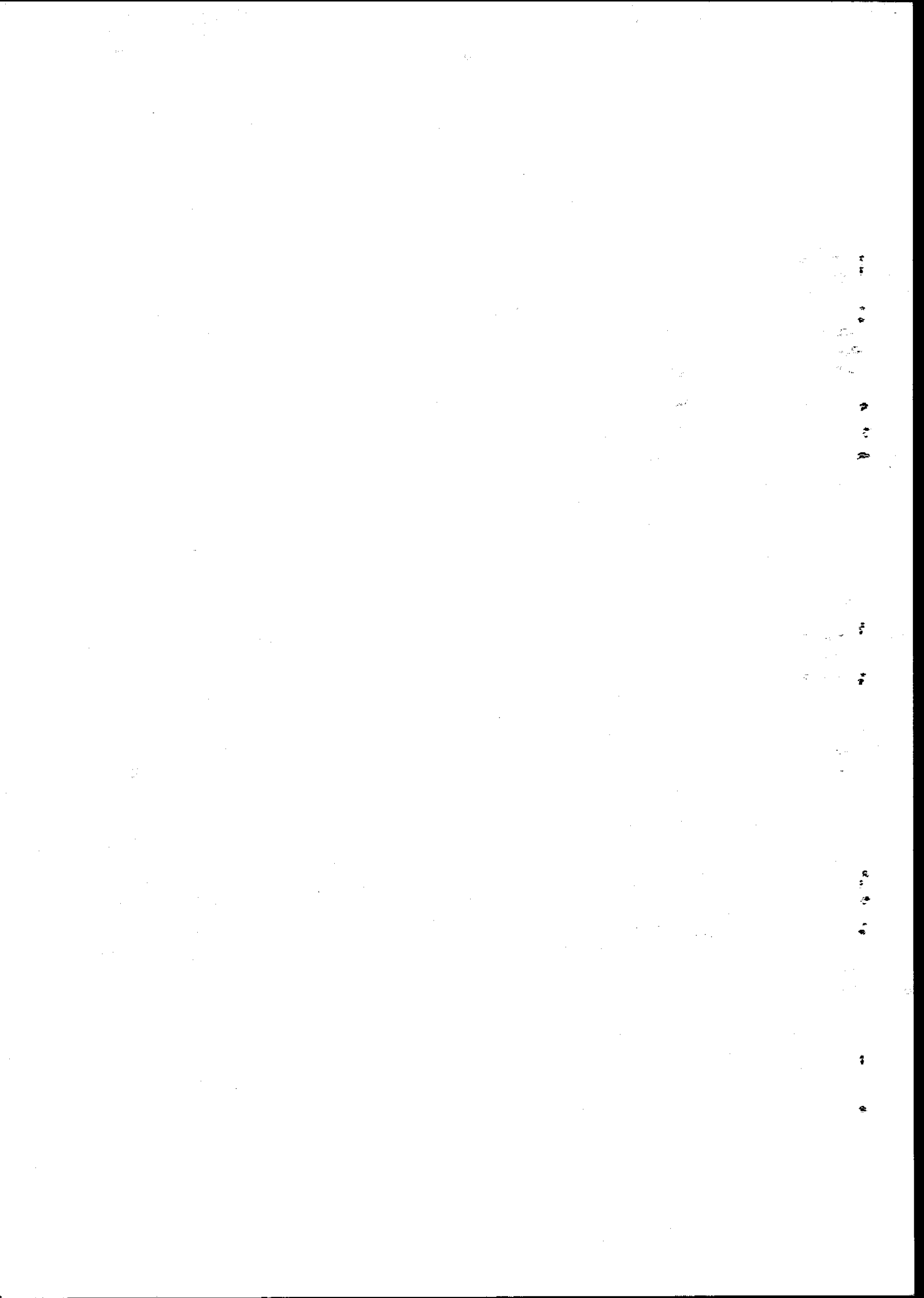
ALPA said that it does not understand the requirement of paragraph (a)(5) for pilots to "employ a checking system ..."

**Authority response:** A major change from the existing approach is that the Authority will no longer have in place a licensing regime for aerodromes serving air transport aircraft with 30 seats or less. The Authority will no longer undertake regular aerodrome inspections or provide services to aerodrome operators in matters relating to the operation and maintenance of aerodromes. The Authority will monitor the safety and adequacy of non-certificated aerodromes through spot inspections and the audit of air transport operators.

The provision to "employ a checking system ..." was written around the requirement in regulation 62(c) of the Civil Aviation Regulations 1953. This required the pilot in command to obtain information on the condition of any licensed aerodrome before commencing any flight. The addition of a checking system requirement was based upon a systems approach to the management of any air transport operation into any aerodrome. It was considered necessary to require a more systematic approach to condition checking to balance the reduction of direct Government involvement in these activities. A principal benefit is that aircraft operators will have greater freedom to develop commercial opportunities with a minimum of regulatory restriction.

ALPA expressed concern that, given the definition of "manoeuvring area", the requirements of paragraph (a)(6) would appear to preclude an aircraft from holding on a taxiway that another aircraft intends to use on landing by which time the first aircraft would have lined up on the runway.

**Authority response:** The rule is amended, by replacing the words "manoeuvring area" with "runway", which will resolve this problem.



One commenter considered that the provision of paragraph (b) should be repeated in [NPRM 139.305].

**Authority response:** This suggestion has been adopted in the revised rule.

## **NPRM 139.307 Use of Heliports**

The Helicopter Division of the AIA said that the term "city, town" used in paragraph (a) should be deleted. The "city, town" boundaries may encompass areas of farm land adjacent to populous area.

**Authority response:** We agree that there could be, and often are, unpopulated areas within the boundaries of cities and towns. As the objective is the protection of third parties, the term *populous area* is appropriate and the words "city, town" have been deleted.

The Helicopter Division of the AIA stated that the Volume 3 Aerodrome Design Manual, Heliports, should be an Advisory Circular.

**Authority response:** This is agreed to.

The Helicopter Division of the AIA recommended that, in paragraph (c)(2), the word "undue" be inserted before the word "risk".

**Authority response:** This is agreed to.

### **Table 2b. Number of rescue and firefighting vehicles.**

ALPA recommended that a note be added to the Table which states:

"For aerodromes located near to difficult or muddy terrain, water, or swampy areas or other difficult environment, suitable rescue and firefighting vehicles capable of operating in the area concerned and carrying the rescue and firefighting equipment shall be available".

**Authority response:** This suggestion would place the requirement on all certificated aerodrome. The note which is a copy of the ICAO recommended practice is applicable only to International aerodromes. This recommendation is contained in Advisory Circular 139.04 Aerodrome Rescue and Fire Fighting.

## **Conclusion**

The Authority concludes that, in the light of comments received, the majority of aviation industry participants favour the direction and general comments of the new rules. Specific issues that have been identified in the comments have been addressed and, where appropriate, changes have been made to meet the concerns raised. The comments and all background material used in formulating the rules are held on the Docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket file 1011.

## **Implementation**

This Part will come into force 90 days after its notification in the New Zealand Gazette. On that date, the holder of an aerodrome licence issued under regulation 185 of the Civil Aviation Regulations 1953 (the regulations) may, if an aerodrome licence is no longer required for that aerodrome, request the Director of Civil Aviation to revoke that licence under

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## Part 139 Aerodromes — Certification, Operation and Use

section 20(1) of the Civil Aviation Act 1990. Authorisations of places for use as aerodromes issued under regulation 186 of the regulations will become invalid on that date and the aerodrome user will assume responsibility for ensuring the safety of any non-certificated aerodromes used, as required by Part 139, Subpart E.

### Transition Arrangements

A period of 365 days from the coming into force of this Part will be allowed for operators of aerodromes licensed under regulation 185 of the regulations to have their aerodromes certificated under Part 139. During that period, the aerodrome licence will remain valid under the authority of regulation 185 which itself will remain in force for one year only. After that time, operators of aerodromes that require Part 139 certification must hold an Aerodrome Operating Certificate for that aerodrome.

Applicants for first time aerodrome certification must comply with the requirements of Part 139 unless the applicant requests the grant of an aerodrome licence under regulation 185 of the regulations. Such a licence would expire on the revocation date of regulation 185, one year after the coming into force of Part 139.

All aerodromes which are required to be certificated under Part 139 will be required to be operating under an Aerodrome Operating Certificate within 365 days of Part 139 coming into force. To enable these certificates to be issued within the 365 day period, aerodrome operators should submit their applications as soon as their documentation is complete and in any case not later than 90 days prior to the revocation date of regulation 185.

All remaining aerodrome licences issued under regulation 185 will become invalid on the date that regulation 185 is revoked.

Aircraft operators will be required to comply with Part 139, Subpart E (Use of aerodromes) from the date the rules come into force.

Those aircraft operators holding approvals to operate lesser width runways will be allowed to continue such operations up to 27 November 1994. At this date, any remaining Civil Aviation Regulations maintained for transition purposes expire and are deemed to be revoked.

### Regulatory Evaluation

An amendment to the regulations will come into force concurrently with Part 139. The amendment will cancel the requirements being replaced or phased out by Part 139 other than those necessary for the transition period. It will also make a number of consequential amendments. The regulations principally affected are regulations 9, 34, 62, 85A, 91, 184, 185, 186 and 187 of the regulations and regulation 9 of the Civil Aviation (Security) Regulations 1989. A number of cancellations and amendments to tertiary orders made under the regulations will also be made to remove requirements replaced or phased out by Part 139. Precise details of the changes to existing legislation will be notified during the period between the gazetting and coming into force of Part 139.

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