

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Parts 121 and 139**

[Docket No. FAA-2000-7479; Notice No. 00-05]

RIN 2120-AG96

**Certification of Airports****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to revise the current airport certification regulation and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10-30 seats. In addition, changes are proposed to address National Transportation Safety Board (NTSB) recommendations and petitions for exemptions and rulemaking. A section of an air carrier operation regulation also would be amended to conform with proposed changes to airport certification requirements. The FAA believes that these proposed revisions are necessary to ensure safety in air transportation and to provide a comparable level of safety at all certificated airports.

**DATES:** Comments must be submitted on or before September 19, 2000.

**ADDRESSES:** Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA-2000-7479, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: <http://dms.dot.gov> at any time. Commenters who wish to file comments electronically, should follow the instructions on the DMS web site.

**FOR FURTHER INFORMATION CONTACT:** Linda Bruce, Airport Safety and Operations Division (AAS-300), Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 267-8553, or E-mail: [linda.bruce@faa.gov](mailto:linda.bruce@faa.gov).

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested persons are invited to participate in this rulemaking by

submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

The Administrator will consider all comments received on or before the closing date before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals contained in this rulemaking may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA-2000-7479." The postcard will be date stamped and mailed to the commenter.

**Availability of NPRMs**

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: 703-321-3339), or the Government Printing Office's (GPO's) electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the GPO's web pages at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Communications must identify the notice number or docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking

Distribution System, that describes the application procedure.

**Background***History*

Since 1970, the FAA Administrator has had the statutory authority to issue airport operating certificates to airports serving certain air carriers and to establish minimum safety standards for the operation of those airports. This authority is currently found in Title 49, United States Code (U.S.C.) section 44706, Airport operating certificates. The FAA uses this authority to issue requirements for the certification and operation of certain land airports. These requirements are contained in Title 14, Code of Federal Regulations part 139 (14 CFR part 139), Certification and Operations: Land Airports Serving Certain Air Carriers, as amended.

Until recently, this statutory authority was limited to those land airports serving passenger operations of an air carrier that is conducted with an aircraft having a seating capacity of more than 30 passengers. However, this authority was broadened by the Federal Aviation Administration Reauthorization Act of 1996. Section 44706 was amended to allow the FAA to certificate airports, with the exception of those located in the State of Alaska, that serve any scheduled passenger operation of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats. FAA's existing authority to certificate airports serving air carrier operations conducted in aircraft with more than 30 seats remained unchanged.

This amendment was proposed by the Secretary of Transportation in response to a recommendation made by the NTSB that the FAA seek authority from Congress to issue certificates to airports serving commuter airlines. In November 1994, the NTSB released its findings resulting from a study of commuter airline safety.<sup>1</sup> This study identified several safety improvements that the NTSB felt would improve the commuter airline safety record. While this study, and subsequent recommendations, focused on airline and aircraft operations, it also was critical of the FAA for not requiring airports serving commuter operations to maintain their facilities in the same manner as airports serving major air carriers.

This was not the first attempt to obtain the legislative authority to certificate commuter airports. In 1987, the General Accounting Office (GAO)

<sup>1</sup> *Safety Study: Commuter Airline Safety*, National Transportation Safety Board, NTSB/SS-94/02, November 1994.

issued a safety report on the certification of small airports.<sup>2</sup> Similar to the NTSB findings, the GAO concluded that airport safety would be enhanced if all airports serving scheduled air carrier service were to be certificated and recommended the FAA include such facilities in its airport certification program. The FAA concurred with the GAO's findings, but determined its statutory authority to certificate airports was limited to airports that serve scheduled and unscheduled passenger operations of air carrier aircraft with more than 30 seats. A proposed amendment to broaden this authority was submitted to Congress, but the measure was not enacted.

The 1996 amendment to the statute did not mandate the issuance of airport certificates to airports serving commuter air carriers. It only provides general authority under which the FAA may promulgate appropriate regulatory standards. The FAA proposes to use this authority to extend to airports its policy of one level of safety for all covered air carriers. In response to a series of commuter accidents and the NTSB's findings, the FAA established this policy of one level of safety, and comprehensively revised regulations pertaining to the air carrier operations, specifically 14 CFR parts 121 and 135, to ensure similar safety standards among air carriers. Similarly, this proposal would establish minimum safety standards among all covered airports (airports that the FAA has the authority to certificate) served by air carriers.

Further, this proposal would revise and clarify several safety and operational requirements that have become outdated. The last major revision of part 139 occurred in November 1987, and since then, industry practices and technology have changed. In the subsequent years, the FAA has gathered data on the effectiveness of part 139 requirements, (primarily through joint industry/FAA working groups, field research and periodic airport certification inspections), and proposes to use this rulemaking opportunity to update part 139 requirements.

#### *Current Requirements*

Under existing part 139, the FAA requires airport operators to comply with certain safety requirements prior to serving operations of large air carrier aircraft (aircraft with more than 30

seats). When an airport operator satisfactorily complies with such requirements, the FAA issues to that facility an airport operating certificate that permits an airport to serve large air carriers. These safety requirements cover a broad range of airport operations, including the maintenance of runway pavement, markings and lighting; notification of air carriers of unsafe or changed conditions; and preparedness for aircraft accidents and other emergencies. The FAA periodically inspects these airports to ensure continued compliance with part 139 safety requirements.

Under existing rules, the FAA issues two types of airport operating certificates depending on the type of air carrier operations an airport serves. Operators of airports that serve scheduled operations of large air carrier aircraft are issued an Airport Operating Certificate (AOC), commonly referred to as a "full" certificate. As these airport operators regularly serve large air carrier operations, they must fully comply with all part 139 requirements. Of the approximately 660 certificated airports, approximately 430 airport operators hold a "full" certificate. Conversely, airport operators serving only unscheduled operations of large air carrier aircraft are required to have a Limited Airport Operating Certificate (LAOC), known as a "limited" certificate. Approximately 135 airport operators hold a "limited" certificate. Air carrier operations in large aircraft are so infrequent at these facilities that their operators are only required to comply with part 139 in a limited manner. For example, existing § 139.213 requires airport operators holding a "limited" certificate to comply with only certain pavement, lighting, marking and emergency response requirements. Such airports are typically located in remote communities or support seasonal activities, such as skiing during winter months.

The remaining certificated airports (approximately 90) are Department of Defense (DOD) airports serving air carrier operations. These facilities are issued an airport operating certificate but are exempted from part 139 requirements under FAA Exemption No. 5750B.

The FAA requires all operators of certificated civilian airports to develop, and comply with, a written document that details how the airport operator will comply with the requirements of part 139. As every airport is unique and local circumstances vary, this written document sets forth the site-specific procedures, equipment, and personnel that each airport operator uses to

comply with part 139 requirements. This document at an airport with a "full" certificate is called the Airport Certification Manual (ACM). At an airport with a "limited" certificate, it is known as Airport Certification Specifications (ACS).

#### *Enforcement Action*

The FAA can impose a civil penalty of \$1,000 per day per violation on operators of airports that are currently certificated under part 139 (airports serving scheduled and unscheduled operations of large air carrier aircraft). If this proposal is adopted, the FAA also could impose monetary penalties on airport operators serving scheduled operations of small air carrier aircraft for any failure to comply with the requirements of their certification manual or part 139. However, the FAA does consider mitigating circumstances, including an airport operator's willingness to correct any deficiencies and ability to pay civil penalties.

In its inspection role, the FAA works with airport operators and encourages a cooperative relationship between the certificate holder and inspectors, and commonly uses administrative actions to have most discrepancies corrected. Civil penalties and in extreme cases, certificate action, are levied against airport operators only as a last resort to gain compliance.

#### *New Certificate Holders*

If this proposal is adopted, airport operators not currently certificated by the FAA would be required to apply for a certificate under part 139 in order to serve certain air carrier operations. Such airport operators would contact the appropriate FAA Regional Airports Division office to initiate the application process. Once contacted, the FAA Regional Airports Division office would interview the airport operator to obtain information about the airport and air carrier operations served (or anticipated to be served). If the FAA determines that a certificate is necessary, the airport operator would be provided an application for certification (FAA Form 5280-1, Airport Operating Certification Application) and guidance materials.

The airport operator would submit a completed application (as specified under proposed § 139.103) to the FAA Regional Airports Division office for approval. As part of the application package, the airport operator would provide the FAA two copies of its proposed airport certification manual and written documentation as to when air carrier service will begin. The FAA would review the application and associated documentation to ensure that

<sup>2</sup> *Aviation Safety: Commuter Airports Should Participate in the Airport Certification Program*, U.S. General Accounting Office, GAO/RCED-88-41, November 1987.

they are complete and conduct an inspection of the airport for compliance with the requirements of part 139.

The FAA will issue an airport operating certificate if the application and other required documentation meets the provision of part 139, and the inspection reveals that airport is in compliance with part 139. The certificate may include other provisions the FAA finds necessary to ensure safety in air transportation (see discussion of proposed § 139.103 Application for certificate and § 139.105 Inspection authority).

Assistance is available for applicants applying for an airport operating certificate. FAA regional offices offer guidance and support to airport operators in complying with part 139. Access to the FAA is available by telephone, e-mail, conventional mail, regional newsletters, and on-site visits. In addition, the FAA makes available to airport operating certificate applicants, free of charge, advisory circulars, informational brochures, and safety placards to assist the certificate holder in complying with the requirements of part 139. The FAA regional offices also will assist airport operators in applying for Federal funds that may be used to comply with the requirement of part 139.

#### *The Role of the Aviation Rulemaking Advisory Committee*

The FAA has established an Aviation Rulemaking Advisory Committee (ARAC) to provide advice and recommendations to the FAA Administrator concerning a range of FAA's rulemaking activity, including air carrier operations, airman certification, aircraft certification, airports, security, and noise. The committee affords the FAA a forum to easily obtain direct, firsthand information and insight from affected interests through meeting together and exchanging ideas with respect to proposed rules and existing rules that should be revised or eliminated. While the activities of the ARAC do not circumvent the normal coordination process or the public rulemaking procedures, the committee's recommendations on a particular issue or proposed rule are taken under consideration by the FAA and fully disclosed in the public docket.

The ARAC consists of approximately 65 government, industry, labor, and consumer advocacy organizations selected by the FAA to represent various viewpoints of those impacted by FAA regulations. These members are organized into several issue areas to address specific technical subjects, including airport certification. The

ARAC only undertakes those tasks requested by the FAA. Meetings of the ARAC are open to the public and interested persons with expertise in the subject matter are invited to participate.

To assist in the certification of airports serving smaller air carrier operations, the FAA requested the ARAC's advice and recommendations on what requirements should be applicable to airports that have scheduled service with aircraft having a seating capacity of 10–30 seats [60 FR 21582, May 2, 1995]. In developing these recommendations, the FAA asked the ARAC to consider alternatives to minimize the operational burden on smaller facilities, including options for aircraft rescue and firefighting (ARFF) services. The FAA also suggested the ARAC conduct a survey of affected airports to gauge the impact of any proposed requirement. At the time of this request, the FAA did not have the statutory authority to regulate airports serving scheduled operations of air carrier aircraft with 10–30 seats.

The ARAC accepted this task and established a Commuter Airport Certification Working Group to develop recommendations on this issue. Comprised of members of the main committee, the working group's membership included representatives from the following organizations:

1. Air Line Pilots Association
2. Aircraft Owners and Pilots Association
3. American Association of Airport Executives
4. National Air Transportation Association
5. National Association of State Aviation Officials
6. Regional Airline Association

The FAA and Landrum and Brown, an airport planning and engineering consulting firm, also provided technical support.

Over the course of a year, the Commuter Airport Certification Working Group met five times to research the issue and develop recommendations for the ARAC. The working group initially endeavored to establish a voluntary industry standard consistent with the FAA's lack of authority to regulate airports serving commuter operations. However, after the passage of Public Law 104–264, the FAA requested the working group to immediately finish its report and to take a regulatory approach to the certification of airports serving small air carrier aircraft. This action was based on the FAA's decision to exercise its new authority to regulate airports serving small air carrier operations.

While the working group agreed on many issues, two members (primarily the Air Line Pilots Association (ALPA)) disagreed with several of the group's recommendations. This minority differed on six regulatory requirements, including marking and lighting; ARFF; and handling of hazardous substances and materials. Subsequently, the working group developed both a majority and minority position at the FAA's request. Individual working group members also provided comments on issues when their respective organizations differed from the position taken by the ARAC working group.

In February 1997, both the majority and minority views of the working group, and those of individual work group members, were presented to the FAA. Overall, the working group majority recommended that a non-regulatory approach to improve commuter airport safety could accomplish the same level of safety as regulating these airports. In light of the proposed rulemaking, the majority suggested that such a regulation should focus on accident prevention rather than accident mitigation, particularly due to the limited public funds available to these small airports.

Despite its opposition to a rulemaking, the ARAC did provide, as requested by the FAA, proposed regulatory language for the certification of airports serving scheduled operations of small air carrier aircraft. The FAA considered this proposed regulatory language in this rulemaking and where possible, discusses ARAC's concerns for each proposed requirement in the following Section-by-Section analysis. As appropriate, both the majority and minority positions are discussed. However, the decisions in this document are the FAA's. Neither the majority opposition to rulemaking, nor the minority support of rulemaking, was a deciding factor in the FAA's decision to institute this rulemaking.

As requested by the FAA, the ARAC also conducted a survey of airports that might be affected to determine what safety practices are already being conducted and the potential operational and economic impact if these airports were to comply with existing part 139 requirements. This survey requested information on rescue and firefighting capabilities, airport staff, certification status, annual enplanements, existing marking, lighting and signs, and capital and recurring costs of certain equipment and procedures. The results of this survey are included with the ARAC final recommendations on commuter airport certification, filed in the public docket (see **ADDRESSES**). These survey

results also are discussed in the economic analysis associated with this rulemaking. Also, a copy of the economic analysis is filed in the docket and a summary of it is included in this proposal.

Much of the work done by the ARAC was the result of its members' willingness to donate their time and resources to travel to meetings and conduct research. The FAA wishes to recognize this contribution and appreciates the working group's effort to develop recommendations that represent a balance of safety and economic considerations.

#### *Alternatives*

This NPRM addresses two issues: (1) the revision of certain requirements of 14 CFR part 139, and (2) certification requirements of airports serving scheduled air carrier operations with 10–30 seat aircraft under 14 CFR part 139.

The FAA considered alternatives for each of these issues. Based on this analysis, the FAA determined that it was necessary to revise 14 CFR part 139 and that the revised part 139 should include the certification of airports serving scheduled air carrier operations with 10–30 passenger seat aircraft. See a more detailed description of these alternatives in the "Description of Alternatives" section that follows the "Section-by-Section Analysis."

#### **General Discussion of the Proposal**

This proposal would comprehensively revise the airport certification process by including airports serving small air carrier aircraft to ensure these airports meet a minimum level of safety comparable to airports already certificated. Operators of airports serving small air carrier aircraft and currently not regulated under part 139 (approximately 40 airports) would be required to develop and implement an ACM, and to comply with certain safety and operational requirements. These airport operators, however, would be permitted some flexibility in complying with more burdensome requirements.

In addition to serving large, unscheduled air carrier aircraft, approximately 120 of the approximately 135 airports holding a LAOC also serve scheduled small air carrier aircraft. To address these additional operations, this proposal would require the operators of these 120 airports to implement existing safety measures (such as aircraft rescue and firefighting) on a more frequent basis and comply with additional safety requirements. The remaining 15 airport operators holding a LAOC would

continue to comply with part 139 requirements as they do today.

Likewise, this proposal would require airport operators holding an AOC (or a "full" certificate), approximately 430 airports, to continue to comply with part 139 requirements as they do today. These airport operators would be required to revise their certification manuals and comply with proposed modifications to existing requirements. The operators of approximately 50 of these airports also may be required to implement certain safety measures on a more frequent basis if they serve small air carrier operations that do not occur concurrently with large air carrier aircraft operations.

In addition, this proposal would clarify that airports operated by the United States government, including DOD, are not subject to part 139. Subsequently, the 90 DOD airports currently certificated under part 139 would no longer need to request an exemption from part 139 requirements to continue serving air carrier operations.

To minimize confusion resulting from the inclusion of airports serving small air carrier aircraft operations into the FAA's existing airport certification program, the FAA is proposing to reclassify airport operating certificates and certification manuals. Instead of differentiating between an AOC and a LAOC, and creating additional types of airport operating certificates, this proposal would provide for only one type of certificate, an AOC, and no longer make a distinction between an ACM and an ACS. All airport certificate holders would be required to adopt and implement an ACM, regardless of size and type of air carrier operations.

All holders of airport operating certificates would be issued new certificates, including those existing airport operators holding "full" or "limited" certificates. Operators of currently certificated airports would not be required to reapply for an airport operating certificate. If this proposal is adopted, the FAA would convert existing certificates, as appropriate.

The FAA proposes to continue to distinguish between airports that serve different sizes or types of air carriers, and establish requirements appropriate for each type of airport. Under this proposal, similar airports would be grouped into four new classes, I–IV, and requirements are proposed for each new class of airport. This approach would ensure that airports serving small air carrier aircraft or unscheduled air carrier operations (e.g., charter flights) are not unduly burdened with requirements more appropriate for

airports serving frequent operations of large air carriers. In addition, these new classes of airports address those airports that serve a mixture of air carrier operations.

Airports serving all types of scheduled operations of large air carrier aircraft, and any other type of air carrier operations, would be known as Class I airports. Operators of these airports would be required to comply with all part 139 requirements. Essentially, all airport operators holding an existing "full" certificate would become Class I airports.

Class II airports would be those airports that serve scheduled operations of small air carrier aircraft (10–30 seats) and unscheduled operations of larger air carrier aircraft (more than 30 seats). Airports that would be classified as Class II would be those existing "limited" certificate airports that serve scheduled operations by small air carrier aircraft.

Class III airports would be those airports that serve only scheduled operations of air carrier aircraft with 10–30 seats. Class III airports would be those facilities newly certificated as the result of this rulemaking.

Class IV airports would be those airports currently with a "limited" certificate serving only unscheduled air carrier operations in aircraft with more than 30 seats.

Airports in the State of Alaska that serve large air carrier operations would continue to be certificated under part 139, as Class I or Class IV airports. No requirements are proposed, as specified in the authorizing statute, for those airports in the State of Alaska that only serve scheduled operations of smaller air carrier operations.

The FAA currently requires operators of certificated airports to develop an ACM or ACS, depending on the type of certification, to detail how the airport operator will comply with the requirements of part 139. As every airport is unique, it is difficult to impose requirements that prescribe exacting technical standards that would work at every airport. Instead the FAA sets forth performance-based standards that airport operators implement in the manner best suited to their facilities.

In this manner, the FAA can vary requirements that airport operators must comply with. For example, existing § 139.213 requires operators of "limited" certificated airports to include in their ACS procedures to comply with seven operational requirements found in Subpart D, whereas operators of "full" certificated airports must provide for all part 139 requirements in their manual. This proposal takes a similar approach

and proposes different requirements and manual content for each new airport class.

Under this proposal, the requirements for manual content would vary between the airport classes, with the most comprehensive manual required of Class I airports. Operators of Class I

airports would have to comply with more safety requirements than the operators of Class II, III, and IV airports as they serve more complex and varied air carrier operations.

As a consequence of these proposed changes, several existing sections of the regulation would be combined and the

current numbering scheme of subparts C and D would be altered. The following chart illustrates these changes, comparing existing section titles and numbering against those proposed.

COMPARISON OF SECTION TITLES AND NUMBERING BETWEEN EXISTING AND PROPOSED PART 139

	Existing part 139	Proposed part 139
Subpart A—General .....	<p>§ 139.1 Applicability .....</p> <p>§ 139.3 Definitions .....</p> <p>§ 139.5 Standards and procedures for compliance with the certification and operations requirements of this part.</p>	<p>§ 139.1 Applicability.</p> <p>§ 139.3 Delegation of authority (new section—§ 139.3 would be moved to proposed § 139.5).</p> <p>§ 139.5 Definitions (section number change—§ 139.5 would be moved to proposed § 139.7).</p> <p>§ 139.7 Methods and procedures for compliance (title and section number change).</p>
Subpart B—Certification .....	<p>§ 139.101 Certification requirements: General .....</p> <p>§ 139.103 Application for certificate .....</p> <p>§ 139.105 Inspection authority .....</p> <p>§ 139.107 Issuance of certificate .....</p> <p>§ 139.109 Duration of certificate .....</p> <p>§ 139.111 Exemptions .....</p> <p>§ 139.113 Deviations .....</p>	<p>§ 139.101 General requirements (title change).</p> <p>§ 139.103 Application for certificate.</p> <p>§ 139.105 Inspection authority (revised section—§§ 139.105 and .301 would be combined to form proposed § 139.305).</p> <p>§ 139.107 Issuance of certificate.</p> <p>§ 139.109 Duration of certificate.</p> <p>§ 139.111 Exemptions.</p> <p>§ 139.113 Deviations.</p>
Subpart C—Airport Certification Manual (title change).	<p>§ 139.201 Airport operating certificate: Airport certification manual.</p> <p>§ 139.203 Preparation of airport certification manual .....</p> <p>§ 139.205 Contents of airport certification manual .....</p> <p>§ 139.207 Maintenance of airport certification manual .....</p> <p>§ 139.209 Limited airport operating certificate: Airport certification specifications.</p> <p>§ 139.213 Contents of airport certification specifications</p> <p>§ 139.215 Maintenance of airport certification specifications.</p> <p>§ 139.217 Amendment of airport certification manual or airport certification specifications.</p>	<p>139.201 General requirements. (title change—§§ 139.201, .203, .207, .209, .211, and .215 would be combined to form proposed § 139.201).</p> <p>§ 139.203 Contents of airport certification manual (new section—§§ 139.205 and 139.213 would be combined to form proposed § 139.203).</p> <p>§ 139.205 Amendment of airport manual (section number change—§ 139.217 would be moved to proposed § 139.205).</p>
Subpart D—Operations .....	<p>§ 139.301 Inspection authority .....</p> <p>§ 139.303 Personnel .....</p> <p>§ 139.305 Paved areas .....</p> <p>§ 139.307 Unpaved areas .....</p> <p>§ 139.309 Safety areas .....</p> <p>§ 139.311 Marking and lighting .....</p> <p>§ 139.313 Snow and ice control .....</p> <p>§ 139.315 Aircraft rescue and firefighting: Index determination.</p> <p>§ 139.317 Aircraft rescue and firefighting: Equipment and agents.</p> <p>§ 139.319 Aircraft rescue and firefighting: Operational requirements.</p> <p>139.321 Handling and storing of hazardous substances and materials.</p> <p>§ 139.323 Traffic and wind direction indicators .....</p> <p>§ 139.325 Airport emergency plan .....</p> <p>§ 139.327 Self-inspection program .....</p> <p>§ 139.329 Ground vehicles .....</p> <p>§ 139.331 Obstructions .....</p> <p>§ 139.333 Protection of nav aids .....</p>	<p>§ 139.301 Records (new section—§ 139.301 would be moved to proposed § 139.105).</p> <p>§ 139.303 Personnel.</p> <p>§ 139.305 Paved areas.</p> <p>§ 139.307 Unpaved areas.</p> <p>§ 139.309 Safety areas.</p> <p>§ 139.311 Marking, signs, and lighting (title change).</p> <p>§ 139.313 Snow and ice control.</p> <p>§ 139.315 Aircraft rescue and firefighting: Index determination.</p> <p>§ 139.317 Aircraft rescue and firefighting: Equipment and agents.</p> <p>139.319 Aircraft rescue and firefighting: Operational requirements.</p> <p>139.321 Aircraft rescue and firefighting: Exemptions (new section—existing § 139.321 would be moved to proposed § 139.323).</p> <p>§ 139.323 Handling and storing of hazardous substances and materials (section number change).</p> <p>§ 139.325 Traffic and wind direction indicators (section number change).</p> <p>§ 139.327 Airport emergency plan (section number change).</p> <p>§ 139.329 Self-inspection program (section number change).</p> <p>§ 139.331 Ground vehicles (section number change).</p> <p>§ 139.333 Obstructions (section number change).</p>

COMPARISON OF SECTION TITLES AND NUMBERING BETWEEN EXISTING AND PROPOSED PART 139—Continued

	Existing part 139	Proposed part 139
	§ 139.335 Public protection .....	§ 139.335 Protection of navigaids (section number change).
	§ 139.337 Wildlife hazard management .....	§ 139.337 Public protection (section number change).
	§ 139.339 Airport condition reporting .....	§ 139.339 Wildlife hazard management (section number change).
	§ 139.341 Identifying, marking, and reporting construction and other unserviceable areas.	§ 139.341 Airport condition reporting (section number change).
	§ 139.343 Noncomplying conditions .....	§ 139.343 Identifying, marking, and reporting construction and other unserviceable areas (section number change).
		§ 139.345 Noncomplying conditions (section number change).

As noted earlier, changes are proposed to operational and safety requirements. The specifics of these revisions are discussed in detail in the following section, "Section-by-Section Analysis." The proposed revisions reflect changes to technology and industry practice. This action does not address runway friction measurement (both winter and maintenance), runway distance remaining signs, and certain requirements related to ARFF equipment, training, and extinguishing agents. The FAA is continuing to review these issues with industry representatives (primarily through the ARAC) and may propose rulemaking as a result of these efforts in a separate action.

Throughout the proposed rule, references are made to 49 U.S.C. 44706. This statute is the recodification of the FAA's authority to prescribe airport certification regulations previously found in the Federal Aviation Act of 1958, 49 U.S.C. App. 1432 *et seq.*

Additionally, the FAA proposes to revise the title of 14 CFR part 139, "Certification and Operations: Land Airports Serving Certain Air Carriers" to "Certification of Airports."

**Request for Additional Information**

Throughout this proposal, the FAA is requesting economic and operational information on specific topics. As explained in the following Section-by-Section Analysis, the FAA intends to use this information to further analyze certain proposed requirements. Additional information is requested on the following subject areas:

1. *Certification of heliports.* Under the discussion of proposed § 139.1, the FAA is requesting comments on the need to certificate heliports, including recommendations on certification requirements and any associated safety and economic considerations that should be addressed.

2. *Reduction or revocation of an airport operating certificate.* Under

proposed § 139.109, information is requested as to why it would be more costly for an airport operator to surrender an airport operating certificate and then later to regain it, than it is to maintain a certificate uninterrupted.

3. *Retro-reflective runway and taxiway signs.* The FAA is soliciting comments under proposed § 139.311 on the use of retro reflective guidance and directional signs at airports serving small or unscheduled air carrier aircraft.

4. *ARFF Exemption.* The FAA requests comments on the new ARFF exemption process delineated under proposed § 139.321.

5. *Implementation.* Finally, the FAA is requesting comments on various elements of the implementation schedule, should this proposal be adopted.

**Section-by-Section Analysis**

*Subpart A—General*

Section 139.1 Applicability

Section 139.1 establishes that part 139 prescribes rules for the certification and operation of airports serving certain air carrier operations. This proposal expands this section by amending and reorganizing existing language into new paragraphs (a) and (b).

New paragraph (a) would incorporate a new group of airports that would require an airport operating certificate

(AOC) before serving certain air carrier operations. In addition to those airports already certificated under part 139, airports serving scheduled operations of air carrier aircraft seating 10 to 30 passengers would require a certificate under this part. This expansion of the rule's applicability would reflect recent revisions to 49 U.S.C. 44706, that authorized the Administrator to issue an AOC to airports serving any scheduled operations of an air carrier operating aircraft designed for more than 9 passenger seats but less than 31 passenger seats.

Throughout paragraph (a), references to the term "aircraft seating capacity" would be changed to "aircraft design." This proposal would more accurately reflect how the FAA and other civil aviation authorities certificate air carrier aircraft for passenger operations. This revision would have no effect on how aircraft passenger seating capacity is determined. An FAA-issued aircraft type certificate and its foreign equivalent specify passenger seating capacity and may only be changed by amendment to the aircraft type certificate.

Further, the FAA proposes to move language currently found in § 139.101(a) to new paragraph § 139.1(a). The phrase specifies that part 139 is applicable to land airports in the United States, the District of Columbia, or any U.S. territory or possession. This language is more appropriate in § 139.1, Applicability.

Proposed paragraph § 139.1(b) would group together the type of airports that would be exempt from part 139. As currently is the case, airports serving air carrier operations only because they have been designated as alternate airports (under § 121.590) would not be certificated under part 139. The revised part 139 also would not be applicable, as specified in the authorizing statute, at airports in the State of Alaska that serve scheduled operations of air carrier aircraft seating 10–30 passengers. However, airports in the State of Alaska that serve scheduled and/or unscheduled operations of air carrier aircraft with more than 30 passenger seats and serve smaller scheduled air carrier operations must be certificated under part 139. Under this proposal, these airports would be certificated as a Class I or Class IV airport because they serve larger air carrier operations.

In addition, airports operated by U.S. government agencies would not be required to comply with part 139. The FAA has issued airport operating certificates, under FAA Exemption No.

5750, to Department of Defense (DOD) airports that serve civilian commercial carriers. Standards for military airports, and others operated by other branches of the Federal government (e.g., NASA, Dept. of Energy), differ from those prescribed under part 139.

The FAA does not have the statutory authority to regulate airports operated by U.S. government agencies. Since the continuance of commercial flights into these facilities is necessary to support federal government requirements, the FAA proposes to eliminate exemptions to U.S. government entities, (such as DOD's exemption to part 139) but will allow U.S. government entities to apply for an AOC for air carrier operations. Changes to part 121 are proposed to permit air carriers to use such airports (see discussion under proposed § 121.590, Use of certificated land airports).

This does not address airports where civilian and military operations commingle. These airports are known as either "joint-use airports" or "shared-use airports."

Joint-use airports are owned by the U.S. government, which leases or surpluses a portion of their facility to the local government for civilian air carrier operations. Shared-use airports are co-located U.S. and local government facilities at which portions of the movement areas, such as runways, taxiways, and ramps are shared. Under this proposal, civilian air carrier operations of either a joint-use airport or a shared-use airport will come under the purview of part 139.

Also, this proposal excludes heliports. The focus of this proposal is on the safety needs of airports serving fixed wing aircraft. While concerned with the safe operations of helicopters, the FAA believes certification of heliports should be handled separately and is considering how to certify these facilities. The FAA is requesting comments on the need to certificate heliports. The FAA requires specific recommendations on certification requirements and associated safety and economic considerations.

**Section 139.3 Delegation of Authority**

Under this proposal, existing § 139.3, titled "Definitions," would be moved to proposed § 139.5. Proposed § 139.3

would be titled "Delegation of Authority." This section would be new.

This new section would set forth FAA's existing delegation authority that allows FAA employees to act on behalf of the FAA Administrator in the oversight of the certification of airports. As proposed, the Administrator's delegation of authority has not changed, and the FAA's Associate Administrator for Airports could act in the capacity of the Administrator.

**Section 139.5 Definitions**

In this proposal, existing § 139.3 would be redesignated as proposed § 139.5. Existing § 139.3 establishes terms, and their definitions, used in part 139. The definitions contained in this revised section reflect proposed changes made throughout the rule. As such, several existing definitions have been modified or deleted and new definitions are proposed.

The FAA proposes to delete the existing term "air carrier aircraft." Two new terms, "large air carrier aircraft" and "small air carrier aircraft," have been added to part 139 to differentiate requirements of airports serving differing sizes of air carrier aircraft. Proposed exclusively for part 139, these new definitions are based on the number of passenger seats of an air carrier aircraft, and should not be confused with existing definitions for "large aircraft" and "small aircraft" found in 14 CFR part 1 that classify aircraft by weight.

The term "air carrier" would no longer be defined in part 139. Instead, the definition of "air carrier," as set out in 14 CFR part 1 would apply in part 139. The term "average daily departures" would be revised slightly by changing the phrase "consecutive months" to read "consecutive calendar months." Other references throughout the rule to duration of time using months would be similarly updated to ensure clarity and consistency.

The term "airport operating certificate" would be modified to make reference to four new classes of certificated airports. The term "certificate holder" likewise would be modified to correspond with new airport classifications. References to subpart D and LAOC would be deleted. Instead, the term "certificate holder" would be used generically to describe

any airport operator issued an AOC under part 139.

As described earlier, the FAA proposes to modify part 139 to change the process by which airports are categorized, and establish four new types of airport classes. These four classifications—Class I, II, III, and IV airports—would be added to existing definitions.

A Class I airport would serve the most varied types of air carrier operations. A Class I operator would be authorized to serve air carrier operations of large and small air carrier aircraft. Under this proposal, airports already certificated under part 139 to serve scheduled operations of large air carrier aircraft would be reclassified as Class I airports. The FAA anticipates approximately 430 airports would be certificated as Class I airports.

A Class II airport would serve scheduled operations of small air carrier aircraft and unscheduled passenger operations of larger air carrier aircraft. A Class II airport would not serve scheduled large air carrier aircraft. Airports classified as Class II would be those existing airports with a LAOC (airports serving unscheduled large air carrier aircraft) that serve scheduled operations by small air carrier aircraft. The FAA anticipates approximately 120 airports would be certificated as a Class II airport.

A Class III airport would serve scheduled operations of small air carrier aircraft. A Class III airport would not serve scheduled or unscheduled large air carrier aircraft.

Under the current regulation, airports meeting this criteria are not certificated. The FAA anticipates approximately 40 airports would be newly-certificated as Class III airports.

A Class IV airport would serve unscheduled passenger operations of large air carrier aircraft but would not serve scheduled large or small air carrier aircraft. Airports currently holding a LAOC, but not serving scheduled small air carrier operations, would be certificated as Class IV airports. The FAA anticipates approximately 15 airports would be certificated as Class IV airports.

The following table illustrates the types of air carrier operations each proposed category of airport can serve:

Type of air carrier operation	Proposed airport class			
	Class I	Class II	Class III	Class IV
Scheduled Large Air Carrier Aircraft .....	X			
Unscheduled Large Air Carrier Aircraft .....	X	X		X
Scheduled Small Air Carrier Aircraft .....	X	X	X	

To reflect the proposed deletion of heliports from part 139, the term "movement area" would be modified to remove any reference to areas used by helicopters to hover or taxi.

The term "clean agent" would be added to specify a new type of aircraft fire extinguishing agent that an airport operator could use to comply with part 139 ARFF requirements. Clean agent is a term used by the firefighting community to describe a category of fire extinguishing agents that replace halon 1211 (see discussion of § 139.317, Aircraft rescue and firefighting: Equipment and agents). The proposed definition is based on National Fire Protection Association (NFPA) 2001, Standards on Clean Agent Fire Extinguishing Systems (1996 Edition), that establishes standards for halon 1211 substitutes. The NFPA is an independent, nonprofit organization that advocates consensus codes and standards, research, and education for fire and related safety issues. Many NFPA codes and standards are used as the basis for legislation and regulations in federal, state, and local governments.

In addition to NFPA 2001, the FAA is proposing that a clean agent used to comply with part 139 requirements would need to have the equivalent extinguishing action as halon 1211, as defined in FAA Technical Report DOT/FAA/AR-95/87. This document establishes a test protocol to measure an extinguishing agent's equivalency to halon 1211 and its appropriateness for use on aircraft fires.

In addition, the terms "scheduled operation" and "unscheduled operation" would be added to distinguish the types of operations served by the four classes of airports. The definition of "scheduled operation" is also found in 14 CFR part 119, Certification: Air carriers and commercial operators. A scheduled operation is conducted by an air carrier or a commercial operator in accordance with a published schedule for passenger operations that includes dates or times, and the operation is openly advertised or made available to the general public. Conversely, the definition of an "unscheduled operation" would be an operation conducted by an air carrier or a commercial operator that is specifically negotiated with the customer or that meets the definition of a supplemental operation found in part 119, Certification: Air carriers and commercial operators, or the definition of a public charter found in part 380, Public charters.

All other existing definitions would remain unchanged.

#### Section 139.7 Methods and Procedures for Compliance

In this proposal, existing § 139.5, titled "Standards and procedures for compliance with the certification and operations requirements of this part," would be moved to proposed § 139.7. Existing § 139.5 specifies that an operator of a certificated airport must comply with the requirements of part 139 in a manner acceptable to the Administrator, and that methods and procedures contained in advisory circulars (AC's) are an acceptable means of compliance.

The relocated section would be titled, "Methods and procedures for compliance," and would be clarified as described below. The FAA proposes to delete the language "with the certification and operations requirements of this part" from the title of existing § 139.5. This editorial change would ensure consistent section titles throughout the part. In addition, the term "standards" would be replaced with the term "methods" so as not to confuse the means of compliance (the methods) with the requirements of the regulations (the standards) prescribed in proposed subparts C and D.

With the addition of new airports to the part 139 process, the FAA believes existing language of this section should be clarified to eliminate any confusion. Several sentences would be combined and revised to state clearly that the use of methods and procedures provided in FAA AC's to comply with part 139 requirements are acceptable.

Advisory Circulars are developed in conjunction with the aviation industry to ensure consistent and reasonable means of complying with regulations. As technology and the aviation industry evolve the advisory circular process provides an expeditious means to revise guidance materials.

Certificate holders may comply with part 139 requirements by means other than those specified in the AC's. However, any alternative must be authorized by the FAA, and must provide the equivalent level of safety in meeting the requirements of part 139. This provision is repeated throughout this proposal in sections where advisory circulars are available to assist the certificate holder in meeting specific regulatory requirements proposed in the document.

#### Subpart B—Certification

##### Section 139.101 General Requirements

This NPRM proposes to retitle § 139.101, "Certification requirements: general," as "General requirements," and combines the text of existing

paragraphs (a) and (b) into a new paragraph (a). New paragraphs (b) and (c) would be added. Existing § 139.101 specifies that no person may operate an airport in the U.S. and U.S. territories that serve certain types of air carrier operations without a part 139 certificate, or in violation of that certificate.

While proposed paragraph (a) combines existing § 139.101(a) and (b) into one paragraph, the requirement that an airport subject to this part may not be operated without an operating certificate, or in violation of its certificate, remains unchanged. References to LAOC's and ACS's would be replaced with proposed changes to the certification process. As mentioned earlier, references to land airports located in the United States or its territories would be moved to a more appropriate location in proposed § 139.1, Applicability.

The term "except as otherwise authorized by the Administrator" in existing paragraph (b) would be moved to new paragraph (a). This change would enable the FAA to authorize operations not covered by the regulation.

New paragraph (b) would require each airport operator to adopt, and comply with, an ACM in accordance with proposed requirements.

New paragraph (c) proposes that each airport class implement its ACM within a specified time. It is anticipated that under this proposal most airport operators will only need to document processes and procedures already in place. However, airport operators that would be required to develop an ACM for the first time, or to make extensive revisions to an existing manual, would have more time to comply than other airports. Staggering compliance dates also would permit adequate time for the FAA to process new and revised certification manuals.

Compliance with requirements for runway and taxiway signs, ARFF, and emergency plans would take additional time and corresponding sections of the ACM may not be completed within the timeframes specified in new paragraph (c). Certificated airport operators may need to seek Federal and local funding, order equipment, and train personnel. Consequently, additional time is proposed to implement these requirements (see discussions under proposed § 139.311, Marking, signs, and lighting; § 139.321, Aircraft rescue and firefighting: Exemptions; and § 139.327, Airport emergency plan).

The FAA is requesting comments on the proposed implementation schedules. If the commenter proposes alternative compliance dates, comments

should include supporting operational and economic data.

#### Section 139.103 Application for Certificate

Existing § 139.103 establishes requirements to apply for an airport operating certificate or an limited airport operating certificate. This proposal would amend existing § 139.103 by revising paragraphs (a) and (b) and by adding a new sentence to the beginning of this section. Proposed changes are intended to incorporate application requirements also found in existing §§ 139.201(a) and 139.209(a).

This section would continue to require an applicant for an AOC to prepare, and submit an application form and an airport certification manual to the Administrator for approval. References to LAOC and ACS also would be deleted in order to correspond to proposed changes to the certification process and classification of airports.

If this proposal is adopted, airport operators currently holding a certificate under part 139 would not be required to apply for a new AOC, but may need to amend an existing ACM or ACS.

#### Section 139.105 Inspection Authority

The FAA proposes to incorporate existing inspection authority provision of §§ 139.105 and 139.301 into one paragraph. Language referencing statutory authority also would be updated.

Existing § 139.105 states that an airport operator holding a certificate under part 139 must allow the FAA to make inspections to determine compliance with the regulation. This would not change. This new section would state that the Administrator may make inspections and tests to determine compliance with airport certification regulations.

References to the Federal Aviation Act of 1958 would also be removed and replaced with references to the current statutory authority. In addition, references to LAOC have been deleted.

#### Section 139.107 Issuance of Certificate

Existing § 139.107 specifies standards that must be met before the FAA can issue a certificate. This NPRM would revise existing language into new paragraphs (a), (b), and (c), propose new requirements an applicant must meet, and deletes references to LAOC.

New paragraph (a) would require applicants to provide written documentation that air carrier service would begin on a specific date. The FAA intends to limit applicants for part 139 certification to those facilities with planned air service.

As presently required under § 139.107, new paragraph (b) would require an applicant for an AOC to meet the requirements for an ACM (as required under proposed § 139.103 and 139.203) prior to issuance of a certificate.

New paragraph (c) combines the remaining requirements of existing § 139.107. Also, the standard “public interest” would be replaced with the new standard “safety in air transportation” as required by the authorizing statute.

#### Section 139.109 Duration of Certificate

Existing § 139.109 states that a certificate issued under part 139 is effective until surrendered by the certificate holder, or suspended or revoked by the Administrator. This NPRM proposes to modify this section by placing existing language into new paragraph (a). A new paragraph (b) also is proposed and references to LAOC would be deleted.

New paragraph (b) stipulates that the Administrator may revoke an AOC if air carrier operations have not occurred for 24 consecutive months. However, in deciding whether to revoke an AOC because of lack of service, the FAA would consider the airport’s reasonable expectation of future air carrier service.

In previous proposals to part 139, airport operators have recommended that the reduction or revocation of an airport operating certificate should be at the option of the airport operator and not the FAA. These commenters were concerned that if an airport later needed to regain its certification, the cost to do so would prove burdensome. The FAA does not agree with this cost assessment. The FAA requests comments (to include economic and operational data) as to why it would be more costly to surrender a certificate and then later to regain it, than it is to maintain a certificate uninterrupted.

An airport operator that has lost its certification can continue to comply with the requirements of its certification manual and the requirements of part 139 until it regains its certificate. While the FAA does not inspect non-certificated airports, the operators of such airports are encouraged to use part 139 as a guide to ensure safety. Further, many such airport operators would be required by Federal grant assurances to continue to implement elements of their certification program even when not certificated under part 139.

Under various statutes, the Federal Government is authorized to grant property, funds, and other assistance to local communities for the development of airport facilities. In return, airport

owners assume certain obligations, either by contract or by restrictive covenants in property deeds that require the airport operator to maintain and operate its airport facilities safely, efficiently, and in accordance with specified conditions. These conditions are known as “grant assurances” and require the airport owner to comply with certain maintenance and operational conditions similar to those found in the requirements of part 139. For example, grant assurances require the airport operator to maintain pavements constructed or repaired with Federal assistance. These airport operators must also make arrangements for promptly marking, lighting and reporting hazards and other conditions affecting aeronautical use of the airport.

This revised section also proposes language enabling a certificate holder to appeal an order revoking its AOC. The appeal process is found in 14 CFR part 13.

#### Section 139.111 Exemptions

Existing § 139.111 establishes procedures for the certificate holder to petition for an exemption from the requirements of part 139. The FAA proposes to modify this section to reflect proposed changes to the format used for petitions for exemption from aircraft rescue and firefighting requirements.

Under revised paragraph (b), references to 14 CFR 11.25, Petitions for Rulemaking or Exemption, would be deleted. Instead, a new sentence would be added to the end of the paragraph that specifies that an applicant for, or holder of, an AOC desiring to petition from aircraft rescue and firefighting requirements must do so as prescribed under new § 139.321 (see discussion under proposed § 139.321, Aircraft rescue and firefighting: Exemptions).

#### Section 139.113 Deviations

This notice proposes to revise existing § 139.113 language to permit the certificate holder more flexibility during emergencies requiring deviation from some of part 139 requirements. Existing § 139.113 permits the certificate holder to deviate from requirements of subpart D of the regulation during emergency conditions.

As proposed, the standard “involving the transportation of persons by air carriers,” would be deleted from the first sentence. This standard was originally included in part 139 to ensure that airport resources and services would not be routinely used to respond to emergencies in the local community. However, this section has been subsequently interpreted as prohibiting

the certificate holder from deviating from part 139 requirements unless the emergency involves air carrier operations.

It was never the FAA's intent to restrict airport emergency services from assisting with occasional catastrophic events because an air carrier was not involved. No amount of pre-planning can cover every emergency scenario, and the FAA believes emergency service providers are best suited during an emergency to determine the appropriate response.

When a deviation occurs, it would be considered permissible under proposed § 139.113, so long as the certificate holder notifies the FAA within 14 days of the deviation. This change, however, is not meant to allow a certificate holder to take advantage of emergency situations to regularly deviate from the requirements of part 139. For instance, this proposed section is not intended to allow local municipalities to use the emergency services of a part 139 airport to routinely respond to emergencies in the surrounding community during air carrier operations. This section is intended only to allow a certificate holder to provide temporary assistance during occasional catastrophic or natural emergencies.

Certificate holders that are recipients of Federal funds also should note that this proposed section would not excuse them from any limitations or provision of their grant assurances that restrict the use of facilities and equipment purchased with Federal funds.

In addition, the term "airport certification manual" would be added to the first sentence of this paragraph to clarify that the certificate holder may, when responding to an emergency, deviate from both its certification manual and any requirements of subpart D.

The FAA further proposes to modify requirements of this section to allow the certificate holder to notify the FAA of deviations by telephone, or other means of electronic communications, rather than requiring an automatic written notification.

#### *Subpart C—Airport Certification Manual*

The FAA proposes to revise the title of this subpart by removing references to airport certification specifications. In general, the contents of subpart C would be clarified and requirements for airports serving scheduled operations of small air carrier aircraft have been included.

#### Section 139.201 General requirements

Existing § 139.201 requires applicants for an AOC to develop, and submit for approval, a certification manual.

This section also requires certificate holders to comply with their approved ACM.

This NPRM proposes to retitle this section from "Airport operating certificate: Airport certification manual," to "General requirements." In addition, the section would be revised to consolidate requirements of existing §§ 139.201, 139.203, 139.207, 139.209, 139.211, and 139.215 into a single section.

The FAA proposes the same general requirements for preparation and maintenance of ACM's for all certificated airports. Existing part 139 provides separate sections for the preparation and maintenance of an ACM and ACS, although the requirements of these sections are essentially the same.

New paragraphs (b) and (c) would set forth manual preparation, maintenance, and distribution requirements. The proposed changes clarify signature responsibilities of the certificate holder, and the necessity to document manual changes. In addition, these changes would require that any revision to the certification manual contain the FAA's approval, in addition to an approval date.

Also, the requirement that a certification manual be typewritten would be expanded to include any printed form. This change is intended to clarify that any type of printed form, whether produced on a typewriter, computer, etc., would be acceptable to the Administrator.

Existing §§ 139.201(a) and 139.209(a) would be deleted as the language in both these paragraphs duplicates the language of proposed § 139.103 (see the discussion of proposed § 139.103, Application for certificate). Also, the 1988 dates in existing §§ 139.201(c) and 139.209(c) would be deleted as these dates are no longer applicable.

Existing paragraph (b) provides guidance and an acceptable means of compliance with ACM requirements would be revised and moved to new paragraph (d). References to the specific series numbers within the AC system would be deleted. Instead, this new paragraph would make a general reference to the AC system. This will allow more flexibility in updating the AC numbering system, without requiring a subsequent revision to the regulation. References to specific AC series numbers would be similarly updated throughout subpart D.

#### Section 139.203 Contents of Airport Certification Manual

Under this proposal, existing § 139.203, titled "Preparation of airport certification manual," would be moved to proposed § 139.201. Existing § 139.203 establishes standards for maintaining an ACM.

The contents of §§ 139.205 and 139.213 are combined in proposed new § 139.203. Additional requirements are proposed to correspond to the new classifications of certificated airports and changes to subpart D.

Similar to existing §§ 139.205(a) and 139.213(a), new paragraph (a) would require all classes of airports to include in their certification manual a description of procedures and equipment used to comply with subpart D and any other requirements of this section. However, existing language of §§ 139.205(a) and 139.213(a) would be revised. Existing §§ 139.205(a)(2) and 139.213(a)(2), specifying compliance with limitations imposed by the Administrator, would be moved to proposed new paragraph (b).

All certificate holders would be required to have an ACM, and new paragraph (b) would specify the manual contents for each class of airport. As noted above, the content of the manual would vary depending on the class of airport. The most comprehensive manual would be required for Class I airports because they serve more complex and varied air carrier operations.

A chart is proposed in new paragraph (b) to aid the certificate holder in determining the content of its manual. This chart lists the four proposed airport classifications and links each class to the appropriate certification manual element.

In revised § 139.203(b), proposed Class I airport certificate holders would be required to include in their ACM all elements that are currently required. In addition, this proposal would require the operators of these airports to incorporate into their ACM several new elements.

Class I airport certificate holders would include in their ACM a description of personnel training and equipment, and a system for maintaining records. This is intended to correspond to proposed new § 139.301 and proposed changes to existing § 139.303 (see the discussion under proposed section 139.301, Records; and 139.303, Personnel).

Airport operators currently holding a LAOC would be required to convert their existing ACS into an ACM. All elements that are presently required to

be in an airport certificate holder's ACS would be transferred into the new ACM.

Manuals for airports certificated as Class II and IV airports would include procedures to ensure safety in storing and handling hazardous materials, traffic and wind indicators, and self-inspections, as specified in subpart D.

These airport operators currently address these safety issues differently. Under existing part 139, these safety issues must be addressed in the ACS, but not necessarily in the manner prescribed under subpart D.

The FAA has found that most certificate holders with an LAOC already provide for these elements in their ACS, as required under existing subpart D. Part 139 requirements related to the handling of hazardous materials, wind and traffic indicators, and self-inspections represent good general airport operating practices that many of these airports already have adopted.

In addition, operators of airports certificated as Class II and IV airports would be required to include in their ACM a grid map or other means of identifying locations and terrain on and around the airport that are significant to emergency operations. For many years, airports serving scheduled large air carrier operations have been required to include this grid map in their certification manual. This map assists airport personnel in maintaining the airport, and emergency personnel in responding to incidents at the airport. As such, the FAA proposes that all certificate holders include a grid map in their ACM.

Operators of proposed Class II and IV airports also would be required to include in their ACM an emergency plan and procedures for, and descriptions of, recordkeeping and personnel training. This is intended to correspond to other proposed changes in the regulation. Unlike proposed Class I certificate holders, Class II and IV certificate holders would not have to include in their certification manuals provisions to conduct triennial full scale emergency disaster drills. For more details on these proposed requirements, see the discussion under proposed § 139.301, Records; § 139.303, Personnel; and § 139.327, Airport emergency plan.

A significant change for operators of proposed Class II and IV airports would be the requirement to include in the ACM a description of the procedures and equipment used for complying with the ARFF standards of proposed §§ 139.317 and 139.319. While these airports provide for ARFF coverage, the level of coverage may not meet standards prescribed under existing

§§ 139.317 and 139.319. The FAA proposes to require operators of Class II and IV airports to include ARFF procedures in their ACM, as specified in subpart D, and comply with at least Index A ARFF requirements. Airport operators could petition for an exemption from some or all ARFF requirements under proposed § 139.321, Aircraft rescue and firefighting: Exemptions, provided conditions prescribed in proposed § 139.321 are met.

Unlike Class IV airports, Class II airports would serve both unscheduled operations of large air carrier aircraft and scheduled small air carrier aircraft. As such, the FAA proposes additional safety requirements appropriate for Class II airports. These airports would most likely serve more total air carrier operations than proposed Class IV airports and would be required to comply with additional requirements. These additional requirements would be addressed in the ACM as follows:

1. Procedures for avoidance of interruption, or failure during construction work, of utilities serving facilities or nav aids that support air carrier operations;
2. A snow and ice control plan as required under proposed § 139.313;
3. Procedures for controlling ground vehicles as required under proposed § 139.331;
4. Procedures for obstruction removal, marking, or lighting as required under proposed § 139.333;
5. Procedures for protection of nav aids as required under proposed § 139.335;
6. A wildlife hazard management plan as required under proposed § 139.339; and
7. Procedures for identifying, marking, and reporting construction and other unserviceable areas as required under proposed § 139.343.

Class III airports would be newly certificated under this proposal. As such, operators of these airports would be required to develop an ACM. For some operators, this requirement would be minimal because it would only require documenting existing procedures. Other Class III airport operators would be required, for the first time, to develop new procedures. Still others would be required to establish manuals based on a combination of new and existing procedures.

Under new paragraph (b), proposed Class III airport operators would be required to include in their ACM a description of the following procedures and equipment—

1. Lines of succession of airport operational responsibility;

2. Each current exemption issued to the airport from the requirements of this part;

3. Limitations imposed by the Administrator;

4. A grid map or other means of identifying locations and terrain features on and around the airport which are significant to emergency operations;

5. The location of each obstruction required to be lighted or marked within the airport's area of authority;

6. A description of each movement area available for air carriers and its safety areas and each road described in § 139.319(k) of this part that serves it;

7. Procedures for avoidance of interruption, or failure during construction work, of utilities serving facilities or nav aids that support air carrier operations;

8. A description of the system for maintaining records as required under § 139.301 of this part;

9. A description of personnel training as required under § 139.303 of this part;

10. Procedures for maintaining the paved areas as required under § 139.305 of this part;

11. Procedures for maintaining the unpaved areas as required under § 139.307 of this part;

12. Procedures for maintaining the safety areas as required under § 139.309 of this part;

13. A sign plan depicting the runway and taxiway identification system and location and inscription of the signs as required under § 139.311 of this part;

14. A description of, and procedures for maintaining, the marking, signs, and lighting systems as required under § 139.311 of this part;

15. A snow and ice control plan as required under § 139.313 of this part;

16. A description of the facilities, equipment, personnel, and procedures for meeting the rescue and firefighting requirements in accordance with

- §§ 139.317 and 139.319 of this part;

17. A description of any approved exemption from the rescue and firefighting requirements as authorized under § 139.321 of this part;

18. Procedures for handling fuel, lubricants and oxygen required under § 139.323 of this part;

19. A description of, and procedures for maintaining, the traffic and wind direction indicators as required under § 139.325 of this part;

20. An emergency plan as required under § 139.327 of this part;

21. Procedures for conducting the self-inspection program as required under § 139.329 of this part;

22. Procedures for controlling ground vehicles as required under § 139.331 of this part;

23. Procedures for obstruction removal, marking, or lighting as required under § 139.333 of this part;

24. Procedures for protection of nav aids as required under § 139.335 of this part;

25. A description of public protection as required under § 139.337 of this part;

26. A wildlife hazard management plan as required under § 139.339 of this part;

27. Procedures for airport condition reporting as required under § 139.341 of this part;

28. Procedures for identifying, marking, and reporting construction and other unserviceable areas as required under § 139.343 of this part; and

29. Other requirements that the Administrator finds is necessary to ensure safety in air transportation.

While operators of proposed Class III airports would be required to include many of the same elements in their certification manual as Class I and II airports, the FAA can provide relief from some of these requirements that are too operational or economically burdensome. The operators of Class III airports may petition for an exemption from some or all ARFF requirements, and relief is proposed from certain sign and emergency drill requirements.

In addition, this section would specify that operators of all proposed classes of airport would be required to develop a sign plan as part of their ACM that shows the location on the airport and inscription of each sign required by § 139.311(b). During a review of airport sign systems [52 FR 44276, November

18, 1987; and 53 FR 40842, October 18, 1988], the FAA found that planning and diagramming appropriate signs and their location avoided unnecessary sign purchases or improper sign locations. Accordingly, the FAA believes the requirement for a sign plan would be beneficial to all certificated airports and that most currently certificated airports comply with this proposed requirement.

The following tables list both current part 139 requirements and proposed subject requirements that would be applicable to each airport classification should the FAA adopt this proposal. Proposed requirements would be in addition to current requirements as revised, unless otherwise noted in the table.

**A. CURRENT AND PROPOSED REQUIREMENTS FOR CLASS I AIRPORTS**

Current requirements	Proposed requirements
1. Personnel provisions .....	A recordkeeping system and new personnel training standards.
2. Paved and unpaved surfaces .....	Unchanged.
3. Safety areas .....	Unchanged.
4. Marking, lighting and signs .....	Unchanged.
5. Snow and ice control plan .....	Unchanged.
6. ARFF .....	New recurrency training, fire extinguishing agent and HAZMAT response standards, and increase frequency of ARFF coverage (where ARFF is not provided for small air carrier operations).
7. HAZMAT handling/storage .....	Standards for air carrier fueling operations, and additional fuel fire safety and personnel training standards.
8. Traffic/wind indicators .....	New supplemental wind cone/segmented circle standards.
9. Airport emergency plan (AEP) .....	New requirement to plan for fuel storage fires.
10. Self-inspections .....	New training requirements for inspection personnel.
11. Ground vehicle operations .....	Unchanged.
12. Obstructions .....	Unchanged.
13. Nav aids .....	Unchanged.
14. Public protection .....	Unchanged.
15. Wildlife hazard management .....	New wildlife strike reporting, hazard assessment, and management plan standards.
16. Airport condition reporting .....	New notification standard.
17. Construction/unserviceable areas .....	Unchanged.

**B. CURRENT AND PROPOSED REQUIREMENTS FOR CLASS II AIRPORTS**

Current requirements	Proposed requirements
1. ....	New requirements for a recordkeeping system and personnel training.
2. Paved and unpaved surfaces .....	Unchanged.
3. Safety areas .....	Unchanged.
4. Marking, lighting and signs .....	Unchanged.
5. ....	New requirement for snow and ice control plan.
6. ARFF (negotiated standard) .....	New ARFF standards per proposed 139.315–321).
7. HAZMAT handling/storage (negotiated standard) .....	New HAZMAT handling/storage standard (per proposed 139.323).
8. Traffic/wind indicators (negotiated standard) .....	New traffic/wind indicators standard (per proposed 139.325)
9. ....	New requirement for AEP (no triennial exercise required).
10. Self-inspections (negotiated standard) .....	New self-inspections standard (per proposed 139.329).
11. ....	New requirement for ground vehicle operations.
12. ....	New requirement for obstructions.
13. ....	New requirement for Nav aids.
14. ....	New requirement for public protection.
15. ....	New requirement for wildlife hazard management.
16. Airport condition reporting (negotiated standard) .....	New airport condition reporting standard (per proposed 139.341).
17. ....	New requirement for construction/unserviceable areas.

C. CURRENT AND PROPOSED REQUIREMENTS FOR CLASS III AIRPORTS

Current requirements	Proposed requirements:
1. ....	A recordkeeping system and personnel training.
2. ....	Paved and unpaved surfaces.
3. ....	Safety areas.
4. ....	Marking, lighting and signs.
5. ....	Snow and ice control plan.
6. ....	ARFF.
7. ....	HAZMAT handling/storage.
8. ....	Traffic/wind indicators.
9. ....	AEP (no triennial exercise required).
10. ....	Self-inspections.
11. ....	Ground vehicle operations.
12. ....	Obstructions.
13. ....	Nav aids.
14. ....	Public protection.
15. ....	Wildlife hazard management.
16. ....	Airport condition reporting.
17. ....	Construction/unserviceable areas.

D. CURRENT AND PROPOSED REQUIREMENTS FOR CLASS IV AIRPORTS

Current requirements	Proposed requirements
1. ....	New requirement for a recordkeeping system and personnel training.
2. Paved and unpaved surfaces .....	Unchanged.
3. Safety areas .....	Unchanged.
4. Marking, lighting and signs .....	Unchanged.
5. ....	
6. ARFF (negotiated standard) .....	Unchanged.
7. HAZMAT handling/storage (negotiated standard).	Unchanged.
8. Traffic/wind indicators (negotiated standard)	Unchanged.
9. ....	New requirement for an AEP (triennial exercise not required).
10. Self-inspections (negotiated standard) .....	Unchanged.
11. ....	
12. ....	
13. ....	
14. ....	
15. ....	
16. Airport condition reporting (negotiated standard).	Unchanged.
17. ....	

Section 139.205 Amendment of Airport Certification Manual

Under this proposal, existing § 139.205, titled “Contents of airport certification manual,” would be moved to proposed § 139.203. Existing § 139.217, titled “Amendment of Airport Certification Manual or Airport Certification Specifications,” would be moved to proposed § 139.205 and retitled. Existing § 139.217 specifies procedures for amending the ACM or the ACS.

Minor editorial clarifications are proposed to existing § 139.217, but existing amendment procedures and requirements would be unchanged. The title of the section would be revised to delete the term “Airport Certification Specifications.” Also, references to the Administrator have been changed to Associate Administrator for Airports. Action on petitions made under this

section would be delegated to the Associate Administrator for Airports.

In addition, amendment procedures specified in existing paragraph (d) would be revised. Currently the FAA may initiate action to amend an ACM, but there is no time period specified when the certificate holder will be notified of the disposition of a proposed amendment. Under new paragraph (d), the certificate holder would be notified within 30 days after receipt of the notification as to whether the amendment has been adopted or rescinded.

Subpart D—Operations

Section 139.301 Records

Under this proposal, existing § 139.301, titled “Inspection authority,” would be moved to proposed subpart B and consolidated with existing language of § 139.105 to create a single section titled “Inspection authority” (see

discussion under § 139.105, Inspection authority). Proposed § 139.301, titled “Records,” would be new and be applicable to all part 139 airports.

With the addition of new airports to the certification process, the FAA believes it is necessary to clarify certificate holders’ recordkeeping responsibilities. While many certificated airports already keep records to show compliance with part 139, this proposed amendment would ensure more consistent recordkeeping and require that the FAA be given access to such records.

New paragraph (a) would stipulate that the certificate holders would make available to FAA inspectors records required under part 139 in a manner to facilitate their monitoring of an airport’s compliance with part 139.

Proposed new paragraph (b) would require that a certificate holder make and maintain records of each scheduled

or unscheduled operation of large air carrier aircraft and scheduled operations of small air carrier aircraft, if the airport serves less than 10,000 annual air carrier operations during the previous 24 consecutive calendar months. This information will assist the FAA in determining whether the airport operator should continue to hold an AOC.

The FAA does not currently collect data on air carrier operations from airports with less than 10,000 annual operations, nor is data collected on unscheduled air carrier operations. Without this data, it is difficult for the FAA to properly allocate resources at airports serving small or unscheduled air carrier aircraft. The FAA does not believe this requirement is unduly burdensome as many airport operators already track air carrier operations for planning purposes and collecting user fees.

Proposed paragraph (c) would require the certificate holder to maintain any additional records that the Administrator may require. This paragraph also identifies some new and existing recordkeeping requirements contained in proposed part 139.

#### Section 139.303 Personnel

Existing § 139.303 requires certificate holders to maintain sufficient qualified personnel necessary to comply with the requirements of part 139. Under this proposal, this section would be revised to include additional requirements, organized into four new paragraphs. The requirements of this revised section would be applicable to all part 139 airports.

With the addition of new airports to the certification process, the FAA proposes to clarify in new paragraphs (a) and (b) a certificate holder's responsibilities to train and equip personnel performing duties required under the proposed part 139. This would include duties performed by airport personnel necessary to ensure the safe and efficient operation and maintenance of the airport. While many existing part 139 airports must comply with existing requirements of § 139.303, this proposal would for the first time stipulate that certificate holders must ensure that their personnel have the available resources needed to properly perform their duties. For example, a certificate holder would be required to provide personnel responsible for the upkeep of runway lighting with any necessary electrical supplies and tools, as well as provide access to pertinent sections of the ACM, and appropriate AC's.

New paragraph (c) proposes that the certificate holder develop a personnel training program to ensure that all personnel have the specific knowledge to perform their required duties at their airport and can perform such duties. Similar to training required for ARFF personnel, this training would be required when personnel first assume their duties and again on a reoccurring basis, as specified in the ACM.

New paragraph (d) would require the certificate holder to maintain records of training given to personnel, as required under this new section. Training records for each individual would have to be kept for each employee a minimum of two years after completion of the training to ensure these records are available for the FAA's annual inspection. The FAA has found that annual ARFF training records currently required have benefited the FAA and certificate holders in monitoring the quality and effectiveness of training. The FAA believes it would be beneficial to require training records of other employees that have duties prescribed in the ACM.

#### Section 139.305 Paved Areas, and Section 139.307 Unpaved Areas

Under this proposal, existing §§ 139.305 and 139.307 would remain virtually unchanged. These sections prescribe standards for maintaining and repairing paved and unpaved areas.

The term "Airport Certification Specifications" would be deleted to reflect proposed certification changes, and language stating specific series numbers within the AC system would be changed to a general reference to the AC system.

Further, existing § 139.305(a)(1) would be modified by deleting the terms "full strength" and "shoulder." The terms "full strength" and "shoulder" have caused confusion as to what areas surrounding movement areas to apply the 3-inch abutting surface limitation. To minimize damage to an aircraft that inadvertently leaves a runway, taxiway or other movement areas, this standard ensures that the edges of such pavement do not exceed more than 3 inches in height than the surrounding areas. This change clarifies that the standard is applicable to any area surrounding pavement used by air carrier aircraft, regardless of how these areas are used, or these areas' condition, strength, or composition.

Currently, all airports certificated under part 139 must comply with the provisions of §§ 139.305 and 139.307. In addition, proposed manual requirements (proposed § 139.205) would require operators of newly

certificated airports to develop procedures for maintaining paved and unpaved areas, as required under these sections. Both the FAA and the ARAC Commuter Airport Certification Working Group agree that airports serving scheduled operations of small air carrier aircraft should be required to maintain paved and unpaved areas as prescribed by these sections. Paved and unpaved areas include loading aprons, parking areas, taxiways, and runways. The deterioration of pavements and other areas must be limited to ensure that these areas adequately support air carrier aircraft operations.

The requirements for paved and unpaved areas should not prove a hardship on proposed Class III airports. As mentioned earlier, many of these airports have received Federal funding for paving improvements or new construction (see discussion of Regulatory Evaluation). These airports already maintain paved areas in a manner authorized by the Administrator in order to comply with grant assurances (see discussion of proposed § 139.109, Duration of certification). Pavement rehabilitation and expansion projects are eligible for further Federal funding and may be eligible for additional state or local funding.

#### Section 139.309 Safety Areas

Existing § 139.309 prescribes standards for the establishment and maintenance of a safety area for each runway and taxiway available for air carrier use. Under this proposal, this section would remain the same, except for minor editorial changes to paragraphs (a) and (c). The requirements of this revised section would be applicable to all part 139 airports, including proposed Class III airports.

A safety area is a defined area surrounding a runway or taxiway that is prepared, or suitable, for reducing the risk of damage to aircraft in the event an aircraft undershoots, overshoots, or deviates from a taxiway or runway. Establishing a safety area may require filling of culverts, grading, and compacting the ground to remove depressions or high spots. Lights and signs may be reinstalled on frangible mountings. A well-maintained safety area can prevent injuries to passengers and limit damage to aircraft that depart from paved surfaces. The safety area would allow the aircraft to come to a rest on a graded, obstacle free surface. Safety areas also allow emergency response vehicles to more quickly reach troubled aircraft.

The language of existing paragraph (a) would be revised to require that certificate holders ensure runway safety

areas are maintained in accordance with the standards of this section, unless otherwise approved in the ACM.

Dates listed in existing paragraphs (a)(1) and (2) that "grandfather" existing safety areas would remain effective. These dates were adopted when part 139 was revised in 1987 (52 FR 44276, November 18, 1987.) Prior to 1987, many airport operators invested resources to develop safety areas before standardized guidelines were established. Further, physical limitations of airports resulted in establishment of some safety areas that did not meet the standard due to local circumstances. For example, available solid ground around runways located adjacent to bodies of water may have been inadequate to establish a safety area that meets the required dimensions.

Since 1988, the FAA has required any renovation or construction of safety areas to meet the requirements of § 139.309 at most airports that would be effected by this proposed rule, including proposed Class III airports. Any newly certificated airport under this proposal that has renovated or constructed its safety areas since 1988 could apply for an exemption under proposed § 139.111 if its safety areas do not comply with the requirements of this section.

Paragraph (c) would be revised to make a general reference to the availability of the AC system.

#### Section 139.311 Marking, Signs, and Lighting

Existing § 139.311, titled "Marking and lighting," specifies standards for runway and taxiway markings, signs, and lighting. Under this proposal, this section would be retitled and clarified. In addition, new paragraphs (b) and (g) would be added. The marking and lighting requirements would be revised to correspond to proposed § 139.203 requiring all operators of certificated airports to comply with this section.

The addition of the word "signs" to the title of this proposed section reflects proposed changes to this section that would separate marking, signs, and lighting requirements into three distinct paragraphs. Paragraph (a) would contain marking requirements, new paragraph (b) would specify sign requirements, and paragraph (c) would detail movement area lighting requirements.

Revised paragraph (a) would contain existing marking requirements, with a minor clarification concerning taxiway edge markings. In addition, the word "runway" would be deleted from the term "runway holding position markings" to permit special operations that require holding position markings other than those prior to the runway. To

accommodate such special aircraft operations, the FAA proposes to delete the word "runway" from both the phrase "runway holding position markings" in proposed paragraph (a) and the phrase "runway holding position signs" in proposed paragraph (b).

New paragraph (b) would include sign requirements currently found in § 139.311(a) and specify signs that must be internally illuminated. Paragraph (b)(2) would require proposed Class I, II, and IV airports operators to internally illuminate taxiing route signs, holding position signs, and ILS critical area signs. Paragraph (b)(3) would require operators of proposed Class III airports to internally-illuminate only holding position and ILS critical area signs.

Due to cost associated with installing and maintaining internally-illuminated signs, the majority of the ARAC Commuter Airport Certification Working Group recommended use of retro-reflective runway signs (signs that reflect light back, similar to signs used on interstate highways) for runways not equipped with lighting. Internally-illuminated signs would be appropriate for runways that are equipped with lighting. The working group report recognized the cost to install internally-illuminated signs and suggested use of these signs only on runways that have a power source in place. The initial cost to supply electrical power to taxiways and/or runways was viewed as relatively high, and the working group hoped this approach would economize airport resources.

While the majority of the working group recommended retro-reflective signs identifying taxiing routes, representatives of ALPA recommended that newly certificated airports (proposed Class III airports) install internally-illuminated signs on taxiing routes where edge or centerline lighting exists. ALPA opposes retro-reflective taxiway signs because it believes that retro-reflective signs may not be visible to pilots operating aircraft of varying size and configurations. Conversely, the majority of members believe that aircraft with fewer than 31 passenger seats (typically used at Class III airports) are lower to the ground, thereby validating use of retro-reflective signs. ALPA further argued that similar requirements for runway and taxiway signs would ensure standardization and, with the gradual conversion to internally illuminated signs, would present a minimal economic burden, noting that signs are eligible for Federal funding.

The FAA disagrees with ALPA's conclusion that use of internally-illuminated signs will present minimal

impact on airports. While improvements to taxiway and runway signs are eligible for Federal funding, such improvements may not receive funds. Further, requiring installation of specific equipment on the assumption that the equipment is eligible for funds through the AIP would be misleading. AIP funds are allocated on a priority basis, and airport sign improvements would compete with other airport improvements and safety projects on a nationwide basis. Moreover, AIP funds do not cover all of an airport's costs local communities provide some matching funds.

However, the FAA is concerned about ALPA's contention that retro reflective signs may not be visible to all air carrier pilots because of differences in aircraft configurations and the location of taxi lights, and would like to use this rulemaking to invite comments on this issue. FAA also requests comments, including economic and operational data, on whether or not the installation of unlighted retro-reflective signs would provide an adequate sign system for Class III airports.

The term "unless otherwise authorized by the Administrator" also would be included in new paragraph (b) to provide for those instances where an airport has a runway that does not have edge or in-pavement lighting, thus a suitable power source may not be available to illuminate signs. In such cases, the FAA would work with the airport to develop acceptable alternative signs until funding is available for installing or improving power for runway lights and signs.

New paragraph (c) would contain existing lighting requirements for aircraft operations currently found in existing § 139.311(b). The word "darkness" would be replaced with the word "night," which is defined in 14 CFR part 1. Special criteria also would be included to address the unique environment of Alaska.

Also, references to 14 CFR part 77 concerning obstruction would be deleted. Part 77 is being revised and may be reorganized. New paragraph (c)(5) of proposed § 139.311 would require the marking and lighting of objects determined by the FAA to be an obstruction.

The phrase "authorized by the Administrator" also would be added to existing language of proposed paragraphs (a), (b), and (c). This change would ensure that the requirements of this section are implemented in a manner satisfactory to the FAA. This change corresponds to those in proposed § 139.7 (see discussion under

§ 139.7 Methods and procedures for compliance).

In addition, language in paragraphs (a), (b), and (c) pertaining to lowest minimums authorized for a runway would be modified. This revised language would clarify that the FAA authorizes landing and takeoff minimums for runways. This does not change how such minimums are currently determined; the revised language clarifies that FAA is responsible for making such determinations.

With changes to other paragraphs in this section, existing paragraph (c) would become new paragraph (d) and continue to require certificate holders to properly maintain marking, sign and lighting systems. Existing (d), requiring certificate holders to prevent light interference with air traffic control and aircraft operations, would become new paragraph (e). Consequently, existing paragraph (e) would become new paragraph (f) and continue to specify that advisory circulars (AC's) contain marking, sign, and lighting standards that are acceptable to the Administrator. Existing paragraph (f) would be deleted as it addresses an implementation date that has already passed.

A new paragraph (g) proposes a compliance date for marking and lighting requirements by operators of proposed Class III airports. These airport operators would be provided adequate time to develop a sign plan, order, and take delivery of signs, and install signs required by this part. Operators of proposed Class II and IV airports currently holding an LAOC should already comply with this section's requirements.

#### Section 139.313 Snow and Ice Control

This proposal would make minor modifications to the existing standards of § 139.313, titled Snow and ice control. As proposed, Class I airport certificate holders would continue to implement their existing snow plans, and operators of proposed Class II and III airports would be required to develop snow and ice control plans, as appropriate.

Existing § 139.313 requires operators of airports serving scheduled operations of large air carrier aircraft to develop and implement snow and ice control plans, if the airport is located in an area where snow and icing conditions regularly occur. Snow and ice plans include procedures for removal and control of snow and ice accumulations and notification to air carriers when movement areas are unusable due to snow and ice. No changes are proposed to these requirements.

In the revised paragraph (a), the term "regularly" would be deleted and new language added to clarify that the FAA will determine which airports require snow and ice control plans. The term "regularly" is too vague and difficult to further define.

Proposed § 139.313(b)(2) would be modified. This paragraph prescribes the standard for positioning snow off movement areas. This proposal would not change this standard, but would delete the redundant term "full strength." This term "full strength" is unnecessary as proposed § 139.3 defines movement areas as those areas used by aircraft to taxi and land. To function as such, movement areas must have the capability to support the weight of the aircraft using these surfaces—a surface condition described as full strength.

In addition, references to airport condition reporting requirements in paragraph (b) would be updated to correspond to new section numbering. Paragraph (c) also would be modified to reference generically to the AC system rather than specific series number.

The ARAC Commuter Airport Certification Working Group's report contained a recommendation that Class II and III airports should be required to remove snow and ice. The working group suggested minor modifications to the rule language that would limit the requirement to remove snow and ice to times just prior to air carrier operations. The group recommended deletion of the requirement that snow and ice be removed promptly. The FAA disagrees. Continuous and prompt removal of snow and ice ensures safe airport conditions in hazardous weather conditions. Failure to promptly remove snow and ice from movement areas could make removal of accumulations just prior to air carrier operation more difficult.

#### Sections 139.315–139.321 Aircraft Rescue and Firefighting (General Discussion)

Existing part 139 has three sections dedicated to aircraft rescue and firefighting (ARFF) requirements. This proposal would revise these three sections to include new requirements and reflect current industry practices. In addition, a fourth ARFF section is proposed that would specify procedures for airport certificate holders to request an exemption from ARFF requirements.

This proposal also would require that *all* airports certificated under part 139 provide appropriate ARFF coverage meeting at least minimum ARFF requirements (Index A), subject to the limited exemption discussed below. Proposed changes to ACM requirements

(see discussion of proposed § 139.203, Contents of airport certification manual) would require all certificated airports to include procedures in their ACM for complying with proposed ARFF requirements appropriate to the air carrier aircraft and operation served.

Currently, only airports serving scheduled operations of large air carrier aircraft are required to comply with all of part 139 ARFF requirements. Under existing § 139.321(b)(11), airports serving unscheduled operations of large air carrier aircraft (airports holding an LAOC) are required only to provide for "emergency response to aircraft rescue and firefighting needs." This means that airports holding an LAOC must provide for ARFF coverage but such coverage does not have to meet prescribed part 139 ARFF requirements. The FAA determines ARFF requirements at these airports on a case-by-case basis. While the FAA uses part 139 standards as a benchmark, the level of this coverage varies depending on the air carrier operations served and the availability of local resources.

To standardize ARFF at certificated airports, the FAA proposes that all certificated airports serving both scheduled and unscheduled operations be required to comply with all ARFF requirements. However, requiring all airports to comply with the standards of this revised section may pose a substantial cost for airports that do not currently provide at minimum ARFF coverage (Index A), or do so only to cover an occasional unscheduled air carrier flight. This would include both currently certificated airports and airports that would be newly certificated if this proposal is adopted.

The FAA has provided financial and technical support to help some airports holding an LAOC comply with part 139 ARFF requirements, particularly for the purchase of ARFF equipment. As a result, many airports holding a LAOC already comply with most of the ARFF requirements. However, the FAA recognizes that these airports typically are located in smaller communities that have limited resources and that the sporadic nature of unscheduled air carrier operations often makes it cost prohibitive for such communities to provide the same level of ARFF coverage provided by airports serving scheduled large air carrier aircraft.

Accordingly, the FAA proposes to establish procedures to exercise its statutory authority to provide limited exemptions for certain airports from some or all prescribed ARFF requirements on a case-by-case basis.

The issue of ARFF proved to be the most contentious for the ARAC

Commuter Airport Certification Working Group. The group was not able to reach a consensus on the level of ARFF coverage appropriate for airports serving small air carrier aircraft. While the majority of the working group agreed that ARFF equipment should meet minimum ARFF coverage required under part 139 (Index A), no agreement was reached for stationing ARFF personnel and equipment on the airport, or requiring a 3-minute ARFF response.

The working group's greatest concern was over labor and training costs associated with ARFF requirements. The working group concluded that many of the communities serving small air carrier operations could not afford to provide the same level of ARFF services required of airports serving large air carrier operations, even if Federal funds were made available to assist in the purchase of ARFF equipment. The majority of the members of the working group recommended that operators of small airports work with local firefighting agencies to arrange for emergency services and incorporate such arrangements into the airport's emergency plan.

The majority of the working group also concluded that there was a lack of accident data to support on-airport ARFF at smaller facilities. The working group reviewed the National Aviation Safety Data Analysis Center's (NASDAQ) collection of NTSB reports for all part 135 scheduled airplane accidents and incidents that occurred on airports between 1983 and 1996. The group discovered 15 on-airport accidents involving small air carriers that resulted in post crash fires. A total of 38 fatalities occurred as a result of these accidents. With the exception of one accident resulting in fatalities, all fatalities were the result of the aircraft impact, not the subsequent fire.

The exception is the crash of Northwest Airliner Flight 2268, a CASA-212 commuter aircraft, at the Detroit Metropolitan Airport on March 4, 1987. The Detroit Metropolitan Airport is a part 139 certificated airport with the most comprehensive ARFF capabilities (Index E). A rapid intervention ARFF vehicle was at the crash scene within one and one-half minutes of the alarm from the control tower, and the fire was extinguished within two minutes of the first alarm. Before ARFF services could arrive, a quick and intense post crash fire killed nine aircraft occupants. Ten occupants survived, by exiting the aircraft prior to the secondary fire.

The working group did not consider the November 1996 commuter accident at Quincy, Illinois, in its review because

the NTSB had not concluded its investigation at that time.

The Air Line Pilots Association (ALPA) expressed a minority position for one level of safety and stringent ARFF requirements at all certificated airports regardless of size of aircraft serving the airport. ALPA favored a 3-minute test response that is currently required of airports receiving scheduled operations of large air carrier aircraft, and offered suggestions for providing personnel needed for ARFF response. Among others, ALPA suggested that airport operators cross-train their employees (or tenant employees) to perform ARFF duties, or that the local community site a fire station on the airport. ALPA subsequently provided a position document that is available in the docket.

The FAA is not opposed to ALPA's position that ARFF coverage be provided at airports served by small air carrier aircraft. Current part 139 and this proposal permit the use of existing airport employees to perform ARFF duties so long as the provisions of part 139 are met. With FAA approval, an airport operator could arrange to have part, or all, of its ARFF responsibilities performed by an air carrier or fixed base operator (FBO) so long as the requirements of this part and the airport's certification manual are met.

However, ALPA's position on a standard 3-minute test response is impractical. Most local volunteer fire departments would not have volunteers present for every air carrier operation. Similarly, locating a fire station on the airport can mean that, during air carrier operations, firefighters would not be available to provide emergency services elsewhere in the community.

In connection with this rulemaking, the FAA is considering a clarification of agency policy on the use of airport revenue to promote the availability of ARFF services at small airports. Generally, a non-aeronautical municipal use of airport property must be charged a fair market rental rate for the airport to comply with grant assurances that require the airport to maintain a rate structure that makes it as self-sustaining as possible (see discussion of § 139.109 Duration of certificate). However, a municipal fire station on airport property may receive a reduction in rent proportional to the airport-related purpose and use of the station. In connection with the adoption of proposed ARFF requirements for airports serving small air carrier aircraft, the FAA would consider this reduction to apply to a municipal fire station located on a Class II, III, or IV airport when the municipal station is an

essential element of the local agreement the airport uses to meet its ARFF obligations under part 139.

Since the ARAC submitted its report on the certification of commuter airports, the NTSB announced its findings on the commuter aircraft accident in Quincy, Illinois. The accident involved the runway collision of a United Express Flight 5925, a Beech 1900C commuter aircraft, and a Beech King Air, N1127D, during the landing sequence of the United Express and the take off of the King Air from Quincy Municipal Airport. The Quincy Municipal Airport has a limited airport operating certificate and only provides ARFF coverage during large air carrier operations. At the time of the accident, there were no large air carrier aircraft operations and ARFF services were not on site. All ten passengers and two crewmembers aboard Flight 5925 and the two occupants on the King Air were killed as the result of post-crash fires.

The NTSB found that the speed with which the fire enveloped the King Air, and the intensity of the fire, precluded survivability of the occupants. The occupants of the Beech 1900C did have the opportunity to escape but could not open external doors that had been damaged. The NTSB concluded that lives might have been saved had on-airport ARFF protection been required. However, the board recognized the economic difficulties on-airport ARFF requirements would place on smaller communities. In this regard, the NTSB recommended that the FAA develop ways to fund ARFF protection at airports serving scheduled passenger operations in aircraft with more than 10 seats.

#### Section 139.315 Aircraft Rescue and Firefighting: Index Determination

Airports certificated under part 139 that serve *scheduled* air carrier operations with more than 30 seat aircraft must provide ARFF coverage that is appropriate to the size of aircraft using the airport. Existing § 139.315 establishes criteria for determining the proper ARFF coverage. Requirements for this coverage are divided into five categories, or indexes, based on the length of the longest air carrier aircraft that departs the airport at a certain frequency. Index A prescribes the minimum ARFF standards (type of extinguishing agent, truck capacity, etc.) that an airport must provide during operations of air carrier aircraft less than 90 feet in length. Air carrier aircraft with 10–30 seats used in scheduled passenger service are typically less than in 90 feet in length.

Under this proposal, clarifications would be made to the requirements of existing § 139.315. Existing paragraph (c)(1) and (c)(2) would be combined into a single paragraph.

The current format of this paragraph has resulted in (c)(1) and (c)(2) being misinterpreted and airports complying with lower ARFF index requirements than intended.

A certificated airport serving scheduled air carrier operations must comply with the ARFF Index that corresponds to the largest aircraft as long as there are five or more average daily departures of that type of aircraft. However, confusion exists when the largest aircraft serving an airport has less than five daily departures. In such cases, a certificated airport must meet the next lower ARFF index requirements for the largest air carrier aircraft serving the airport, regardless on number of average daily departures.

For example, if an airport serves 10 daily departures of Index A aircraft, three daily departures of Index B aircraft, and four daily departures of Index C aircraft, the FAA intends for this airport to provide at least Index B ARFF coverage. Index B ARFF coverage would also be required at an airport receiving four daily departures of Index A aircraft, four daily departures of Index B aircraft, and three daily departures of Index C aircraft. The existing rule language has resulted in the incorrect interpretation that Index A ARFF coverage would be appropriate in both examples because daily departures were used as the determining factor rather than the largest aircraft serving the airport. When the largest aircraft serving a certificated airport has less than five daily departures, then aircraft size would determine the ARFF index.

The FAA also proposes revisions to this section to emphasize that in all circumstances, the minimum ARFF index will be Index A.

#### Section 139.317 Aircraft Rescue and Firefighting: Equipment and Agents

Existing § 139.317 prescribes standards for ARFF equipment and fire extinguishing agents. The FAA proposes revisions to this section to reflect changes made to the production of fire extinguishing agents.

The FAA proposes to add the phrase "unless otherwise authorized by the Administrator" to this section to provide relief to airports waiting for Federal funds to purchase adequate equipment, or to address other local circumstances that may require temporary use of alternative equipment or extinguishing agents. Long-term relief from the standards of this section would

be considered under proposed § 139.321, Aircraft rescue and firefighting: Exemption.

In addition, the term "clean agent" would be added to this section. The term defines a new type of aircraft fire extinguishing agent that an airport operator could use to comply with this section, and as noted earlier, is used by the firefighting community to describe a category of fire extinguishing agents that replace halon 1211.

Under existing § 139.317, halon 1211 is specified as one of the fire extinguishing agents that an airport operator can use. However, chlorofluorocarbon chemicals, including halon 1211, have been identified as a stratospheric ozone depleter. The United States Environmental Protection Agency (EPA) banned the production of halon 1211 on January 1, 1994. Airport operators currently using halon 1211 will be required by the EPA to switch to authorized agents when their stockpiles are depleted and may only use halon 1211 during actual aircraft emergencies.

Under this proposal, most of existing § 139.317(i) would be deleted. The FAA proposes to remove references to specific standards for extinguishing agent substitutions and place these in an advisory circular. Only language allowing the use of alternate extinguishing agents authorized by the Administrator would be retained.

The FAA also proposes to remove language no longer needed in this section that provided relief to certain airport certificate holders whose ARFF vehicles were unable to comply with all the requirements of this section at the time of the regulation's last revision (November 1987). Since the 1987 revision, the FAA has funded through the Airport Improvement Program the purchase and rehabilitation of ARFF vehicles, and noncompliant vehicles have been replaced. However, the FAA recognizes that airports newly certificated (proposed Class III airports) may be using ARFF vehicles that do not comply fully with the requirements of this section. The exemption process of proposed § 139.321 would enable the FAA to consider relief from this section's requirements.

The FAA proposes a 2-year timeframe for those airports required for the first time to comply with the standards of this section (proposed Class II, III and IV airports). The proposed compliance dates should allow these airports adequate time to acquire funding for, and purchase of, ARFF equipment. Approximately 40 airports (both certificated and non-certificated) would have to obtain additional ARFF

equipment. The FAA would consider a time extension for airports unable to comply within this 2-year timeframe.

#### Section 139.319 Aircraft Rescue and Firefighting: Operational Requirements

Existing § 139.319 prescribes standards for the training of ARFF personnel; ARFF vehicle marking, lighting, and readiness; and emergency access roads. This section also establishes criteria for a certificate holder to make adjustments to ARFF coverage to correspond to changes in air carrier operations. Currently, only airports serving scheduled operations of large air carrier aircraft are required to comply with § 139.319. Under this proposal, all classes of airports would be required to comply with the requirements of this revised section.

Existing § 139.319 would be revised to reflect current rescue and firefighting practices. Also, it would address a petition for rulemaking made by the Air Transport Association of America (ATA). As the result of these proposed changes, many existing paragraphs would be given new paragraph designations and titles to ensure a consistent format throughout the section.

Specifically, existing paragraph (g) would be moved to new paragraph (l) and titled "Methods and procedures." This change would ensure that all references to compliance methods and procedures are consistently located at the end of each section. All references to specific series numbers within the AC system would be deleted. Instead, this revised paragraph would make a general reference to the AC system.

Several changes also would be made throughout new paragraph (h) (existing paragraph (i)) for clarity and to reflect changes in terminology used to describe fire extinguishing agents (see discussion of proposed § 139.317).

In addition, proposed paragraph (i) would contain existing requirements of paragraph (j), with several modifications. Language would be included in new § 139.319(i)(2) to clarify that rescue and firefighting personnel must be trained before initial performance of duties and, at a minimum, must receive annual recurrency training.

Also, the FAA proposes to clarify the frequency of training required for rescue and firefighting personnel. Many of the subject areas required under existing paragraph (j) (proposed new paragraph (i)) necessitate ongoing training, and ARFF personnel would not be expected to maintain currency with only a once-a-year course. Most ARFF organizations have a continuous training program

throughout the year. The FAA supports this continuous training approach and proposes a 12-month recurrent training requirement as the benchmark for the minimum training required.

The FAA also proposes, in new paragraphs (i) and (j), to require the use of hazardous material guidance. In August 1990, the ATA petitioned the FAA to amend part 139 ARFF procedures related to hazardous materials incidents. In its petition, ATA expressed concern that without proper training and guidance, ARFF personnel could take incorrect action in response to a hazardous materials incident that might endanger both the emergency crews and the general public. At that time, ATA stated that ARFF crews were relying solely on hazardous materials emergency response guidance required to be carried aboard the aircraft.

ATA recommended that § 139.319 be amended to require ARFF crews to be equipped with, and trained in the use of, the North American Emergency Response Guidebook published by Transport Canada, U.S. Department of Transportation, and the Secretariat of Communications and Transportation of Mexico. The ATA stated that the guidebook would promote a better understanding of ground emergency response and alleviate the need for ARFF personnel to be solely dependent of on-board information, which may or may not be available during an emergency, and may not be appropriate to a ground-based incident.

In response, the FAA published a summary of the petition in the **Federal Register** (55 FR 39299, September 26, 1990), and received 14 comments from airport operators, ATA and ALPA. Most of the commenters agreed with the substance of the petition and recognized the value of providing ARFF personnel with guidance and training to properly respond to hazardous materials incidents. Several airport operators disagreed with ATA because many airports already equip ARFF personnel with the guidebook or provide similar information to ARFF personnel via a communication link. However, two airport operators expressed concern about requiring a specific document in part 139 that could become outdated and hamper existing hazardous materials emergency communication procedures already in place. Instead, these commenters preferred to focus such efforts on training.

In light of information and data provided by ATA and airport operators, the FAA proposes to change existing paragraph (j)(2)(x) ((proposed paragraph (i)(2)(x))), to revise the term "aircraft cargo hazards" to read "hazardous

materials/dangerous goods incidents." Similarly, new paragraph (j) would be added to this section prescribing a general requirement to equip aircraft rescue and firefighting vehicles with guidance for responding to hazardous materials/dangerous goods incident.

The FAA is a proponent of the North American Emergency Response Guidebook and proposes to require its use. This guidebook was developed jointly by the governments of Canada, Mexico, and the United States for use by fire fighters, police and other emergency services personnel who may be the first to arrive at the scene of a transportation incident involving hazardous materials or dangerous goods. The guidebook should be used by first responders to quickly identify the specific or generic hazards of the material(s) involved in the incident, and to protect themselves and the general public during the initial response phase of the incident. Other guidance material also may be needed.

While new paragraph (j) specifies the use of the North American Emergency Response Guidebook, it also would allow airport operators the flexibility to use other guidance material and to make such information available via direct communications links to ARFF personnel at the site of the incident (e.g., cellular telephone, radio, and other communication links).

New paragraph (i)(4) would impose requirements for emergency medical care training similar to existing requirements. The term "emergency medical care" would be amended to read "emergency medical services." This change in terminology reflects current terminology used by the emergency response community. Further, it is proposed that emergency medical requirements be expanded to specify initial and recurrent training to eliminate any confusion over the frequency of such training.

Proposed paragraph (i)(5) would be a new requirement for the certificate holder to maintain records for two years from the date of any training given to meet the requirements of proposed § 139.319. Such records would, at a minimum, specify the type and date of training. To document compliance with this section, airport certificate holders already maintain these records and the FAA proposes to formalize this practice.

Similar to proposed § 139.317(l), new paragraph (m), titled "Implementation," would specify a compliance date with airports that would be required for the first time to comply with the standards of this section (proposed Class II, III, and IV airports). The proposed compliance date allows these airports adequate time to acquire funding for,

and purchase of, ARFF equipment and hire/train personnel. The FAA anticipates that approximately 110 airports (both certificated and non-certificated) would have to obtain additional equipment and personnel. Two years should be adequate time to secure Federal and local funds to purchase equipment and hire and train personnel. The FAA would consider a time extension for airports unable to comply within this 2-year timeframe.

#### Section 139.321 Aircraft Rescue and Firefighting; Exemptions

Existing § 139.321, Handling and storing of hazardous substances and materials, would be redesignated as § 139.323. Proposed § 139.321 is new and would establish procedures for certain airport certificate holders to request an exemption from the ARFF requirements of proposed §§ 139.317 and 139.319. This section would also detail what the FAA would consider in deciding to grant an exemption from the ARFF requirements. As proposed, the FAA could exercise its statutory authority to exempt certain airport certificate holders from the prescribed ARFF requirements. Through this statutory exemption, the FAA would maintain the necessary oversight of ARFF while ensuring that the ARFF requirements are appropriate for the airport size and type of air carrier operations.

Proposed paragraph (a) would establish that the certificate holder of an airport that meets the qualifications for an exemption, as specified in proposed § 139.111, may petition the Associate Administrator for Airports (as delegated by the Administrator) for an exemption to the ARFF requirements of proposed §§ 139.317 and 139.319. Specifically, the airport certificate holder would have to demonstrate that the ARFF requirement it is seeking exemption from would be unreasonably costly, burdensome, or impractical.

Proposed (b) would set forth procedures a certificate holder must take to request an exemption, including the information that must be included in the petition, i.e., the nature and extent of relief sought, and any alternative means of compliance.

Proposed paragraph (c) would establish criteria the FAA would use to grant exemptions on a case-by-case basis. As noted in the discussion of alternatives, any exemption would not relieve an airport certificate holder from its obligation to provide some level of ARFF coverage. All certificated airports would be required to provide ARFF coverage.

Proposed § 139.321(c) requires the certificate holder to submit a petition requesting relief from the requirements of §§ 139.317 and 139.319 that shows an equivalent level of safety would be provided during air carrier operations in response to aircraft emergencies. This would include provisions made by the certificate holder for prearranged firefighting and medical response, equipment and fire extinguishing agents to be used, and training of firefighting and medical responders. Also, this section specifies that the certificate holder will arrange for such emergency equipment and personnel to be on-airport 15 minutes before and 15 minutes after an air carrier aircraft takes off or lands. This should not be interpreted to mean that such prearranged ARFF services would necessarily be required to be stationed at the airport or wait on-airport during extended periods between flights.

Of approximately 570 civilian airports currently certificated under part 139, operators of approximately 500 of these airports would be eligible to petition for an exemption under this new section (as they have less than one quarter of one percent of the total number of annual passenger enplanements). The operators of the estimated 40 airports that could be newly certificated (proposed Class III airports), if this proposal is adopted, would be eligible to petition for an exemption from ARFF requirements as well. The FAA does not anticipate that all eligible certificate holders would apply for an exemption under this new section.

The FAA expects that most requests for an exemption would be made by airports that would have to provide more frequent ARFF services, such as some proposed Class I, as well as Class II and III airports. An analysis of existing ARFF services at these airports revealed that approximately 110 of these airports (approximately 50 Class I, 30 Class II, and 30 Class III airports) would require additional equipment or personnel to comply with proposed ARFF requirements (see discussion of ARFF costs in the Regulatory Evaluation section). To minimize disruptions at such airports, certificate holders at these facilities would have two years to comply with proposed changes to ARFF requirements. During this time, a certificate holder could choose to comply with these new requirements or request an exemption. Airport operators currently holding a "limited" certificate could request an exemption based on the currently approved ARFF response for their airport.

The FAA requests comments on this exemption process, including economic

and operational data that would assist the FAA in evaluating the effectiveness of this process.

#### Section 139.323 Handling and Storing of Hazardous Substances and Materials

In this proposal, existing § 139.321, would be redesignated as proposed § 139.323. Existing § 139.321 requires certain airport operators to establish and implement procedures for the safe storage and handling of aviation fuel, lubricants, and oxygen, and when acting as a cargo agent, hazardous materials regulated under 49 CFR 171. This section also requires the certificate holder to conduct quarterly inspections of certain fueling agents. Generally, this proposal would not change these requirements.

Changes are proposed to existing paragraphs (b), (c), (h), and (i) of this section, as described below. All proposed airport classifications would be required to comply with the requirements of this revised section.

Airport operators that currently serve scheduled operations of large air carrier aircraft (proposed Class I airports) would continue to comply with existing § 139.321. Operators of airports holding an LAOC (proposed Class II and IV airports) would be required to update existing procedures for the storage and handling of hazardous materials required under existing § 139.213 to ensure their existing procedures meet the standards. Also, operators of proposed Class III airports would be required for the first time to develop and implement procedures for the storage and handling of hazardous materials. Depending on the local fire code, some operators of proposed Class III airports may have already developed such procedures and would need only to document such procedures in their ACM.

The majority of the ARAC Commuter Airport Certification Working Group recommended that airports serving small air carrier aircraft not be required to comply with this section. The working group expressed a need for such procedures, but noted most airport operators already have procedures that appear to be adequate for storing and handling hazardous materials at smaller facilities. Instead, the majority recommended that smaller facilities meet local fire codes pertaining to storage and handling of hazardous substances and materials, including aircraft fuel. The majority stated that this approach would adequately address preparedness and safety issues without being overly burdensome.

Representatives of the National Air Transportation Association (NATA) and

ALPA disagreed with the majority position, and recommended that the FAA require airports serving small air carrier aircraft to comply with requirements of the existing section. ALPA raised concerns that local fire codes may not adequately address aircraft storage and refueling operations, and noted the working group's economic analysis found compliance with this section would not create an economic burden.

The FAA has determined that the requirements of this section are common safety measures and would not be unduly burdensome. Moreover, these standards were developed as a result of a cooperative effort between the FAA, airport operators, and FBO's, and have been successfully used for the past several years by airport operators and aircraft fuelers nationwide.

The FAA proposes to delete the term "grounded" from paragraph (b)(1). This paragraph would then correspond with the NFPA Standard 407, titled "Standard for Aircraft Fueling Servicing." The NFPA standard recommends that only bonding should be used during aircraft fueling or refueler loading.<sup>3</sup> The FAA actively participates in development of NFPA codes and standards related to aviation fueling.

The terms "grounding" and "bonding" describe methods to dissipate electrostatic charges created when aviation fuels pass through pumps, filters, and piping, and may consequently ignite fuel. Bonding is a procedure that provides a conductive path to equalize the potential electrostatic differential between fueling equipment and aircraft. Bonding is accomplished by connecting a cable between the fueling equipment and the aircraft. Alternatively, grounding attempts to reroute and dissipate potential charges into the ground by connecting the aircraft by a cable to a static wire, typically a rod in the ground.

The FAA concurs with NFPA 407 as testing has shown that most grounding provides little, if any, protection from electrostatic hazards. In addition to corrosion of rods in the ground, grounding points may have high electrical resistance. The static wire may not be sufficient to carry the potential current and, if the wire fuses, may actually constitute a source of ignition.

Since 1990, the FAA has encouraged the use of bonding in aircraft fueling, fuel delivery and hydrant servicing. The

<sup>3</sup> NFPA 407—Standard for Aircraft Fuel Servicing, National Fire Protection Association, 1996 Edition.

FAA Office of Airport Safety and Standards has issued two informational notices, known as "CERTALERTS," to alert FAA inspectors and airport operators to changes in grounding and bonding. "CERTALERTS" are advisory in nature and are issued periodically to provide timely information to certificate holders on a broad range of safety and airport certification related subjects. Subsequent to the issuance of NFPA 407, the FAA issued CERTALERT #91-06 (September 18, 1991) and CERTALERT #90-08 (November 7, 1990) urging the use of bonding only, and suggesting design requirements for the procedure. The FAA proposes to use this rulemaking action to codify this recommended practice.

In addition, paragraph (b)(6) would be modified to delete an implementation date that has already passed. In its place, a new requirement is proposed that would require operators of proposed Class III airports to complete specified training within one year.

Existing paragraph (e) would be modified to include requirements for annual recurrency training for fueling agent supervisors and employees. This is in response to requests by airport operators for clarification on frequency training. This requirement would be similar to recurrency training requirements proposed for other airport personnel (see discussion of § 139.319, Aircraft rescue and firefighting: Operational requirements) and training currently used by fueling agents. Most fueling agents work directly for, or indirectly represent, large fuel or aircraft service companies that have established safety programs that require periodic recurrency training.

Proposed changes to existing § 139.321(h) would clarify the certificate holder's responsibility for fuel storage areas owned or operated by tenant air carriers. Paragraph (h) currently exempts the certificate holder from overseeing part 121 or 135 air carrier fueling operations to ensure compliance with requirements of § 139.321. However, there are no equivalent requirements under parts 121 and 135 directing air carriers to inspect and maintain their fuel storage areas, as is required of airport operators under part 139. Sections 121.135 and 135.23 only address refueling aircraft and fuel quality.

On November 25, 1990, a fire erupted at a fuel storage and dispensing facility about 1.8 miles from the main terminal of Stapleton International Airport in Denver, Colorado. The fire was extensive, burning for 49 hours, and required a total of 634 firefighters, 47 fire units, and 4 contract personnel.

More than 56 million gallons of water and 28,000 gallons of foam concentrate were expended to extinguish the fire. No injuries or fatalities occurred as a result of the fire.<sup>4</sup>

The NTSB investigation concluded that the probable cause of this accident was damaged pumping equipment resulting in leakage and ignition of fuel. The NTSB also concluded that a similar incident could be avoided if airport certificate holders were responsible for inspecting all fuel storage areas on the airport, including air carrier facilities.

The FAA concurs with this recommendation and proposes to delete existing paragraph (h) to avoid any possible confusion over who is responsible for maintaining and inspection fuel storage areas used by part 121 and 135 air carriers. Subsequently, existing paragraph (i) would become new paragraph (h). As proposed, new paragraph (h) would specify that the requirements of § 139.321 are applicable to air carrier fuel storage areas located on the airport. Existing paragraph (c) also would be amended to remove references to existing paragraph (h).

In addition, existing paragraph (i) (new paragraph (h)) would be revised to delete references to the specific series number within the AC system. Instead, this revised paragraph would make a general reference to the AC system.

#### Section 139.325 Traffic and Wind Direction Indicators

Under this proposal, the requirements of existing § 139.323 would be moved to proposed § 139.325. Existing § 139.323 prescribes conditions that require certificate holders to provide a wind cone and a traffic pattern indicator, and the standards for these devices. All proposed airport classifications would be required to comply with this proposed section.

Changes are proposed to clarify that airport operators must comply with the requirements of this section in a manner satisfactory to the FAA, and that the available AC's contain some methods of compliance that are acceptable to the Administrator. In addition, this proposal would revise standards for segmented circles and supplemental wind cones.

Existing § 139.323 requires airport certificate holders serving scheduled operations of large air carrier aircraft (proposed Class I airports) to provide traffic and wind indicators (such as

windsocks) at specific locations on the airport. In addition, certain night and uncontrolled traffic operations require traffic and wind indicators. This requirement would not change under this proposal. Airport certificate holders having a LAOC (proposed Class II and IV airports) and operators of proposed Class III airports would need to comply with standards of this revised section.

Further, all certificate holders would be required to install supplemental wind cones adjacent to runway ends where the primary wind cone is not visible to a pilot on final approach or during takeoff. The existing standard only requires the use of supplemental wind cones if the airport is located in Class B airspace. Installation of supplemental wind cones would ensure current wind direction information is available to all pilots rather than just those using longer runways of airports typical of Class B airspace. Longer runway distances may limit a pilot's ability to see a mid-field wind cone during takeoff or landing. Linking the current standard to Class B airspace has unintentionally excluded those smaller airports with longer runways, particularly those military bases that have recently converted to civilian use.

Existing paragraph (b) also would be revised to update the standard for traffic indicators at airports without a control tower. Language proposed corresponds more closely to existing FAA guidance provided to pilots on visual indicators at airports without control towers. Specifically, the requirement for a segmented circle would be deleted and a new standard would be added for the location of landing strip and traffic pattern indicators.

While many operators of airports serving scheduled operations of small air carrier aircraft already provide traffic and wind indicators, the FAA believes that requiring all certificated airports to comply with this section would ensure standardization. This position was supported by the ARAC Commuter Airport Certification Working Group report.

#### Section 139.327 Airport Emergency Plan

Existing § 139.325 requires certain certificate holders to develop and implement an emergency plan and to conduct tests of this plan. The section also specifies what the emergency plan must contain. In this proposal, existing § 139.325 would be moved to proposed § 139.327 and revised to address all proposed airport classifications. Changes also would be made to emergency response requirements for

<sup>4</sup> Aviation Accident Report—Fuel Farm Fire at Stapleton International Airport, Denver, Colorado, November 25, 1990: NTSB AAR-91/07, National Transportation Safety Board, October 1, 1991.

incidents involving fuel fires and hazardous materials.

Airport certificate holders that currently serve scheduled operations of large air carrier aircraft (proposed Class I airports) must comply with existing requirements of § 139.325 to develop, implement, and test an emergency plan. These requirements would be extended to airport certificate holders currently holding a LAOC (proposed Class II and IV airports) and proposed Class III airport operators.

Airport certificate holders currently required to have an airport emergency plan must periodically test their plan. Specifically, these airport operators are required to conduct a disaster drill (known as a full-scale airport emergency plan exercise) every three years to test the validity of their emergency plan. A full-scale airport emergency plan exercise is a mock airport disaster staged to test and practice airport emergency procedures. In such exercises, the airport operator typically involves all mutual aid participants (local hospitals, police, fire departments, etc.), emergency vehicles and other equipment, and airport personnel and tenants, as specified in the airport emergency plan. The exercise usually is an all day event culminating several months of preparation, and is conducted using airport resources and support from the local community.

In the years in between the full-scale exercise, airport certificate holders are required to review their emergency plans to ensure procedures are still current and all parties involved know their responsibilities. The testing requirements for airports serving scheduled operations of large air carrier aircraft (proposed Class I airports) would not change as a result of this proposal.

Operators of proposed Class II, III, and IV airports would be required to annually review their emergency plan to ensure procedures are current and all parties involved know their responsibilities. These operators would not be required to conduct full-scale emergency exercises. Many of the communities that own and operate such facilities are small and have very limited resources. However, the FAA encourages these airports to work with their communities to develop feasible disaster drills.

The annual review, often referred to as a "table-top" exercise, would involve the airport meeting with responsible parties around a map of the airport to discuss possible emergency scenarios. The review is a reasonable requirement for airports serving small air carrier

scheduled operations, and will ensure emergency procedures remain current without being unduly burdensome.

The ARAC Commuter Airport Certification Working Group recommends this approach to emergency preparedness in its report. The report states the cost of a full scale airport emergency plan exercise could be overly burdensome for airports serving small air carrier aircraft, and supported the use of table top exercises only. The report also recommended that such tabletop exercises include a field tour, identification of emergency staging areas, and perimeter security requirements to control access to and from disaster areas.

Other requirements throughout this section also would be modified. Existing paragraph (a) would be revised to clarify that the airport emergency plan provide for response to an emergency involving the largest air carrier aircraft serving the airport. While this requirement is currently found in existing paragraphs that address medical services and water rescue (paragraphs (c) and (f)), it has always applied to the entire section. To ensure that all applicable response measures accommodate the largest air carrier aircraft serving an airport, the FAA proposes moving this requirement to paragraph (a).

In response to an NTSB recommendation, the FAA proposes that existing paragraph (b) be modified to require certificate holders to include in the airport emergency plan instructions for response to fires at fuel farms or fuel storage areas.

In its investigation of the Denver fuel farm fire (see discussion of proposed § 139.323, Handling and storing of hazardous substances and materials), the NTSB found that while airport firefighters and the Denver Fire Department promptly responded to the fire, they were unable to maintain a continuous flow of foam onto the fire, and the fire reignited and quickly intensified. The NTSB concluded that the airport and local firefighters did not have, nor could they have been expected to have, a sufficient supply of foam concentrate to fight a fuel fire of this magnitude. However, the City of Denver and its fire department had not developed a contingency plan for a fire of this type, and eventually a private contractor that specialized in large-scale fuel fires was brought in to extinguish the fire. Arrangements for this private contractor were made only after a tenant air carrier became concerned that its tanks, neighboring those burning, would be damaged.<sup>5</sup>

<sup>5</sup> Ibid, pg. 53.

The NTSB determined this lack of procedures for responding to a fuel storage fire of this magnitude prolonged the duration of the emergency. The NTSB recommended that the FAA require part 139 certificate holders to have contingency plans for fighting very large fires such as fuel storage area fires. The FAA concurs with this recommendation and proposes to modify existing paragraph (b) to require certificate holders to include in the airport emergency plan instructions for response to fires at fuel farms or fuel storage areas.

Existing paragraph (b)(5), proposed paragraph (b)(6), would also be amended to reflect more current terminology. The term "radiological" would be replaced with the term "hazardous materials/dangerous goods." This term would better reflect the type of incidents airports need to be prepared for, including incidents involving corrosive, biological, explosive, radioactive, or toxic air cargo or ground freight. This change also addresses the ATA petition for rulemaking regarding hazardous materials/dangerous goods incident guidance (see the discussion under proposed § 139.319).

Additionally, existing paragraph (d)(3) would be modified to include the new term "notification." The revised section would allow airport operators to use either an alarm system or a notification system to announce an emergency. The ARAC Commuter Working Group report noted that smaller airports required to have an emergency plan may not have the resources to implement a sophisticated, automated alarm system used by many larger facilities. Instead, these smaller airports may use a notification system that is as simple as a series of telephone calls to summon emergency response. The requirement would ensure that an adequate system is in place, and periodically tested. Each airport would determine the type of system that best meets its needs.

Existing paragraph (g)(5) would be moved to new paragraph (h) and existing paragraph (h), prescribing acceptable methods and procedures, would become new paragraph (i). New paragraph (h) would prescribe the requirement for, and the frequency of, full-scale airport emergency plan exercises, as described earlier.

Requirements in paragraphs (d) and (f) that relate to water rescue situations and coordination with control towers would be clarified to apply only to those airports with water on or adjacent to the airport, or with a control tower.

New paragraph (j) would allow certificate holders of proposed Class II,

III, and IV airports one year from the effective date of the rule to submit their emergency plans to the FAA for approval. Even though the FAA provides guidance materials to aid in the development of an airport emergency plan, the process will require coordination and cooperation with the surrounding communities and may be a time consuming process.

#### Section 139.329 Self-Inspection Program

Existing § 139.327 requires certificate holders to conduct daily inspections of the movement area to ensure the airport remains in compliance with part 139. This section specifies additional conditions that require inspections. Also, the certificate holder is required to have a system to notify air carriers of field conditions and a recordkeeping system to document inspections.

In this proposal, existing § 139.327 would be redesignated as proposed § 139.329 and revised to address training requirements for individuals conducting airport inspections. Language also would be added to permit airport inspections to be conducted by individuals other than employees of the airport operator. All proposed airport classes would be required to comply with this revised section.

The proposed changes to existing § 139.327 will assist existing and new airport certificate holders in understanding their responsibilities to inspect their facilities. As a consequence, airport operators already required to have a self-inspection program under existing § 139.205 would need to modify their inspection program.

Operators of airports that currently serve scheduled operations of large air carrier aircraft (proposed Class I airports) must continue to comply with the requirements of this section, and would be required to modify their inspection program. Airport certificate holders holding an existing LAOC (proposed Class II and IV airports) would be required to update existing self-inspection programs. In addition, operators of proposed Class III airports would be required to develop and implement a self-inspection program.

Existing paragraph (a) would be amended to allow airport operators to designate individuals of their choice to conduct inspections as long as the individuals meet the requirements of this section. For example, the proposed change would allow the airport operator to designate an individual other than airport personnel, such as air carrier station personnel or an employee of an FBO, to conduct required inspections

when airport personnel are not present during hours of scheduled operations. A similar proposal was recommended by the ARAC Commuter Airport Certification Working Group to permit airports serving scheduled operations of small air carrier aircraft to designate inspection responsibilities.

This proposal could reduce labor costs associated with personnel working overtime or the need to hire additional employees to cover early morning or late evening operations, particularly when tenant employees will be present during these hours of operation. However, the certificate holder would be responsible for ensuring that inspections are done correctly, and that individuals conducting inspections are qualified to perform the duties associated with the inspection.

Personnel requirements of existing paragraph (b) would be enhanced to require that personnel meet the requirements of proposed § 139.303, Personnel, and to be trained in specific topics, including airport familiarization and discrepancy reporting procedures. This change is necessary to ensure that certificate holders are using qualified individuals to conduct airport inspections, particularly in light of the proposal to use designees to perform this function.

#### Section 139.331 Ground Vehicles

Under this proposal, the requirements of existing § 139.329 would not be changed but the section would be redesignated as proposed § 139.331. Existing § 139.329 requires the certificate holder to limit access to movement areas to those ground vehicles necessary for airport operations. This section also requires the certificate holder to ensure that employees, tenants, or contractors who operate ground vehicles in the movement area are familiar with established ground vehicle operating procedures. Currently, operators of airports certificated to serve scheduled operations of large air carrier operations must comply with existing § 139.329.

Minor modifications are proposed to clarify that the requirements of this section are implemented in a manner satisfactory to the FAA. All certificated airports serving scheduled air carrier operations (proposed Class I, II, and III airports) would be required to comply with this revised section.

Except for representatives of the National Air Transportation Association (NATA) and ALPA, the ARAC Commuter Airport Certification Working Group report recommended that operators of airports serving scheduled operations of small air carrier

aircraft be required to comply only with training and reporting measures of paragraphs (e) and (f) of this section. The working group noted the importance of familiarization with proper vehicle safety procedures; however, the majority of the group was concerned that other requirements of this section would be operationally or economically excessive for the limited number of scheduled air carrier operations at these airports.

The working group also noted that many of these airports do not have towers, and therefore do not warrant extensive ground vehicle requirements contained in this section. The FAA disagrees with this position. While existing § 139.329(c) requires the use of two-way radios, escort vehicles, and specialized procedures when radios are inoperative, these measures are only applicable at airports where an air traffic control tower is operational. Further, operators of airports with FAA control towers enter into a letter of agreement with FAA Air Traffic Control that requires ground vehicle procedures in movement areas. Operators of most affected airports already work with their tenants to implement such procedures.

Also, standards have been developed for the consistent application of this section as a result of a cooperative effort between the FAA, airport operators, and FBO's. These standards have been successfully used for the past several years, and should continue in a manner that is already well understood and, in most cases, used by airport operators and their tenants nationwide.

#### Section 139.333 Obstructions and Section 139.335 Protection of Navaids

In this proposal, the requirements of existing §§ 139.331 and 139.333 would remain substantially unchanged but would be redesignated as proposed §§ 139.333 and 139.335, respectively. These sections specify standards for obstructions, and the protection of navigational aids.

Clarifications are proposed that state that the requirements of this section must be implemented in a manner satisfactory to the FAA, and that the AC's contain some methods of compliance that are acceptable to the Administrator. All certificated airports serving scheduled air carrier operations (proposed Class I, II, and III airports) would be required to comply with these revised sections.

Existing § 139.331 (proposed § 139.333) requires certificate holders to ensure that each object within its area of authority that penetrates imaginary surfaces, as provided in part 77, Objects Affecting Navigable Airspace, is

removed, marked, or lighted. Existing § 139.333 (proposed § 139.335) requires the certificate holder to protect against the derogation of electronic or visual navigation equipment (navaids) and air traffic control facilities located on the airport. This includes protection against vandalism, theft and construction that may cause interference.

Both the FAA and the ARAC Working Group agree that airports serving scheduled operations of small air carrier aircraft should meet these requirements. Many of these airports already provide for the removal or marking of obstacles, and have procedures in place to protect navaids. This minimizes disruption of aircraft operations and limits liability.

#### Section 139.337 Public Protection

Under this proposal, the requirements of existing § 139.335, would not be changed but the section would be moved to proposed § 139.337. Existing § 139.335 requires certificate holders to prevent the inadvertent entry of persons or vehicles to the movement area, and to provide reasonable protection of persons and property for aircraft blast. All certificated airports serving *scheduled* air carrier operations would be required to comply with this section. This would include proposed Class I, II, and III airports.

This section would continue to require the airport certificate holders to provide safeguards to prevent inadvertent entry to movement areas by unauthorized persons or vehicles, and to protect persons and property from aircraft blast. While airports serving scheduled operations of small air carrier aircraft typically already provide the public protection required by this section, the FAA wants to ensure a standard minimum level of public protection at all airports serving scheduled air carrier operations.

The ARAC Commuter Airport Certification Working Group also recommended that airport certificate holders provide protection from inadvertent entry and from aircraft blast as required by this section, with the exception of existing § 139.335(b). The working group suggested that § 139.335(b), referencing security fencing requirements, be deleted. This section is applicable to all airports serving scheduled air carrier operations, including those airports that must also comply with 14 CFR 107, Airport Security. The FAA proposes to leave paragraph (b) unchanged because it achieves the goal of preventing inadvertent entry.

#### Section 139.339 Wildlife Hazard Management

The FAA proposes to move the requirements of existing § 139.337, to proposed § 139.339. Existing § 139.337 establishes criteria for when a certificate holder is required to develop and implement a wildlife hazard management plan. This section specifies what this plan must include, and the action the certificate holder must take to respond to wildlife hazards.

This proposed section would update the terminology and to clarify what is expected of the certificate holder when developing a wildlife hazard management plan. All operators of certificated airports serving *scheduled* air carrier operations would be required to comply with this section. This would include proposed Class I, II, and III airports.

Some operators of proposed Class II and III airports would be required under proposed § 139.339 to conduct a wildlife hazard assessment, and formulate and implement a wildlife hazard management plan. Thus, the FAA proposes to change existing wildlife hazard management requirements to assist airport operators that would be complying with these requirements for the first time to better understand their responsibilities. As a consequence, airport certificate holders already required to comply with these requirements (proposed Class I airports) would need to make minor modifications to their airport wildlife hazard management plan.

If this proposal is adopted, existing paragraph (f) would be moved to the beginning of this section and become new paragraph (a). The requirement that an airport operator take immediate action to alleviate wildlife hazards would not change. Rather, the FAA proposes to reemphasize the importance of this requirement. Existing paragraph (a) would become new paragraph (b) and all other paragraph designations would be changed accordingly.

In proposed paragraph (b) (existing paragraph (a)), the term "ecological study" would be changed to "wildlife hazard assessment" to reflect more accurately the type of wildlife evaluation required to be conducted at airports.

Paragraph (c) would be amended to clarify that the wildlife hazard assessment must be conducted by a "qualified wildlife damage management biologist." The FAA has determined that the potential for loss of life and equipment resulting from wildlife aircraft strikes requires the conduct of hazard assessments by persons having

the education, training, and experience in wildlife hazard assessments. This new term is used throughout the revised section. The term "circumstances" would be added to paragraph (c)(1) to specify that an assessment must contain either the event, such as an actual aircraft strike, or the circumstances, *e.g.*, frequent sighting of deer crossing runways, prompting the assessment. Also, new paragraph (c)(5) would be added to require the airport certificate holder to include in the wildlife hazard assessment the recommended actions from the qualified wildlife damage management biologist for reducing the wildlife hazard.

Several modifications would be made to proposed paragraph (d) to improve clarity. A new item would be added to the list of considerations contained in this paragraph used to determine a need for a wildlife hazard management plan. New paragraph (d)(2) specifies that the FAA would take into consideration any actions recommended by the wildlife hazard assessment in determining the need for a certificate holder to have a wildlife hazard management plan. The FAA would typically recommend a wildlife hazard management plan if actions to reduce wildlife hazards are recommended in the wildlife hazard assessment required by proposed paragraph (b) of this section.

Proposed paragraphs (e)(1) and (e)(2) (existing paragraphs (d)(1) and (d)(2)) would be reordered for clarity, but the language remains the same. However, new paragraph (e)(3) would be added to clarify that the approved wildlife hazard management plan is part of the ACM. This would help assure that the certificate holder takes action to reduce wildlife hazards at its airport.

Changes to improve clarity also are proposed for new paragraph (f) (existing paragraph (e)). This paragraph details what an airport certificate holder should include in a wildlife hazard management plan. In particular, the requirement for periodic reviews of the plan would be amended to require annual reviews. This is intended to remove any ambiguity as to when a review is needed.

Existing paragraph (g) would be redesignated as new paragraph (h) and modified to delete references to specific AC series numbers. Instead, this revised paragraph would make a general reference to the AC system. New paragraph (h) would allow for some proposed Class II or III airports to implement less than full wildlife mitigation procedures where air carrier operations are so few or infrequent that any large expenditure would be unduly burdensome or costly.

Section 139.341 Airport Condition Reporting, and Section 139.343 Identifying, Marking, and Reporting Construction and Other Unserviceable Areas

As proposed, existing §§ 139.339 and 139.341 would be moved to proposed §§ 139.341 and 139.343, respectively. These sections require the certificate holder to report changed airfield conditions to air carriers, and prescribes standards for the marking and reporting of construction and other unserviceable areas of the airfield.

The requirements of these sections would remain substantially the same. References to other section numbers and the term "Airport Certification Specifications" would be changed to reflect proposed certification changes. Minor clarifications also are proposed that the requirements of these sections must be met in a manner satisfactory to the FAA, and that the AC's contain some methods of compliance that are acceptable to the Administrator.

Airports that currently serve scheduled and unscheduled operations of large air carrier aircraft (proposed Class I, II, and IV airports) would continue to have to comply with existing § 139.339 requirements as would operators of newly certificated proposed Class III airports. Existing § 139.339 requires airport certificate holders to collect and disseminate information on the conditions of the airport, including any construction or maintenance activities, weather or animal hazards, and nonfunctional equipment and services. In most instances, this currently would require the certificate holder to use FAA's pilot notification system, the Notices to Airmen (NOTAM) System.

Under this proposal, such condition reporting requirements would remain the same, except that the NOTAM system need only be used when appropriate. Since the current condition reporting requirement was incorporated into part 139, the NOTAM system has changed and some airport condition reports are no longer accepted into this system. Also, the term "safety area" would be added to paragraph (c)(2) to ensure that airport users are notified of irregularities in the safety area, in addition to those in the movement area, loading ramps, and parking areas.

The ARAC Working Group report supports the requirement that airports serving scheduled operations of small air carrier aircraft meet the requirements of proposed § 139.341 (existing § 139.339). . Most of these airports already make use of the NOTAM system

and have in place procedures to alert their users to airport conditions as well.

Similarly, existing § 139.341 (proposed § 139.343) requires the airport certificate holder to report and mark any construction or unserviceable areas, and associated equipment that may create a hazard. The requirements of this section would remain unchanged, and all certificated airports serving *scheduled* air carrier operations would be required to comply with this section. This would include proposed Class I, II, and III airports.

Again, many of these airports have procedures in place to mark or light construction areas and unserviceable areas, and as such, this section should not pose a burden. It would, however, ensure that airport operators comply with these safety practices in a consistent and regular manner.

Section 139.345 Noncomplying Conditions

Existing § 139.343 requires a certificate holder to restrict air carrier operations in those areas of the airport that have become unsafe and no longer comply with the requirements of subpart D of part 139. Under this proposal, the requirements of this section would not be changed but the section would be redesignated as proposed § 139.345.

All proposed airport classifications would be required to comply with this section. This section should be applicable to all certificated airports to ensure that when an airport operator cannot meet the requirements of subpart D, as specified in its certification manual, action is taken to prevent air carriers from operating in those portions of the airport where possible unsafe conditions exist.

Section 121.590 Use of Certificated Land Airports

Currently, § 121.590 requires most air carriers conducting part 121 operations to operate into part 139 certificated airports. Passenger-carrying operations with airplanes designed for less than 31 passenger seats may operate into an airport that is not certificated under part 139, if the airport meets certain requirements of paragraph (b) of § 121.590. An airport designated by an air carrier as an alternate airport need not be certificated under part 139.

As proposed, existing § 121.590 would be amended to conform to the proposed changes to part 139. While most air carriers under part 121 would continue to be required to conduct their operations at airports certificated under part 139, provisions excepting certain air carrier operations from this

requirement would be modified to correspond to proposed changes to part 139.

Language has been added to paragraph (a) to clarify that in addition to conducting part 121 operations into an airport certificated under part 139, an air carrier must ensure that the airport is certificated to serve the particular airplane used for the operation. The size of air carrier aircraft that airports certificated under part 139 are allowed to serve varies, depending upon how the airport is certificated. Thus, an airport certificated under part 139 to serve smaller air carrier aircraft, may not have adequate services to serve large air carrier aircraft, particularly emergency rescue services. This modification would ensure part 121 operations are being conducted only at airports that have appropriate safety measures and emergency services for the size of aircraft being used.

A new paragraph (b) is proposed to address air carrier and commercial operations conducted into airports operated by the U.S. government. Existing paragraph (b) would be amended and would become new paragraph (c). New paragraph (b) would permit air carriers and commercial operators conducting part 121 operations to use U.S. government-operated airports. This change corresponds to proposed part 139 revisions that clarify that airports operated by the U.S. government are not subject to part 139 (see discussion under § 139.1 Applicability). Thus, air carriers and commercial operators using these airports are not subject to § 121.590(a), and may use a U.S. government-operated airport if such an airport meets the equivalent safety standards of those required under part 139, as approved by the FAA.

While the FAA does not have the authority to certificate U.S. government-operated airports, it does have the authority under part 121, as noted above, to require air carriers and commercial operators to conduct their operations into airports that meet appropriate safety standards. The FAA believes this is necessary to ensure that air carriers and commercial operators conducting part 121 operations meet the highest practicable level of safety while engaging in common carriage operations. However, proposed changes to part 139 could result in part 121 air carriers desiring to conduct operations into U.S. government-operated airports that are not certificated under part 139. New paragraph (b) would resolve this inconsistency and allow air carriers the flexibility to use these airports, if such facilities meet the equivalent safety

standards of those required under part 139.

In addition, a new paragraph (c) is proposed to clarify that an air carrier or commercial operator conducting domestic and flag operations with turbojet powered airplanes designed for fewer than 10 passenger seats may operate into airports not certificated under part 139. This is a modification of the existing exception found in § 121.590(b) for air carriers conducting passenger-carrying operations with airplanes designed for less than 31 passenger seats. The existing exception would be amended to correspond with proposed changes to part 139 that would require the certification of airports serving certain air carrier aircraft with less than 30 seats. New paragraph (c) also would allow domestic and flag operations with airplanes designed for more than 9 and fewer than 31 passenger seats within the State of Alaska to operate into airports not certificated under part 139. This addition would correspond to the statute exception that airports in the State of Alaska serving such operations need not be certificated by the FAA. Both types of operations described in new paragraph (c) would be required to operate at airports that meet certain safety criteria (such as runway lighting and pavement appropriate for the type of aircraft used), as currently required under § 121.590(b).

Also, the term "commercial operator" would be added to this section to ensure that an intrastate operator certificated under part 121 only operates into an airport that is appropriate for the operator's particular airplane and operation.

### Implementation

On publication of this NPRM, the public will have 90 days to submit comments on this proposal (see discussion under "Comments Invited"). All comments received will be considered before the FAA takes action on the proposal. Should the FAA decide to proceed with this proposal, a final rule would be issued.

In the final rule, the FAA prescribes a date that the rule becomes effective. The final rule may also specify other dates by which regulated parties must implement certain requirements. This is often the case when requirements necessitate that the regulated party secure funds, initiate construction, or procure and install equipment.

Under the statutory authority the FAA to certify airports serving scheduled operations of small air carrier aircraft including provisions for a congressional review of the final regulations

concerning these airports before these regulations take effect. Title 49 U.S.C. 44706(e) stipulates that any regulation pertaining to these airports "shall not take effect until such regulation, and a report on the economic impact of the regulation on air service to the airports covered by the rule, has been submitted to Congress and 120 days have elapsed following the date of such submission." If a final rule results from this proposal, date of issuance, and any effective and implementation dates associated with this rule, would be adjusted accordingly to allow for the completion of this Congressional review.

The FAA proposes to allow 90 days from the effective date of the rule for operators of proposed Class I airports currently holding an AOC to make the necessary changes to their ACM's (see proposed § 139.101 General Requirements). These airports would be required to revise their manual to implement new recordkeeping and personnel training requirements. To a great extent, these airports already comply with these requirements and would need to document procedures already in place. The FAA believes that in such cases, additional time to procure funds and secure contracts for equipment or services would not be necessary.

The FAA proposes to allow 240 days from the effective date of this amendment for operators of proposed Class II and III airports to submit, have approved, and implement an ACM (see proposed § 139.101, General requirements.) This timeframe would apply to airports certificated for the first time (proposed Class III airports), and those airports holding an LOAC that would be required to have a Class II AOC as the result of this rulemaking.

As operators of proposed Class II airports would be complying with the emergency plan requirement for the first time, the FAA proposes to allow these certificate holders one additional year to comply (see proposed § 139.327(j)). Similarly, operators of proposed Class II airports will be allowed two years to comply with ARFF requirements (see proposed § 139.321(b)). While proposed Class II airports already hold an LOAC and are required to provide some type of ARFF coverage, operators of proposed Class II airports still may need additional time to arrange ARFF coverage for small air carrier operations. These certificate holders may need to extend the ARFF coverage already provided for the unscheduled large air carrier aircraft operations or revamp their ARFF services.

Operators of proposed Class II airports would not require additional time to

comply with sign requirements. As they currently hold an LAOC, these facilities should already be in compliance with proposed sign requirements.

The FAA recognizes that the coordination, funding, and procurement process associated with the proposed requirements for signs, ARFF, and airport emergency plans may require additional time for implementation at proposed Class III airports. Therefore, the FAA also proposes to allow operators of proposed Class III airports additional time beyond the effective date of the final rule to implement specific requirements, as follows:

1. Signs—3 years (proposed § 139.311(b))
2. ARFF—2 years (proposed § 139.321(b))
3. Airport—Emergency Plan—1 year (proposed § 139.327(j))

Additionally, the FAA proposes to allow 150 days for airport operators currently holding an LAOC that would be recategorized as Class IV airports to convert their current ACS into an ACM (see proposed § 139.101, General requirements). While proposed Class IV airport operators would also have to implement new recordkeeping and personnel training requirements, to a great extent, these certificate holders already comply with recordkeeping and personnel training requirements and would need to document procedures already in place. In such cases, additional time to procure funds and secure contracts for equipment or services would not be necessary. However, the FAA proposes that operators of proposed Class IV airports be allowed an additional year beyond the effective date of the rule to submit an airport emergency plan for FAA approval (see proposed § 139.327, Airport emergency plan).

As the period of time from when a final rule is published to when it is effective could have a significant financial impact on affected airports, the FAA requests comments on possible implementation schedules. The FAA is specifically requesting comments on proposed compliance schedules discussed earlier. Comments and recommendations for alternative compliance dates should be supported by economic and operational statistics.

### Alternatives Considered by the FAA

As noted previously, this NPRM addresses two issues: (1) the revision of certain requirements of 14 CFR part 139, and (2) certification requirements of airports serving scheduled air carrier operations with 10–30 seat aircraft under 14 CFR part 139. Alternatives for each issue are addressed separately.

*Issue I. Revision of 14 CFR Part 139*

The FAA is proposing to revise current part 139 to clarify and update several requirements to better reflect current industry practices and technology. For the most part, the FAA believes these revisions would only require already certificated airports to take administrative action to document existing operational procedures. The approximately 660 airport operators that currently hold a certificate under part 139 (those operators of airports serving air carrier operations with more than 30 seat aircraft) would be affected by this change.

The FAA considered four alternatives to the revision of 14 CFR part 139. These alternatives would affect all covered airports, including those considered to be small business entities (owned and operated by a municipality with less than 49,999 population). In analyzing these alternatives, the FAA addressed the concerns of airports of varying sizes and operations, including those classified as small business entities:

(1) *Amend administrative and definition sections of 14 CFR part 139 to incorporate airports serving scheduled small air carrier operations into existing certification process; no changes to operational requirements.*

Under this alternative, required operational and safety measures of subpart D would remain unchanged. Only minor language changes to part 139 would be proposed to incorporate a new category of airports. Applicability, definition and administrative sections of the existing rule would be amended to establish airport certification manual (ACM) and other administrative requirements for airports serving scheduled, small air carrier operations.

While this approach would address proposed changes to part 139 applicability section (inclusion of airports serving scheduled, small air carrier operations) and would be the least costly of the alternatives considered, it would not address the problem of out-dated operational requirements. The last major revision of part 139 occurred in November 1987, and since then, industry practices and technology have changed. The FAA believes airport resources would be better spent complying with requirements that reflect current industry practices and technology that help ensure safety.

(2) *In addition to amending administrative and definition sections of 14 CFR part 139, only revise those part 139 operational requirements that the*

*FAA has received a formal request to amend.*

In addition to making administrative changes to part 139 to incorporate airports serving small air carrier aircraft, the FAA could address two requests for an amendment to part 139 operational requirements that require public notification and comment.

Both the NTSB and the Air Transport Association of America (ATA) have formally requested that the FAA amend part 139 emergency response requirements. After the 1990 fuel farm fire at the Stapleton International Airport (Denver, CO), the NTSB recommended that the FAA require holders of airport operating certificates to be responsible for inspecting all fuel storage areas on the airport and have contingency plans for fighting large fires in fuel storage areas. In addition, the ATA petitioned the FAA in 1990 to amend part 139 aircraft rescue and firefighting (ARFF) procedures to require ARFF personnel to be equipped with, and trained in the use of, Federal guidance for emergency response to hazardous materials incidents.

The FAA concurs with both of these recommendations. If this proposal is adopted, the FAA believes these changes would not pose a hardship on existing or newly certificated airports. In many cases, operators of covered airports already ensure that ARFF personnel are supplied with hazardous materials guidance. Further, developing and documenting procedures to ensure an adequate response to large fuel fires would require minimal administrative time for those airport operators that have not already documented such procedures. The FAA believes that these revisions would ensure airport operators comply with these safety practices in a consistent and regular manner.

While this alternative would result in necessary improvements to airport emergency procedures and dispose of outstanding requests for rulemaking, it would not address other needed updates. To ensure safety, the FAA believes that additional revisions are necessary to reflect current operating and safety measures.

(3) *Require only newly certificated airports to comply with proposed amendments to part 139 operational requirements; "grandfather" airports currently certificated and allow these facilities to continue to comply with existing operational requirements.*

Under this alternative, operators of airports newly certificated as the result of this rulemaking, and any airport operator that subsequently applies for an airport operating certificate, would be required to comply with all proposed

revised operational requirements. This would not be the case for airport operators currently holding an AOC or a LAOC. These airport operators would only need to make a few administrative changes to their ACM or ACS, but would continue to comply with the operational requirements of Subpart D in the same manner as they currently do.

While this approach could be a less costly means of revising part 139, the FAA is opposed to establishing two sets of airport certification standards. The FAA believes that a single set of airport certification standards promotes the consistent application of safety measures and ensures a common and reliable operating environment at all airports. Similar to air traffic control procedures, if pilots and other airport users can come to expect the same facilities, procedures and equipment at every airport at which they operate, then many of the uncertainties and miscommunications that can cause accidents are no longer an issue.

For this reason, the consistent application of specific measures from airport to airport that ensure safety is, and will remain, the primary objective of FAA's airport certification program. To achieve this goal, the FAA will continue to promote a single set of airport certification standards.

(4) *Update part 139 by revising administrative and operational requirements throughout the regulation; both airports that are currently certificated and those newly certificated under part 139 would be required to comply with the revised requirements.*

Of all the alternatives considered for the revision of part 139, this alternative is the most comprehensive. Changes to both administrative and operational requirements would be made throughout the regulation, and all operators of airports certificated under part 139 would be required to comply with the revised regulation. This would ensure a comparable level of safety at all covered airports.

As noted earlier, the last major revision of part 139 occurred in 1987, and since then, industry practices and technology have changed. Under this alternative, revisions would be made throughout the rule to incorporate such changes. In addition, the regulation would be amended to require additional airports to comply with an existing requirement that the FAA has found to be beneficial (for example, the requirement for airport emergency planning).

While this comprehensive approach to the revision of part 139 could be the most costly alternative, granting relief to

smaller airports from certain operational requirements is still possible.

Experience gained since the last revision of part 139 also has shown that certain safety measures that have proven successful at larger airports may be cost prohibitive at smaller facilities. Under this alternative, the FAA could propose relief in some instances where an operational requirement would prove to be an economic burden to smaller facilities. For example, the proposed rule could require an emergency plan for all covered airports, but not require that all airport operators conduct a full scale emergency exercise every three years. Instead, the revised rule could require such airport operators to document and review annually established emergency procedures.

In addition to relief from certain operational requirements, compliance costs for smaller airports could be offset by Federal funding for many safety improvements and renovations that would assist these airports in complying with part 139 requirements. Likewise, such airport operators may share costs related to part 139 certification with airport users, e.g., air carriers, and can even choose not to be certificated under part 139. Part 139 is mandatory only if the airport operator chooses to serve air carrier operations.

After considering the alternatives for the revision of part 139, the FAA determined that revising administrative and operational requirements, as discussed in Alternative #4, is necessary to ensure safety in air transportation at certificated airports.

#### *Issue II. Certification of Airports Serving Scheduled Operations of Air Carrier Aircraft With 10–30 Passenger Seats*

The second component of this proposed rulemaking is the certification of airports that serve scheduled air carrier operations with 10–30 seat aircraft. While all of the proposed changes to part 139 may potentially effect airports serving air carrier operations by small aircraft, the degree of regulatory oversight would depend on the level of operational and safety measures required.

Studies conducted by the GAO, and recent recommendations of the NTSB, urged that the FAA be authorized to regulate airports serving air carriers using aircraft with 10 to 30 seats. This recommendation was not based upon the fact that these airports had a poor safety record (no category of airport has a poor safety record), but rather to provide, to the extent possible, a comparable level of safety at all airports used by air carriers.

With the passage of the Federal Aviation Administration Reauthorization Act of 1996, section 44706, as noted earlier, Congress provided the FAA the necessary authority to certificate airports serving scheduled air carrier operations with 10 to 30 seat aircraft, except in the State of Alaska. This new authority is in addition to existing authority to regulate airports serving air carrier operations using aircraft with more than 30 seats.

FAA's new authority to regulate airports serving smaller air carrier operations requires the agency to identify and consider a reasonable number of regulatory alternatives that are "least costly, most cost-effective or the least burdensome." This must be done before the FAA selects the alternative that will provide a comparable level of safety at airports serving scheduled small air carrier aircraft as provided at currently certificated airports. Using these parameters, the FAA considered the following alternatives:

(1) *Maintain current regulatory oversight of airports serving air carriers operations with more than 30 seat aircraft; no certification requirements for airports only serving small air carrier aircraft.*

Under this alternative, the FAA would continue its current airport certification program under part 139 and would encourage non-certificated airports to voluntarily comply with applicable part 139 safety measures.

Through its airport certification and capital improvement programs, the FAA has established a successful partnership with the airport community. This partnership furthers safety through consistent application of safety measures, and provides a forum to address national safety concerns and priorities. This effort has resulted in development of guidance and standards that are available to all airport operators and for which compliance with is often a condition of Federal grant agreements. Consequently, many airports serving scheduled air carrier operations with 10–30 seat aircraft voluntarily comply with these established guidance and standards.

However, the degree to which non-certificated airports comply still varies. FAA inspections historically have shown that unless a benchmark for safety is set and enforced, inconsistent application of safety measures will occur due to a variety of factors. The most common problem is that many local communities owning and operating existing certificated airports provide the necessary resources to comply with only the mandatory

regulatory requirements. Such resources are even harder to come by under a voluntary compliance program.

While maintaining current airport certification criteria might be the least costly course of action, the FAA concurs with GAO and NTSB findings that certification of airports serving smaller air carriers is necessary to provide a comparable level of safety at all airports and ensure safety in air transportation. To achieve this comparable level of safety, the FAA believes it is necessary to create a standard set of requirements for all covered airports.

(2) *Require airports that are currently certificated under part 139 to extend part 139 coverage to air carrier operations with 10–30 seat aircraft; no regulation of airports that serve only 10–30 seat aircraft.*

Many airports currently certificated under part 139 (airports serving air carrier operations with more than 30 seat aircraft) also serve scheduled air carrier operations with 10–30 seat aircraft. Under this option, operators of such airports would continue to meet part 139 requirements as they do today. However, these airport operators also would be required to comply with part 139 requirements during scheduled air carrier operations with 10–30 seat aircraft as well.

At larger airports, required part 139 safety measures are typically applied to all air carrier operations regardless of the number of passenger seats as varying types of air carrier operations occur throughout a 24-hour period. Thus, it is more convenient and economical to comply with part 139 requirements at all times. This is not always the case at smaller airports certificated under part 139. At such airports, large air carrier operations only occur during a certain portion of the day, or on an infrequent basis, and certain part 139 safety requirements are in effect only during these operations. Approximately 225 currently certificated airports fall into this category.

For example, aircraft rescue and firefighting (ARFF) coverage is required to be present on the airport only 15 minutes prior, and 15 minutes after, certain air carrier operations (those with more than 30 seat aircraft). Under this alternative, an airport operator that has arranged for the local fire department to come to its facility once a day to cover its single air carrier operations with more than 30 seat aircraft would have to arrange for additional ARFF coverage for air carrier operations using small aircraft. At airports serving small air carrier operations throughout the day, the frequency of required ARFF coverage may increase dramatically.

While this alternative might be the least costly approach to regulating airports that serve scheduled air carrier operations with 10–30 seat aircraft, it would not cover all airports serving scheduled air carrier operations of 10–30 seat aircraft. This option would only effect airports already certificated under part 139. The approximately 40 airports (excluding airports in Alaska) that currently serve only scheduled air carrier operations with 10–30 seat aircraft would continue to be excluded from part 139 requirements.

The FAA believes that a comparable level of safety and consistent regulatory oversight is necessary at all covered airports serving air carrier operations in small aircraft.

(3) *Extend the scope of part 139 to include all airports that serve scheduled air carrier operations with 10–30 seat aircraft; require airports that only serve scheduled small air carrier operations to comply with standards appropriate to the type of air carrier operation served.*

Part 139 safety and operational requirements can be conceptually divided into two categories—risk reduction requirements and accident mitigation requirements. Most part 139 requirements fall under the risk reduction category, as these requirements are intended to decrease the possibility of an accident by providing a safe and standardized operating environment. Such requirements include, but are not limited to, the marking, lighting, and maintenance of runways and taxiways; removal and marking of hazards in aircraft movement areas; and regular facility inspections.

Conversely, accident mitigation requirements are intended to minimize the consequences of an aircraft accident. Requirements for aircraft rescue and firefighting and emergency planning are examples of accident mitigation requirements that are included in this category. (For a more detailed analysis of each specific risk reduction and accident mitigation standard, see the “Section-by-Section Analysis” Section.)

For liability and safety reasons, many operators of airports serving scheduled operations of small air carrier aircraft already have in place risk reduction and accident mitigation measures. These measures have been in place for many years. As noted earlier, risk reduction requirements were developed jointly with the airport community, and are good general airport operating practices (e.g., providing a lighted wind direction indicator or erecting fences to keep the public and wildlife from aircraft movement areas).

Further, airport operators that have accepted Federal funds are required by grant assurance agreements to comply with some of the risk reduction measures required part 139. Of the approximately 40 airports that could be newly certificated under this proposal, all but three have received Federal funds, totaling \$178.5 million between 1982–1997. These funds were used for improvements such as runway pavement overlays, rehabilitation of runway and taxiway lighting, and purchase of snow removal equipment.

Even with wide spread compliance, the FAA believes that all covered airports should be required to comply with part 139 risk reduction standards. The FAA believes that due to liability concerns and Federal funding obligations, compliance with part 139 risk reduction standards should not be a hardship on these airport operators. Requiring these airport operators to establish and document how they comply with risk reduction requirements in their ACM will achieve consistency in the daily application of such procedures, and ensure consistency during changes to airport personnel or management.

While requiring operators of airports serving small air carrier aircraft to comply only with risk reduction measures could be a least costly regulatory approach, the FAA believes that some level of accident mitigation still is necessary to achieve a comparable level of safety at all airports. To save passenger lives and property, prevent injury to responding personnel and protect the traveling public from unsafe conditions, the FAA believes that airports serving air carriers should be adequately prepared to respond to aircraft accidents and other airport-specific emergencies.

Since accident mitigation costs could have a significant economic effect on airports serving small air carrier aircraft, the FAA considered not requiring such measures. Certain equipment (such as ARFF trucks and buildings) used to comply with accident mitigation standards is eligible for Federal funds. However, operating costs such as personnel and maintenance would not be eligible for these funds. Consequently, accident mitigation standards could be the most costly for smaller airports. This is particularly true if ARFF coverage requires equipment and personnel to be on-site and in a “ready” status for more than an occasional air carrier operation.

However, airport accidents present many unique circumstances that a community’s regular emergency response may not be prepared for, and

given some remote locations of airports, may not be able to respond to in a reasonable time frame. Aircraft fuel fires burn more intensively and quickly than other fires, and require specialized training, equipment and extinguishing agents that may not always be provided by a local fire department. Such incidents also may require emergency responders to be prepared for a large number of casualties and possible hazardous cargo.

While this alternative promotes a minimum level of safety through consistent compliance with risk reduction requirements, the FAA believes that not all communities would place enough emphasis on accident mitigation measures to ensure safety in air transportation at all covered airports and that further measures are needed.

(4) *Amend part 139 to require all airports, regardless of size of air carrier aircraft and frequency of service, to comply with all required risk reduction and accident mitigation standards.*

Of all the alternatives considered for certification of airports serving small air carrier aircraft, this approach is the most comprehensive. It would require all operators of airports certificated under part 139 (both currently and newly certificated) to comply with both proposed risk reduction and accident mitigation requirements. Accident mitigation requirements would include airport emergency planning and ARFF services.

As noted in the discussion of Issue I above, analysis of possible regulatory alternatives for the certification of airports serving small air carrier aircraft concluded that there exists a need to require at least some minimum level of both risk reduction and accident mitigation measures. Without such measures, a comparable level of safety at all airports cannot be achieved.

However, the FAA recognizes the need to provide some flexibility in the implementation of certain safety measures at airports with infrequent air carrier service or where local resources are severely limited. Smaller communities do not always have the resources to provide the same level of services at their airports as airports in large metropolitan areas without adversely affecting other community services and infrastructure.

To address such cost issues, the FAA could exercise its statutory authority to exempt certain airports from some prescribed ARFF requirements. Under statutory authority, the FAA ensures that certificated airports provide for the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid

access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft. If the FAA determines that this would not be in the public's interest, relief from aircraft rescue and firefighting requirements would be granted if:

- A certificated airport has less than one-quarter of one percent of the total number of passenger boardings each year at all certificated airports; and
- The FAA decides ARFF requirements would be unreasonably costly, burdensome, or impractical.

In 1997, one-quarter of one percent of the total number of passenger boardings, or enplanements, equaled 1.55 million annual enplanements. The majority of currently certificated airports and all other airports serving scheduled air carrier operations meet this part of the criterion. Likewise, operators of airports serving small air carrier aircraft that are not currently certificated under part 139 also meet this criterion (only 70 of the largest certificated airports have annual enplanement numbers in excess of 1.55 million annually).

Through the statutory exemption, the FAA would maintain the necessary oversight of ARFF while ensuring that ARFF requirements are appropriate for the airport size and type of air carrier operations. This would not be a blanket exemption for airports with infrequent or smaller air carrier operations nor would it relieve an airport from the obligation to provide some level of ARFF coverage, but would be decided on a case-by-case basis. All certificated airports would be required to provide some level of ARFF service. For example, the FAA might approve a five-minute response time (versus the three-minute response required under part 139) at a limited certificated airport where unscheduled air carrier operations are infrequent and the community has arranged for an off-airport fire station to provide ARFF coverage.

Airport operators holding limited certificates (airports that serve unscheduled air carrier operation with more than 30 seat aircraft) currently comply with ARFF requirements similar to what is proposed under this alternative. Existing part 139 requires limited certificated airports to provide for ARFF and does not specify ARFF standards. Typically, these airports are served infrequently by unscheduled air carrier flights, and the FAA allows some flexibility in the level of ARFF coverage provided. In establishing ARFF coverage at such airports, the FAA uses part 139 ARFF standards as a benchmark, and allows deviation from the requirements

if the airport operator can demonstrate a comparable level of safety.

For these reasons, this proposal includes procedures for an airport to request relief from part 139 ARFF requirements if the airport can provide an acceptable alternate means of compliance. Some relief from airport emergency plan requirements could be provided as well. For example, airports serving scheduled large air carrier operations are required to conduct an emergency disaster drill every three years. Under this alternative, this requirement would not be proposed for other covered airports. Instead, these airports would be required to review their plans annually to ensure information contained in the plan is accurate.

After considering the alternatives for the certification of airports serving smaller air carrier operations, the FAA is proposing to amend part 139 to require that all airports, regardless of size and type of air carrier operations, comply with risk reduction and accident mitigation measures necessary to ensure safety in air transportation. However, to achieve a comparable level of safety at airports that vary greatly in size and operations, the FAA proposes to permit alternative means of compliance with certain accident mitigation requirements. This will allow the most cost effective and flexible method of ensuring safety to be employed at all covered airports.

For more detailed cost analyses of these alternatives, see the "Regulatory Evaluation" section below.

#### **Paperwork Reduction Act**

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The title, description, and number of respondents, frequency of the collection, and estimate of the annual total reporting and recordkeeping burden are shown below.

##### *Title:* Certification of Airports

*Summary:* The FAA proposes to revise current part 139 and to establish certification requirements for airports serving scheduled air carrier operations in aircraft with 10–30 seats.

In 1996, the statute that authorizes the FAA to certificate airports was amended to include a new category of covered airports (those with airports serving scheduled operations of air carrier aircraft with 10–30 passenger seats). The FAA proposes to use this new authority and certificate all airport operators allowed by law.

Further, this proposal would revise and clarify several safety and operational requirements. The last major revision of part 139 occurred in November 1987, and since then, industry practices and technology have changed. In the subsequent years, the FAA has gathered data on the effectiveness of part 139 requirements, (primarily through joint industry/FAA working groups, field research and periodic airport certification inspections), and proposes to use this rulemaking opportunity to update part 139 requirements. Changes also are proposed to address National Transportation Safety Board (NTSB) recommendations and petitions for exemption and rulemaking.

These proposed revisions are necessary to ensure safety in air transportation and to provide a comparable level of safety at all certificated airports.

*Use of:* This information is necessary to allow the FAA to verify compliance with proposed part 139 safety and operational requirements. While many part 139 reporting and recordkeeping requirements remain substantially unchanged, the FAA is proposing additional information collections.

Under existing part 139, the FAA requires airports to comply with certain safety requirements prior to serving operations of large air carrier aircraft (aircraft with more than 30 seats). When an airport satisfactorily complies with these requirements, the FAA issues to that facility an airport operating certificate (AOC) that permits an airport to serve large air carriers. The FAA periodically inspects these airports to ensure continued compliance with part 139 safety requirements, including the maintenance of specified records. Both the application for an AOC and annual compliance inspections require regulated airport operators to collect and report certain operational information.

Specifically, operators of certificated airports are required to develop and comply with an FAA-approved Airport Certification Manual (ACM). This manual details how an airport will comply with the requirements of part 139, and includes other instructions and procedures to help assist airport personnel perform their duties and responsibilities. Under this proposal, the FAA would continue to require all operators of certificated airports to have an ACM.

The AOC remains in effect as long as the need exists and the operator complies with the terms of the AOC and the ACM. Certain changes in the operation of the airport must be

reported to the FAA for information or approval. If the airport operator believes that an exemption is needed to commence airport operations, justification for, and FAA approval of, the exemption is required for issuance of the AOC. The operator may request FAA approval of changes to the AOC or ACM, or an exemption from part 139 requirements, by submitting justification and documentation. Also, the FAA Administrator may propose changes to the AOC or ACM and the airport operator may submit contrary evidence of argument concerning the proposed changes.

*Respondents (including number of):* The likely respondents to this proposed information request are those civilian U.S. airport certificate holders who operate airports that serve scheduled and unscheduled operations of air

carrier aircraft with more than 30 passenger seats and scheduled operations of air carrier aircraft with 10–30 passenger seats. The FAA estimates that 606 airports serve this type of air carrier operations, of which an estimated 565 already hold an AOC and comply with most of the proposed information collection requirements.

*Frequency:* The frequency of collection would vary depending on the type of information collected, the size of the respondent's airport, and type of air carrier operations served. Information needed for the application for an AOC would be collected only at the time the application is submitted. An airport operator applying for an AOC would be required to develop an ACM. This document would be periodically updated and such changes would have to be reported to the FAA. Further,

airport certificate holders would be required to establish and maintain specific records such as personnel training and facility inspections.

*Annual Burden Estimate:* This proposal would constitute a recordkeeping and reporting burden for operators of airports certificated under part 139. This proposal would require such airport operators to develop and maintain an ACM, report ACM amendments to the FAA, and record personnel training and facility inspections. In addition, those airports applying for an AOC would be required to file an application.

The following table lists estimated initial and annual hours respondents would need to comply with proposed part 139 reporting and recordkeeping requirements:

Proposed part 139 sections	Initial reporting hours	Initial recordkeeping hours	Annual reporting hours	Annual recordkeeping hours
139.103 .....	304	0	16	0
139.111 .....	0	0	32	0
139.113 .....	0	0	5	0
139.201 .....	0	0	608	608
139.203 .....	1,520	0	0	0
139.205 .....	11,248	0	1,216	0
139.301 .....	0	27	0	324
139.303 .....	0	4,848	0	13,909
139.313 .....	2,208	0	0	736
139.317 .....	0	0	0	2,090
139.319 .....	0	912	0	570
139.321 .....	552	0	80	0
139.323 .....	0	574	0	2,404
139.327 .....	0	6,920	0	4,152
139.329 .....	0	2,528	0	16,432
139.331 .....	0	12,640	0	790
139.339 .....	0	0	32	4,816
139.341 .....	0	79	0	3,950
Subtotal .....	15,832	28,528	1,989	50,781
Total .....	44,360		52,770	

Operations/maintenance labor accounts for an estimated 70 percent of the hours listed in the table above, and clerical labor makes up the other 30 percent. Cost per hour is estimated to be \$26 for operations/maintenance labor and \$14 for clerical labor. Other expenses such as general and administrative costs, overhead costs, and other indirect costs are estimated to amount to approximately 15 percent of the direct labor costs. The estimate of the total initial reporting and recordkeeping burden would be \$1,142,713. The annual reporting and recordkeeping burden would be \$1,359,355.

The agency is soliciting comments to (1) evaluate whether the proposed

collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (for example, permitting electronic submission of responses).

Individuals and organizations may submit comments on the information

collection requirement by September 19, 2000, to the address listed in the **ADDRESSES** section of this document.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The burden associated with this proposal has been submitted to OMB for review. The FAA will publish a notice in the **Federal Register** notifying the public of the approval number.

**Compatibility With ICAO Standards**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards

and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

The Joint Aviation Authorities, an associated body of the European Civil Aviation Conference, develop Joint Aviation Requirements (JAR) in aircraft design, manufacture, maintenance, and operations for adoption by participating member civil aviation authorities. The JAR does not address airport certification.

#### **Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, Federalism Implications, and Unfunded Mandates Assessment**

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980, as amended, requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. And fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation).

In conducting these analyses, the FAA has determined that the economic impact of this proposed rule will generate benefits that justify its costs and does meet the standards for a "significant regulatory action" as defined in the Executive Order and is significant as defined by the Department of Transportation's Regulatory Policies and Procedures. The proposal, therefore, is subject to review by the Office of Management and Budget. The FAA has determined that this rule will not constitute a barrier to international trade; and does not contain a significant intergovernmental or private sector mandate. The agency has concluded that the proposed rule would have a significant impact on a substantial number of small entities and has prepared an initial regulatory flexibility

analysis. These analyses, available in the docket, are summarized below.

The FAA invites the public to provide comments and supporting data on the assumptions made in this evaluation. All comments received will be considered in taking final action on this notice.

#### **Benefits**

The expected benefit of this proposed rule is an enhanced level of safety resulting in reduced fatalities, injuries, and property damage at airports with scheduled air carrier operations, particularly operations in aircraft configured with 10 to 30 passenger seats.

In 1995, the FAA issued regulations aimed at ensuring safety in scheduled air carrier operations in aircraft with 10 or more passenger seats. Since then, Congress has authorized the FAA to regulate airports serving 10 to 30 seat aircraft to further help ensure safety at airports certificated by the FAA. The FAA is now proposing to establish standards for these airports. The agency will make these standards sufficiently flexible to accommodate existing conditions at each airport, while providing maximum possible safety improvements.

This proposal affects all currently certificated airports and approximately 38 additional airports that would need to obtain certificates. Accordingly, benefits are expected to accrue at all four proposed classes of certificated airports. Several different types of safety improvements are expected. These involve:

(1) Prevention of runway accidents or collisions because of inadequate signs and traffic and wind direction indicators,

(2) Mitigation of accident damages by improving runway safety areas at certain airports,

(3) Mitigation of accidents as a result of increased requirements for ARFF services,

(4) Prevention and mitigation of fires at airport fuel farms,

(5) Prevention and mitigation of runway accidents caused by snow and ice accumulation, and

(6) Prevention and mitigation of wildlife problems as a result of improved procedures for wildlife hazard management.

Airport accidents involving aircraft used in commercial operations are rare and random events. This was particularly true of small air carrier aircraft, in large part, because small aircraft serve a small portion of commercial air passenger activity. However, small air carrier aircraft

activity is growing and is projected to continue to grow at much higher rates than major airline activity. For example, small air carrier revenue passenger miles are projected to increase an average of 7.5 percent per year compared to 4 percent for major airlines. As a result, prior history may not be predictive of the future. If provisions of the rule prevent or mitigate the consequences of one catastrophic accident involving an aircraft with 30 seats, the potential benefit of lives saved and property damage avoided is as much as \$45 million. If the provisions of the rule prevents or mitigate an accident associated with the collision of two such aircraft, the benefit would double to as much as \$90 million. Potential safety improvements are not limited to situations involving small air carrier aircraft, but encompass larger aircraft that also use smaller airports.

A brief discussion of benefits is included below. A more full discussion is contained in the full regulatory evaluation in the docket.

#### *Markings, Signs, and Traffic and Wind Indicators*

Increased safety would result from proposed uniform standards for installation of runway and taxiway markings, signs, and lighting, and for traffic and wind direction indicators. All classes of certificated airports would need to comply with these requirements. Although most airports affected by the rule currently meet these standards, a few airports (approximately 9) would need to upgrade certain requirements. The FAA believes uniform standards will make a significant contribution to safety. If pilots and other airport users can come to expect the same facilities, procedures, and equipment at every airport at which they operate, then many of the uncertainties and miscommunications that can cause accidents are no longer an issue.

#### *Runway Safety Areas*

A second example of a safety benefit expected as a result of this proposal relates to runway safety areas. On May 8, 1999, a SAAB 340 overran a runway at New York's John F. Kennedy International Airport. The airport had recently installed arresting material in compliance with part 139 safety area requirements that resulted in the airplane stopping 50 feet short of Thurston Bay. The incident resulted in very little damage to the aircraft and one minor passenger injury. A previous incident on the same runway in 1984, before the arresting material was

installed, resulted in an SAS DC-10 running into the bay. The incident resulted in passenger injuries and extensive airplane damage.

This proposal would require that Class III airports meet safety area requirements for the first time. The FAA has encouraged these airports to install safety areas for over 10 years, and many airports have already done so. Although the proposal will not require immediate installation of these safety facilities at any class of airports, over time, the eventual installation of safety areas at certificated airports will result in safer airports.

*Emergency Response Services and Equipment*

A major safety provision of the proposal requires the availability of some kind of emergency response services and equipment, including aircraft rescue and firefighting (ARFF) equipment. The service must be available during every landing and takeoff of scheduled air carrier aircraft with 10 to 30 seats. In some cases, this service may not currently be available for small aircraft operations at airports where such service is provided for larger aircraft. For example, an accident that occurred at Quincy, Illinois (a proposed Category II airport) on November 19, 1996 might have been mitigated had ARFF been standing by during the arrival of the small air carrier aircraft.

The U.S. air carrier transportation system is very safe, and accidents requiring emergency response action are rare. The risk of death or injury to a passenger, due in part to current emergency response requirements, is very small; however, many incidents have occurred where the perceived risk of an accident was great enough that ARFF units were alerted. The FAA has tracked airport incidents at currently certificated airports, and notes that over 1,200 such occurrences took place during an 18-month period.

These incidents usually involved large aircraft and occurred at airports where emergency response services and equipment were available. Nevertheless, the FAA has no reason to believe that small aircraft operations are safer than

large aircraft operations, and concludes that a proportionate number of similar incidents occur when and where ARFF is not available. Thus, the provision of emergency response capability at all certificated airports, as proposed, is necessary to ensure safety in air commerce.

*Fuel Storage Fires*

Another expected benefit is prevention/mitigation of fuel storage fires. The proposed rule requires all classes of airports to address fuel storage fires in their disaster plans. This will better prepare airports to prevent and/or extinguish the kind of fire that occurred at Stapleton International Airport, Denver, Colorado, on November 25, 1990. That fire erupted on a fuel farm about 1.8 mile from the main terminal and burned for 48 hours, destroying about 3 million gallons of fuel. Flight operations of a major air carrier were disrupted due to a lack of fuel, and the carrier estimated total damage to have reached between \$15 and \$20 million.

The National Transportation Safety Board (NTSB) concluded that the City and County of Denver (the airport certificate holder) and the fire department, in particular, apparently had not considered the possibility of a fire of this type since no procedures or contingency plans were in place. The FAA has determined that contingency plans that cover the possibility of a major fuel farm fire could result in similar fires being extinguished much sooner, and perhaps resulting in considerably less damage.

*Snow and Ice Control*

A safety benefit is expected from improved snow and ice control, which would reduce the potential for snow and ice related accidents. On March 17, 1993, a BAC-BA-Jetstream 3101 was making a night instrument approach to a proposed Class II airport. Because the runway was not properly plowed, and berms of snow concealed the runway lights at ground level, the captain lost control after touchdown, and the airplane sustained substantial damage.

This proposed rule would require Class II and III airports to develop snow and ice control plans. Although these proposed classes of airports already

have procedures for snow and ice removal, this proposal would formalize consistent plans across all airports with scheduled air carrier services. The FAA concludes that this low-cost requirement to standardize response to snow and ice at certificated airports would significantly help prevent the kind of accident discussed above.

*Wildlife Hazard Management*

Finally, benefits are expected at all classes of certificated airports as a result of proposed actions to reduce wildlife hazards (bird strikes and other damaging collisions with wildlife). A FAA study of civil aircraft wildlife strikes in the U.S. ("Wildlife Strikes to Civil Aircraft in the United States, 1991-1997") found a significant and growing hazard of wildlife strikes with aircraft in the vicinity of airports. The study determined that 97 percent of all wildlife strikes occur while arriving or departing from an airport. The number of annual strikes increased 53 percent from 1991 to 1997, and, according to the FAA report, is now causing about \$237 million per year in direct costs.

The expected benefit is that wildlife strikes would be reduced. Some operators of proposed Class II and III airports would be required to conduct wildlife hazard assessments, as well as formulate and implement wildlife hazard management plans for their airports. Ultimately, the rule is expected to reduce the number of strikes that would otherwise occur.

The FAA report estimates that wildlife strikes, at the present time, result in 501,560 hours per year of aircraft down time.

**Costs**

Some of the requirements of this proposal that will impose costs, such as improved snow and ice control, marking signing and lighting, and wildlife hazard management are intended to prevent accidents. Other requirements, such as emergency planning and improved emergency response capability are intended to mitigate accidents should they occur.

The major items of this rule that are expected to impose costs are summarized below:

Major cost items	Initial/Capital costs	Annual recurring costs
Risk Reduction Items (Subpart D—Operations—Records); Personnel; Marking; Signs and Lighting; Snow & Ice Control; Handling & Storing of Hazardous Substances & Materials; Traffic & Wind Direction Indicators; Self-Inspection Program; Ground Vehicles; Wildlife Hazard Management) .....	\$1,273,024	\$1,429,382
Mitigation Items (ARFF, Airport Emergency Plan) .....	2,247,928	4,600,918
Program total—current dollars .....	3,520,952	6,030,300

The FAA estimates that the present value of the 10-year cost of this proposed rule is about \$46 million.

A more detailed description of how these costs were estimated is contained in the full regulatory evaluation.

This estimate is likely to be high because it is based on assumed average costs across all airports in each proposed class. In the application of this rule, each airport (particularly Class III airports) may have already complied with this rule, or may receive relief from certain aspects of this rule under the proposed exemption provisions.

#### Benefit-Cost Comparison

Although the FAA did not quantify the benefits of this proposal, some useful observations can be made. First, a single accident could easily equal, or double the estimated total cost of this proposal. A single accident involving a 30-seat airplane with an industry standard load factor could result in as much as a loss of \$45 million (with the value of a fatality avoided valued at \$2.7 million). For example, the accident at the Quincy airport is estimated to have cost as much as \$40 million. Costs escalate quickly with each additional aircraft involved. In addition the proposed rule is expected to mitigate fuel storage fires, wildlife strikes, runway incursions, and snow/ice related accidents.

The FAA has determined that numerous safety benefits would occur from the provisions in the proposed rule. One of these benefits is the expected mitigation of an accident similar to the one at the Quincy airport where fatalities might have been avoided. The FAA proposes requirements that could reduce the potential for reoccurrence of conditions that resulted in the accident at Quincy Airport. In view of the moderate costs and potential benefits expected from this proposal, the FAA concludes that this proposal is cost-justified.

#### Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes, "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small

businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the Act provides that the head of the agency may so certify, and a regulatory flexibility analysis (RFA) is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. If the action will have a significant impact on a substantial number of small entities, the agency must prepare an RFA as described in the Act.

As mentioned earlier, the FAA has determined that this action would have a significant impact on a substantial number of small entities. The FAA has prepared an RFA in the Regulatory Evaluation, a copy of which has been placed in the docket for this rulemaking action. A summary of this analysis follows.

#### Affected Industries

As noted above, the FAA must attempt to minimize the potential economic impact of the proposed rule on small entities, and meet the agency's primary responsibility for aviation safety. The proposal would affect a total of 601 airports, of which an estimated 217 airports (36 percent) are small entities.

#### Description of Alternatives

The Regulatory Flexibility Act requires the FAA to consider the advantages and disadvantages of alternatives to this proposed rulemaking. The FAA has considered several alternative approaches to this proposed rulemaking and has attempted to minimize the potential economic impact of the proposal; especially the impact on small entities. In addition, this action fulfills the FAA's responsibility to respond to the authority provided by Congress to certificate airports serving scheduled air carrier operations with 10–30 seat aircraft, except for the State of Alaska.

The FAA, in this NPRM, considered alternatives based on two issues. Issue I was the revision of 14 CFR part 139, and Issue II was the certification of airports serving scheduled operations of small air carrier aircraft with 10–30 passenger seats. The FAA determined that it was necessary to revise 14 CFR part 139 and that the revised part 139 should include the certification of

airports serving scheduled air carrier operations with 10–30 passenger seat aircraft.

For Issue I, the revision of part 139, the four alternatives considered were:

*Alternative 1:* Amend administrative and definition sections of 14 CFR part 139 to incorporate airports serving scheduled air carrier operations into existing certification process; no changes to operational requirements.

The estimated total incremental costs of Alternative 1 would be approximately \$42,000 for one-time costs and \$46,000 for recurring costs.

*Alternative 2:* In addition to amending administrative and definition sections of part 139, only revise those part 139 operational requirements that the FAA has received a formal request to amend.

The estimated total incremental costs of Alternative 2 would be approximately \$57,000 for one-time costs and \$64,000 for recurring costs.

*Alternative 3:* Require only newly certificated airports to comply with proposed amendments to part 139 operational requirements; "grandfather" airports currently certificated and allow these facilities to continue to comply with existing operational requirements.

The estimated total incremental costs of Alternative 3 would be approximately \$1,552,000 for one-time costs and \$1,250,000 for recurring costs.

*Alternative 4:* Update part 139 by revising administrative and operational requirements throughout the regulation; both airports that are currently certificated and those newly certificated under part 139 would be required to comply with the revised regulations.

The estimated total incremental costs of Alternative 4 would be approximately \$3,521,000 for one-time costs and \$6,030,000 for recurring costs. This is the alternative selected by the FAA.

For Issue II, the certification of airports serving scheduled air carrier operations with 10–30 passenger seat aircraft, the four alternatives considered were:

*Alternative 1:* Maintain current regulatory oversight of airports serving air carrier operations with more than 30 seat aircraft; no certification requirements for airports only serving smaller air carrier aircraft.

Alternative 1 maintains the current airport certification system. Therefore, there are no incremental costs for Alternative 1.

*Alternative 2:* Require airports that are currently certificated under part 139 to extend part 139 coverage to air carrier operations with 10–30 seat aircraft; no regulation of airports that serve only 10–30 seat aircraft.

The estimated total incremental costs of Alternative 2 would be approximately \$900,000 for one-time costs and \$3,574,000 for recurring costs.

*Alternative 3:* Extend the scope of part 139 to include all airports that serve scheduled air carrier operations with 10–30 seat aircraft; require airports that only serve scheduled small air carrier operations to comply with fewer standards than those airports serving large air carrier operations.

The estimated total incremental costs of Alternative 3 would be approximately \$2,284,000 for one-time costs and \$5,058,000 for recurring costs.

*Alternative 4:* Amend part 139 to require all airports, regardless of size of air carrier aircraft and frequency of service, to comply with all required risk reduction and accident mitigation standards.

The estimated total incremental costs of Alternative 4 would be approximately \$3,521,000 for one-time costs and \$6,030,300 for recurring costs. This is the alternative selected by the FAA.

#### *Compliance Assistance*

The FAA's policy and procedures related to small entities meets and exceeds the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). FAA's regional offices regularly provide guidance and support in compliance matters to operators of airports classified as small entities. The guidance and support may occur via the telephone, e-mail, conventional mail, regional newsletters and FAA participation in industry conferences. In addition, it has been a long standing policy of the FAA to develop and distribute, free of charge, advisory circulars, informational brochures, and safety placards that are intended to assist the certificate holder in complying with the requirements of part 139. If this rule is adopted, the FAA will prepare a small entity compliance guide for the revised part 139. Also, existing FAA policy concerning enforcement of this regulation, and any subsequently adopted regulation, will continue to consider small entities status in obtaining compliance.

#### *Affordability Analysis*

The proposed rule was analyzed to determine its affordability. Many airports already meet the requirements of the proposed rule. These airports would incur only minor incremental costs as a result of the proposed rule.

The remaining airports meet most of the requirements of the proposed rule. These airports may be able to meet the requirements of the proposed rule with

the purchase of additional equipment, coordination with air carriers to revise airline flight schedules, and increased use of airport staff for collateral duties.

As noted earlier, Federal funds that can be requested only cover capital items such as ARFF equipment, runway marking and lighting, and fencing. Federal funds cannot be used to cover the costs of maintenance and operation expenses or the cost of personnel.

Although many airports already meet all or most of the standards of the proposed rule, there would be some airports that may have difficulty in financing the improvements needed to meet the requirements of the proposed rule. Airports may request relief from certain requirements, although it may not be granted. Further, if an airport enplanes less than one-quarter of one percent of the passengers at all certificated airports, the airport operator may apply for an exemption from the ARFF requirements of the proposed rule. It is anticipated that in all requests for exemptions that the FAA would work with each airport individually to find a mutually agreeable solution. For the reasons discussed earlier, the proposed rule is expected to be affordable to all airports.

#### *Business Closure Analysis*

The possibility of business failures being caused by the proposed rule was analyzed. None of the airports covered by this rule are expected to close as a result of this rule. All of these airports accommodate general aviation aircraft, as well as air carrier aircraft. Even if these airports lose their air carrier service they would likely remain open to provide service to general aviation aircraft. However, the FAA does not intend to cause an airport to suspend scheduled air service to the community. As presented above, a certificate holder may request relief from requirements that might effect the airport's scheduled air service. For example, the FAA has the authority to exempt from ARFF requirements airports with less than one-quarter of one percent (0.025 percent) of annual U.S. enplanements.

#### *Disproportionality Analysis*

The proposed rule was analyzed to determine if it would have a disproportional effect on smaller entities. The FAA determined that the impact of the proposed rule on the smaller entities would be relatively higher than the impact on the larger entities because the smaller entities may require relatively greater efforts to comply. If this is the case, the smaller entity may incur proportionally higher costs than the larger entity. The FAA

has determined that disproportionate costs are justified to achieve uniform standards that enhance safety. The FAA will exercise its authority to consider petitions for exemption that may minimize a disproportionate impact.

#### *International Trade Impact Assessment*

The provisions of this rule will have little or no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

#### **Federalism Implications**

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. Most airports subject to this rule are owned, operated, or regulated by a local governmental body (such as a city or county government), which, in turn, is either incorporated by or part of a State. In a few cases, the airports are operated directly by the states. This rule would have minimal direct effect on the States, and would not alter the relationship between the airport certificate holders and the FAA that is established by law. The annual costs of compliance with this rule would be very low compared with the resources available to the airports. Further, before issuing this NPRM, the FAA consulted with representatives of the airports through the Aviation Rulemaking Advisory Committee, as well as the states through various national associations of state and local governments. Also, FAA will mail to each state government a copy of the NPRM specifically inviting comment on this proposal.

Accordingly, the FAA has determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this rulemaking does not have federalism implications.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532–1538) requires the FAA to assess the effects of Federal regulatory actions on state, local, and tribal governments, and on the private sector of proposed rules that contain a Federal intergovernmental or private sector mandate that exceeds \$100 million in any one year. This action does not contain such a mandate.

Because many airports are owned by small governments, this proposed rule could affect a large number of small governments. To provide notice to the

small governments affected by this proposed rule, a copy of the NPRM will be sent to each State's Aeronautics Authority. This will provide small governments the opportunity to comment on the proposed rule before it would be implemented.

#### Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

#### Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94-163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

#### List of Subjects

##### 14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Charter flights, Safety, Transportation.

##### 14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

#### The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

#### PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44901, 44903-44904, 44912, 46105.

2. Revise § 121.590 to read as follows.

##### § 121.590 Use of certificated land airports.

(a) Except as provided in paragraph (b) of this section, or unless authorized by the Administrator, no air carrier, and no pilot being used by an air carrier may, in the conduct of operations governed by this part, operate an airplane into a land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, unless that airport

is certificated under part 139 of this chapter. Further, no air carrier may operate an airplane at such a certificated airport, unless that operation is authorized for the classification of the airport under part 139 of this chapter. However, an air carrier may designate and use as a required alternate airport for departure or destination, an airport that is not certificated under part 139 of this chapter.

(b) An air carrier or a commercial operator may use an airport not certificated under part 139 of this chapter if conducting domestic, flag, and passenger-carrying supplemental operations at any airport operated by the United States government; and the airport meets the equivalent safety standards of those required under part 139 of this chapter.

(c) An air carrier or a commercial operator may use an airport not certificated under part 139 of this chapter if conducting domestic and flag operations with turbojet powered airplanes designed for fewer than 10 passenger seats; or domestic and flag operations with airplanes designed for more than 9 and fewer than 31 passenger seats within the State of Alaska, if:

(1) The airport is adequate for the proposed operation, considering such items as size, surface, obstructions, and lighting.

(2) For an airplane carrying passengers at night, the pilot may not take off from, or land at, an airport unless—

(i) The pilot has determined the wind direction from an illuminated wind direction indicator or local ground communications or, in the case of takeoff, that pilot's personal observations; and

(ii) The limits of the area to be used for landing or takeoff are clearly shown by boundary or runway marker lights. If the area to be used for takeoff or landing is marked by flare pots or lanterns, their use must be authorized by the Administrator.

3. Revise part 139 to read as follows:

#### PART 139—CERTIFICATION OF AIRPORTS

##### Subpart A—General

Sec.

- 139.1 Applicability.
- 139.3 Delegation of authority.
- 139.5 Definitions.
- 139.7 Methods and procedures for compliance.

##### Subpart B—Certification

- 139.101 General requirements.
- 139.103 Application for certificate.
- 139.105 Inspection authority.

- 139.107 Issuance of certificate.
- 139.109 Duration of certificate.
- 139.111 Exemptions.
- 139.113 Deviations.

##### Subpart C—Airport Certification Manual

- 139.201 General requirements.
- 139.203 Contents of airport certification manual.
- 139.205 Amendment of airport certification manual.

##### Subpart D—Operations

- 139.301 Records.
- 139.303 Personnel.
- 139.305 Paved areas.
- 139.307 Unpaved areas.
- 139.309 Safety areas.
- 139.311 Marking, signs, and lighting.
- 139.313 Snow and ice control.
- 139.315 Aircraft rescue and firefighting: Index determination.
- 139.317 Aircraft rescue and firefighting: Equipment and agents.
- 139.319 Aircraft rescue and firefighting: Operational requirements.
- 139.321 Aircraft rescue and firefighting: Exemptions.
- 139.323 Handling and storing of hazardous substances and materials.
- 139.325 Traffic and wind direction indicators.
- 139.327 Airport emergency plan.
- 139.329 Self-inspection program.
- 139.331 Ground vehicles.
- 139.333 Obstructions.
- 139.335 Protection of nav aids.
- 139.337 Public protection.
- 139.339 Wildlife hazard management.
- 139.341 Airport condition reporting.
- 139.343 Identifying, marking, and reporting construction and other unserviceable areas.
- 139.345 Noncomplying conditions.

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44706, 44709, 44719.

##### Subpart A—General

###### § 139.1 Applicability.

(a) This part prescribes rules governing the certification and operation of airports in any State of the United States, the District of Columbia, or any territory or possession of the United States serving any—

(1) Scheduled passenger-carrying operations of air carrier aircraft designed for more than 9 passengers, as determined by the aircraft type certificate issued by a competent civil aviation authority; and

(2) Unscheduled passenger-carrying operations of air carrier aircraft designed for more than 30 passengers, as determined by the aircraft type certificate issued by a competent civil aviation authority.

(b) This part does not apply to—

- (1) Airports serving scheduled air carrier operations only by reason of being designated as an alternate airport;
- (2) Airports operated by the United States;

(3) Airports located in the State of Alaska that only serve scheduled operations of small air carrier aircraft, and do not serve scheduled or unscheduled operations of large air carrier aircraft; or

(4) Heliports.

#### § 139.3 Delegation of authority.

The authority of the Administrator under 49 U.S.C. 44706 to issue, revoke, and deny airport operating certificates is delegated to:

(a) The Associate Administrator for Airports, Director of Airport Safety and Standards, and Regional Airports Division Managers; and

(b) Each Airport Certification Safety Inspector, to the extent necessary to—

(1) Conduct inspections to determine compliance with the requirements of this part;

(2) Authorize exemptions and deviations from any requirement of this part;

(3) Approve or amend airport certification manuals required under this part; and

(4) Approve or disapprove standards, methods and procedures used to comply with this part.

#### § 139.5 Definitions.

The following are definitions of terms as used in this part:

*AFFF* means aqueous film forming foam agent.

*Air carrier operation* means the takeoff or landing of an air carrier aircraft and includes the period of time from 15 minutes before and until 15 minutes after the takeoff or landing.

*Airport* means an area of land or other hard surface, excluding water, that is used or intended to be used for the landing and takeoff of aircraft, including any buildings and facilities.

*Airport operating certificate* means a certificate, issued under this part, for operation of a Class I, II, III, or IV airport.

*Average daily departures* means the average number of scheduled departures per day of air carrier aircraft computed on the basis of the busiest 3 consecutive calendar months of the immediately preceding 12 consecutive calendar months; except that if the average daily departures are expected to increase, then “average daily departures” may be determined by planned rather than current activity, in a manner authorized by the Administrator.

*Certificate holder* means the holder of an airport operating certificate issued under this part.

*Heliport* means an airport, or an area of an airport, used or intended to be used for the landing and takeoff of helicopters.

*Class I airport* means an airport certificated to serve scheduled operations of large air carrier aircraft that can also serve unscheduled passenger operations of large air carrier aircraft and/or scheduled operations of small air carrier aircraft.

*Class II airport* means an airport certificated to serve scheduled operations of small air carrier aircraft and the unscheduled passenger operations of large air carrier aircraft. A Class II airport cannot serve scheduled large air carrier aircraft.

*Class III airport* means an airport certificated to serve scheduled operations of small air carrier aircraft. A Class III airport cannot serve scheduled or unscheduled large air carrier aircraft.

*Class IV airport* means an airport certificated to serve unscheduled passenger operations of large air carrier aircraft. A Class IV airport cannot serve scheduled large or small air carrier aircraft.

*Clean agent* means electrically nonconducting volatile or gaseous fire extinguishing agent that does not leave a residue upon evaporation and has been shown to provide extinguishing action equivalent to halon 1211 under test protocols of FAA Technical Report DOT/FAA/AR-95/87.

*Index* means an airport ranking according to the type and quantity of aircraft rescue and firefighting equipment and agent required, determined by the length and frequency of air carrier aircraft served by the airport, as provided in subpart D of this part.

*Large air carrier aircraft* means, for the purpose of this part, an aircraft with a passenger seating capacity of more than 30 passengers that is operated by an air carrier.

*Movement area* means the runways, taxiways, and other areas of an airport which are used for taxiing, takeoff, and landing of aircraft, exclusive of loading ramps and aircraft parking areas.

*Regional Airports Division Manager* means the airports division manager for the FAA region in which the airport is located.

*Safety area* means a designated area abutting the edges of a runway or taxiway intended to reduce the risk of damage to an aircraft inadvertently leaving the runway or taxiway.

*Scheduled operation* means any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator for which the air carrier, commercial operator, or their representatives offers in advance the departure location, departure time, and arrival location. It does not include any

operation that is conducted as a supplemental operation under 14 CFR part 119, or is conducted as a public charter operation under 14 CFR part 380.

*Small air carrier aircraft* means, for the purpose of this part, an aircraft with a passenger seating capacity of more than 9 passengers but less than 31 seats that is operated by an air carrier.

*Unscheduled operation* means any common carriage passenger-carrying operation for compensation or hire conducted by an air carrier or commercial operator with aircraft having more than 30 passenger seats that is conducted as a supplemental operation under 14 CFR part 119 or as a public charter under 14 CFR part 380, or for which departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative.

*Wildlife hazard* means a potential for a damaging aircraft collision with wildlife on or near an airport. As used in this part, “wildlife” includes domestic animals while out of the control of their owners.

#### § 139.7 Methods and procedures for compliance.

Certificate holders shall comply with requirements prescribed by subparts C and D of this part in a manner authorized by the Administrator. FAA Advisory Circulars contain methods and procedures for compliance with this part that are acceptable to the Administrator.

### Subpart B—Certification

#### § 139.101 General requirements.

(a) Except as otherwise authorized by the Administrator, no person may operate an airport specified under § 139.1 without an airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport certification manual.

(b) Each airport shall adopt and comply with an airport certification manual as required under § 139.203.

(c) Except as provided in §§ 139.311, 139.321, and 139.327, airports required to have an airport operating certificate under this part shall have their airport certification manual approved and implemented in accordance with the following schedule:

(1) Class I airports—90 days after [the effective date of the final rule].

(2) Class II and III airports—240 days after [the effective date of the final rule].

(3) Class IV airports—180 days after [the effective date of the final rule].

**§ 139.103 Application for certificate.**

Each applicant for an airport operating certificate shall:  
 (a) Prepare and submit an application, in a form and in the manner prescribed by the Administrator, to the Regional Airports Division Manager.  
 (b) Submit with the application, two copies of an airport certification manual prepared in accordance with subpart C of this part.

**§ 139.105 Inspection authority.**

Each applicant for, or holder of, an airport operating certificate shall allow the Administrator to make any inspections, including unannounced inspections, or tests to determine compliance with 49 U.S.C. 44706 and the requirements of this part.

**§ 139.107 Issuance of certificate.**

An applicant for an airport operating certificate is entitled to a certificate if:  
 (a) The certificate holder provides written documentation that air carrier service will begin on a date certain.  
 (b) The applicant meets the provisions of § 139.103.  
 (c) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to provide a safe airport operating environment in accordance with:  
 (1) Any limitation that the Administrator finds necessary to ensure safety in air transportation.  
 (2) The requirements of the airport certification manual as specified under § 139.203.  
 (3) Any other provisions of this part that the Administrator finds necessary to ensure safety in air transportation.  
 (d) The Administrator approves the airport certification manual.

**§ 139.109 Duration of certificate.**

(a) An airport operating certificate issued under this part is effective until the certificate holder surrenders it, or the certificate is suspended or revoked by the Administrator.  
 (b) The Administrator may issue an order revoking an airport operating certificate issued under this part if air carrier operations have not occurred at an airport for 24 consecutive calendar months. Any final order is appealable under 14 CFR part 13.

**§ 139.111 Exemptions.**

(a) An applicant or a certificate holder may petition the Administrator under § 11.25, Petitions for Rulemaking or Exemptions, of this chapter for an exemption from any requirement of this part.  
 (b) Under section 44706(c), the Administrator may exempt an applicant or a certificate holder that enplanes annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carrier airports from all, or part, of the aircraft rescue and firefighting equipment requirements of this part, on the grounds that compliance with those requirements is, or would be, unreasonably costly, burdensome, or impractical. An applicant for, or holder of, an airport operating certificate filing for such an exemption shall use the format prescribed under § 139.321.  
 (c) Each petition filed under this section must be submitted in duplicate to the Regional Airports Division Manager.

**§ 139.113 Deviations.**

In emergency conditions requiring immediate action for the protection of life or property, the certificate holder may deviate from any requirement of subpart D of this part, or the airport certification manual, to the extent required to meet that emergency. Each certificate holder who deviates from a requirement under this section shall, within 14 days after the emergency, notify the Regional Airports Division Manager of the nature, extent, and duration of the deviation. When requested by the Regional Airports Division Manager, the certificate holder shall provide this notification in writing.

**Subpart C—Airport Certification Manual**

**§ 139.201 General requirements.**

(a) No person may operate an airport subject to this part unless that person adopts and complies with an airport certification manual as required under this part, that—  
 (1) Has been approved by the Administrator;  
 (2) Contains only those items authorized by the Administrator;

(3) Is in printed form and signed by the certificate holder acknowledging the certificate holder's responsibility to operate the airport in compliance with the airport certification manual approved by the Administrator; and  
 (4) Is in a form that is easy to revise, and organized in a manner helpful to the preparation, review, and approval processes, including a revision log, and on each page or attachment, the date of initial approval, or approval by the Administrator of the latest revision.

(b) Each holder of an airport operating-certificate shall—  
 (1) Keep its airport certification manual current at all times;  
 (2) Maintain at least one complete and current copy of its approved airport certification manual on the airport, which will made available for inspection by the Administrator; and  
 (3) Furnish the applicable portions of the approved airport certification manual to the airport personnel responsible for their implementation.  
 (c) Each certificated holder shall ensure that the Regional Airports Division Manager is provided a complete copy of its most current approved airport certification manual that is specified under paragraph (b)(2) of this section, including any amendments approved under § 139.209.  
 (d) FAA Advisory Circulars contain methods and procedures for the development of airport certification manuals that are acceptable to the Administrator.

**§ 139.203 Contents of airport certification manual.**

(a) Except as otherwise authorized by the Administrator, each certificate holder shall include in the airport certification manual a description of operating procedures, facilities and equipment, responsibility assignments, and any other information needed by personnel concerned with operating the airport in order to comply with applicable provisions of subpart D of this part, and paragraph (b) of this section.  
 (b) Except as otherwise authorized by the Administrator, the certificate holder shall include in its airport certification manual the following elements, as appropriate for its class:

REQUIRED AIRPORT CERTIFICATION MANUAL ELEMENTS

Manual elements	Airport certificate class			
	Class I	Class II	Class III	Class IV
1. Lines of succession of airport operational responsibility .....	X	X	X	X
2. Each current exemption issued to the airport from the requirements of this part .....	X	X	X	X
3. Any limitations imposed by the Administrator .....	X	X	X	X

REQUIRED AIRPORT CERTIFICATION MANUAL ELEMENTS—Continued

Manual elements	Airport certificate class			
	Class I	Class II	Class III	Class IV
4. A grid map or other means of identifying locations and terrain features on and around the airport which are significant to emergency operations .....	X	X	X	X
5. The location of each obstruction required to be lighted or marked within the airport's area of authority .....	X	X	X	X
6. A description of each movement area available for air carriers and its safety areas and each road described in § 139.319(l) that serves it .....	X	X	X	X
7. Procedures for avoidance of interruption or failure during construction work of utilities serving facilities or nav aids that support air carrier operations .....	X	X	X	
8. A description of the system for maintaining records as required under § 139.301 .....	X	X	X	X
9. A description of personnel training as required under § 139.303 .....	X	X	X	X
10. Procedures for maintaining the paved areas as required under § 139.305 .....	X	X	X	X
11. Procedures for maintaining the unpaved areas as required under § 139.307 .....	X	X	X	X
12. Procedures for maintaining the safety areas as required under § 139.309 .....	X	X	X	X
13. A plan showing the runway and taxiway identification system along with the location and inscription of the signs as required under § 139.311 .....	X	X	X	X
14. A description of, and procedures for maintaining, the marking, signs, and lighting systems as required under § 139.311 .....	X	X	X	X
15. A snow and ice control plan as required under § 139.313 .....	X	X	X	
16. A description of the facilities, equipment, personnel, and procedures for meeting the rescue and firefighting requirements in accordance with §§ 139.317 and 139.319 .....	X	X	X	X
17. A description of any approved exemption to rescue and firefighting requirements as authorized under § 139.321 .....	X	X	X	X
18. Procedures for handling fuel, lubricants and oxygen required under § 139.323 .....	X	X	X	
19. Procedures for handling fuel, lubricants and oxygen .....				X
20. A description of, and procedures for maintaining, the traffic and wind direction indicators as required under § 139.325 .....	X	X	X	
21. A description of, and procedures for maintaining, the traffic and wind direction indicators .....				X
22. An emergency plan as required under § 139.327 .....	X	X	X	X
23. Procedures for conducting the self-inspection program as required under § 139.329 .....	X	X	X	
24. Procedures for conducting the self-inspection program .....				X
25. Procedures for controlling ground vehicles as required under § 139.331 .....	X	X	X	
26. Procedures for obstruction removal, marking, or lighting as required under § 139.333 .....	X	X	X	
27. Procedures for protection of nav aids as required under § 139.335 .....	X	X	X	
28. A description of public protection as required under § 139.337 .....	X	X	X	
29. A wildlife hazard management plan as required under § 139.339 .....	X	X	X	
30. Procedures for airport condition reporting as required under § 139.341 .....	X	X	X	X
31. Procedures for identifying, marking, and reporting construction and other unserviceable areas as required under § 139.343 .....	X	X	X	
32. Any other item that the Administrator finds is necessary to ensure safety in air transportation .....	X	X	X	X

**§ 139.205 Amendment of airport certification manual.**

(a) Under § 139.3, the Regional Airports Division Manager may amend any airport certification manual approved under this part, either—

(1) Upon application by the certificate holder; or

(2) On the Regional Airports Division Manager's own initiative if the Regional Airports Division Manager determines that safety in air transportation require the amendment.

(b) A certificate holder shall file an application for an amendment to its airport certification manual with the Regional Airports Division Manager at least 30 days before the proposed effective date of the amendment, unless a shorter filing period is allowed by that office.

(c) At any time within 30 days after receiving a notice of refusal to approve the application for amendment, the certificate holder may petition the Associate Administrator for Airports to reconsider the refusal to amend.

(d) In the case of amendments initiated by the Regional Airports Division Manager, the office notifies the certificate holder of the proposed amendment, in writing, fixing a reasonable period (but not less than 7 days) within which the certificate holder may submit written information, views, and arguments on the amendment. After considering all relevant material presented, the Regional Airports Division Manager notifies within 30 days the certificate holder of any amendment adopted or rescinds the notice. The amendment

becomes effective not less than 30 days after the certificate holder receives notice of it, except that prior to the effective date the certificate holder may petition the Associate Administrator for Airports to reconsider the amendment, in which case its effective date is stayed pending a decision by the Associate Administrator for Airports.

(e) Notwithstanding the provisions of paragraph (d) of this section, if the Regional Airports Division Manager finds that there is an emergency requiring immediate action with respect to safety in air transportation, the Regional Airports Division Manager may issue an amendment, effective without stay on the date the certificate holder receives notice of it. In such a case, the Regional Airports Division Manager incorporates the finding of the

emergency, and a brief statement of the reasons for the finding, in the notice of the amendment. Within 30 days after the issuance of such an emergency amendment, the certificate holder may petition the Associate Administrator for Airports to reconsider either the finding of an emergency or the amendment itself or both. This petition does not automatically stay the effectiveness of the emergency amendment.

#### Subpart D—Operations

##### § 139.301 Records.

In a manner authorized by the Administrator, each certificate holder shall:

(a) Furnish upon request by the Administrator all records required to be maintained under this part.

(b) If air carrier operations are less than 10,000 annually, make and maintain a record of air carrier operations, by type of aircraft, that occurred at the airport during previous 24 consecutive calendar months.

(c) Make and maintain any additional records required by the Administrator, this part and the airport certification manual, including, but not limited to, the following recordkeeping requirements of this part:

- (1) § 139.303, Personnel.
- (2) § 139.319, Aircraft rescue and firefighting; Operational requirements.
- (3) § 139.323, Handling and storing of hazardous substances and materials.
- (4) § 139.329, Self-inspection program.
- (5) § 139.331, Ground vehicles.
- (6) § 139.341, Airport condition reporting.

##### § 139.303 Personnel.

In a manner authorized by the Administrator, each certificate holder shall:

(a) Provide sufficient and qualified personnel to comply with the requirements of its airport certification manual and the requirements of this part.

(b) Equip personnel with sufficient resources needed to comply with the requirements of this part.

(c) Provide personnel with initial and recurrent training necessary to perform their duties.

(d) Maintain records of all training given to each individual under this section for a period of 24 consecutive calendar months after completion of training. Such records shall include, at a minimum, a description and date of training received.

##### § 139.305 Paved areas.

(a) In a manner authorized by the Administrator, each certificate holder

shall maintain, and promptly repair the pavement of, each runway, taxiway, loading ramp, and parking area on the airport that is available for air carrier use as follows:

(1) The pavement edges shall not exceed 3 inches difference in elevation between abutting pavement sections, and between pavement and abutting areas.

(2) The pavement shall have no hole exceeding 3 inches in depth, nor any hole the slope of which from any point in the hole to the nearest point at the lip of the hole is 45 degrees or greater, as measured from the pavement surface plane, unless, in either case, the entire area of the hole can be covered by a 5-inch diameter circle.

(3) The pavement shall be free of cracks and surface variations that could impair directional control of air carrier aircraft.

(4) Except as provided in paragraph (b) of this section, mud, dirt, sand, loose aggregate, debris, foreign objects, rubber deposits, and other contaminants shall be removed promptly and as completely as practicable.

(5) Except as provided in paragraph (b) of this section, any chemical solvent that is used to clean any pavement area shall be removed as soon as possible, consistent with the instructions of the manufacturer of the solvent.

(6) The pavement shall be sufficiently drained and free of depressions to prevent ponding that obscures markings or impairs safe aircraft operations.

(b) Paragraphs (a)(4) and (a)(5) of this section do not apply to snow and ice accumulations and their control, including the associated use of materials such as sand and deicing solutions.

(c) FAA Advisory Circulars contain methods and procedures for the maintenance and configuration of paved areas that are acceptable to the Administrator.

##### § 139.307 Unpaved areas.

(a) In a manner authorized by the Administrator, each certificate holder shall maintain and promptly repair the surface of each gravel, turf, or other unpaved runway, taxiway, or loading ramp and parking area on the airport which is available for air carrier use as follows:

(1) No slope from the edge of the full-strength surfaces downward to the existing terrain shall be steeper than 2:1.

(2) The full-strength surfaces shall have adequate crown or grade to assure sufficient drainage to prevent ponding.

(3) The full-strength surfaces shall be adequately compacted and sufficiently stable to prevent rutting by aircraft, or the loosening or build-up of surface

material which could impair directional control of aircraft or drainage.

(4) The full-strength surfaces must have no holes or depressions which exceed 3 inches in depth and are of a breadth capable of impairing directional control or causing damage to an aircraft.

(5) Debris and foreign objects shall be promptly removed from the surface.

(b) FAA Advisory Circulars contain methods and procedures for the maintenance and configuration of unpaved areas that are acceptable to the Administrator.

##### § 139.309 Safety areas.

(a) Unless otherwise specified in the airport certification manual, each certificate holder shall, in a manner authorized by the Administrator, provide and maintain for each runway and taxiway that is available for air carrier use—

(1) If the runway or taxiway had a safety area on December 31, 1987, and if no reconstruction or significant expansion of the runway or taxiway was begun on or after January 1, 1988, a safety area of at least the dimensions that existed on December 31, 1987; or

(2) If construction, reconstruction, or significant expansion of the runway or taxiway began on or after January 1, 1988, a safety area that is authorized by the Administrator at the time construction, reconstruction, or expansion began.

(b) Each certificate holder shall maintain its safety areas as follows:

(1) Each safety area shall be cleared and graded, and have no potentially hazardous ruts, humps, depressions, or other surface variations.

(2) Each safety area shall be drained by grading or storm sewers to prevent water accumulation.

(3) Each safety area shall be capable under dry conditions of supporting snow removal equipment, and aircraft rescue and firefighting equipment, and supporting the occasional passage of aircraft without causing major damage to the aircraft.

(4) No object may be located in any safety area, except for objects that need to be located in a safety area because of their function. These objects shall be constructed, to the extent practical, on frangibly mounted structures of the lowest practical height with the frangible point no higher than 3 inches above grade.

(c) FAA Advisory Circulars contain methods and procedures for the configuration and maintenance of safety areas acceptable to the Administrator.

##### § 139.311 Marking, signs, and lighting.

(a) *Marking.* Each certificate holder shall provide and maintain marking

systems for air carrier operations on the airport that are authorized by the Administrator and consists of at least the following:

- (1) Runway markings meeting the specifications for takeoff and landing minimums for each runway as authorized by the Administrator.
- (2) Taxiway centerline.
- (3) Edge markings, as appropriate.
- (4) Holding position markings.
- (5) ILS critical area markings.

(b) *Signs.* (1) Each certificate holder shall provide and maintain sign systems for air carrier operations on the airport that are authorized by the Administrator and consist of at least the following:

- (i) Signs identifying taxiing routes on the movement area.
- (ii) Holding position signs.
- (iii) Instrument landing system (ILS) critical area signs.

(2) Unless otherwise authorized by the Administrator, the signs required by paragraph (b)(1) of this section shall be internally-illuminated at each Class I, II, and IV airport.

(3) Unless otherwise authorized by the Administrator, the signs required by paragraphs (b)(1) (ii) and (iii) of this section shall be internally-illuminated at each Class III airport.

(c) *Lighting.* Each certificate holder shall provide and maintain lighting systems for air carrier operations when the airport is open at night, during conditions below VFR minimums, or in Alaska, during periods a prominent unlighted object cannot be seen from a distance of 3 statute miles or the sun is more than 6 degrees below the horizon. This lighting systems shall be authorized by the Administrator and consist of at least the following:

- (1) Runway lighting meeting the specifications for takeoff and landing minimums for each runway as authorized by the Administrator.
- (2) One of the following taxiway lighting systems:
  - (i) Centerline lights.
  - (ii) Centerline reflectors.
  - (iii) Edge lights.
  - (iv) Edge reflectors.

(3) An airport beacon.

(4) Approach lighting meeting the specifications for takeoff and landing minimums for each runway as authorized by the Administrator, unless otherwise provided and maintained by the FAA or another government agency.

(5) Obstruction marking and lighting, as appropriate, on each object within its authority which has been determined by the FAA to be an obstruction.

(d) *Maintenance.* Each certificate holder shall properly maintain each marking, sign, or lighting system installed and operated on the airport. As

used in this section, to “properly maintain” includes: To clean, replace, or repair any faded, missing, or nonfunctional item; to keep each item unobscured and clearly visible; and to ensure that each item provides an accurate reference to the user.

(e) *Lighting interference.* Each certificate holder shall ensure that all lighting on the airport, including that for aprons, vehicle parking areas, roadways, fuel storage areas, and buildings, is adequately adjusted or shielded to prevent interference with air traffic control and aircraft operations.

(f) *Standards.* FAA Advisory Circulars contain methods and procedures for the equipment, material, installation, and maintenance of marking, sign, and lighting systems listed in this section that are acceptable to the Administrator.

(g) *Implementation.* The sign systems required under paragraph (b)(3) of this section shall be implemented by each holder of a Class III airport operating certificate not later than 36 consecutive calendar months after [the effective date of the final rule].

#### § 139.313 Snow and ice control.

(a) As determined by the Administrator, each certificate holder whose airport is located where snow and icing conditions occur shall prepare, maintain, and carry out a snow and ice control plan in a manner authorized by the Administrator.

(b) The snow and ice control plan required by this section shall include, at a minimum, instructions and procedures for—

- (1) Prompt removal or control, as completely as practical, of snow, ice, and slush on each movement area;
- (2) Positioning snow off the movement area surfaces so that all air carrier aircraft propellers, engine pods, rotors, and wingtips will clear any snowdrift and snowbank as the aircraft's landing gear traverses any portion of the movement area;
- (3) Selection and application of authorized materials for snow and ice control to ensure that they adhere to snow and ice sufficiently to minimize engine ingestion;
- (4) Timely commencement of snow and ice control operations; and
- (5) Prompt notification, in accordance with § 139.341, of all air carriers using the airport when any portion of the movement area normally available to them is less than satisfactorily cleared for safe operation by their aircraft.

(c) FAA Advisory Circulars contain methods and procedures for snow and ice control equipment, materials, and procedures for snow and ice control that are acceptable to the Administrator.

#### § 139.315 Aircraft rescue and firefighting: Index determination.

(a) An Index is required by paragraph (c) of this section for each certificate holder. The Index is determined by a combination of—

- (1) The length of air carrier aircraft; and
- (2) Average daily departures of air carrier aircraft.

(b) For the purpose of Index determination, air carrier aircraft lengths are grouped as follows:

- (1) Index A includes aircraft less than 90 feet in length.
- (2) Index B includes aircraft at least 90 feet but less than 126 feet in length.
- (3) Index C includes aircraft at least 126 feet but less than 159 feet in length.
- (4) Index D includes aircraft at least 159 feet but less than 200 feet in length.
- (5) Index E includes aircraft at least 200 feet in length.

(c) Except as provided in § 139.319(c), if there are five or more average daily departures of air carrier aircraft in a single Index group serving that airport, the longest aircraft with an average of 5 or more daily departures determines the Index required for the airport. When there are fewer than five average daily departures of the longest air carrier aircraft serving the airport, the Index required for the airport will be the next lower Index group than the Index group prescribed for that aircraft.

(d) The minimum designated Index shall be Index A.

#### § 139.317 Aircraft rescue and firefighting: Equipment and agents.

Unless otherwise authorized by the Administrator, the following rescue and firefighting equipment and agents are the minimum required for the Indexes referred to in § 139.315:

- (a) *Index A.* One vehicle carrying at least—
  - (1) 500 pounds of sodium-based dry chemical, halon 1211, or clean agent; or
  - (2) 450 pounds of potassium-based dry chemical and water with a commensurate quantity of AFFF to total 100 gallons, for simultaneous dry chemical and AFFF foam application.
- (b) *Index B.* Either of the following:
  - (1) One vehicle carrying at least 500 pounds of sodium-based dry chemical, halon 1211, or clean agent, and 1,500 gallons of water, and the commensurate quantity of AFFF for foam production.
  - (2) Two vehicles—

(i) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(ii) One vehicle carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water

for foam production carried by both vehicles is at least 1,500 gallons.

(c) *Index C.* Either of the following:

(1) Three vehicles—

(i) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(ii) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 3,000 gallons.

(2) Two vehicles—

(i) One vehicle carrying the extinguishing agents as specified in paragraph (b)(1) of this section; and

(ii) One vehicle carrying water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by both vehicles is at least 3,000 gallons.

(d) *Index D.* Three vehicles—

(1) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(2) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 4,000 gallons.

(e) *Index E.* Three vehicles—

(1) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(2) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 4,000 gallons.

(f) *Existing vehicles.* Notwithstanding the provisions of paragraphs (a) through (e) of this section, any certificate holder whose vehicles met the requirements of this part for quantity and type of extinguishing agent on December 31, 1987, may comply with the Index requirements of this section by carrying extinguishing agents to the full capacity of those vehicles. Whenever any of those vehicles is replaced or rehabilitated, the capacity of the replacement or rehabilitated vehicle shall be sufficient to comply with the provisions of the required Index under this section.

(g) *Foam discharge capacity.* Each aircraft rescue and firefighting vehicle used to comply with Index B, C, D, or E requirements with a capacity of at least 500 gallons of water for foam production shall be equipped with a turret. Vehicle turret discharge capacity shall be as follows:

(1) Each vehicle with a minimum rated vehicle water tank capacity of at least 500 gallons but less than 2,000

gallons shall have a turret discharge rate of at least 500 gallons per minute but not more than 1,000 gallons per minute.

(2) Each vehicle with a minimum rated vehicle water tank capacity of at least 2,000 gallons shall have a turret discharge rate of at least 600 gallons per minute but not more than 1,200 gallons per minute.

(3) Notwithstanding the requirements of this paragraph (g), any certificate holder whose aircraft rescue and firefighting vehicles are not equipped with turrets or do not have the discharge capacity required in this section, but otherwise met the requirements of this part on December 31, 1987, need not comply with this paragraph (g) for a particular vehicle until that vehicle is replaced or rehabilitated.

(h) *Agent discharge capacity.* Each aircraft rescue and firefighting vehicle which is required to carry dry chemical, halon 1211, or clean agent for compliance with the index requirements of this section must meet one of the following minimum discharge rates for the equipment installed:

(1) Dry chemical, halon 1211, or clean agent through a hand line, 5 pounds per second.

(2) Dry chemical, halon 1211, or clean agent through a turret, 16 pounds per second.

(i) *Extinguishing agent substitutions.* Other extinguishing agent substitutions authorized by the Administrator may be made in amounts that provide equivalent firefighting capability.

(j) *AFFF Quantity Requirements.* In addition to the quantity of water required, each vehicle required to carry AFFF shall carry AFFF in an appropriate amount to mix with twice the water required to be carried by the vehicle.

(k) *Methods and procedures.* FAA Advisory Circulars in the 150 series contain standards and procedures for ARFF equipment and extinguishing agents that are acceptable to the Administrator.

(l) *Implementation.* Each holder of a Class II, III, or IV airport operating certificate shall implement the requirements of this section no later than 24 consecutive calendar months after [the effective date of the final rule].

#### **§ 139.319 Aircraft rescue and firefighting: Operational requirements.**

(a) *Rescue and firefighting capability.* Except as provided in paragraph (c) of this section, each certificate holder shall provide on the airport, during air carrier operations at the airport, at least the rescue and firefighting capability specified for the Index required by

§ 139.317 in a manner authorized by the Administrator.

(b) *Increase in Index.* Except as provided in paragraph (c) of this section, if an increase in the average daily departures or the length of air carrier aircraft results in an increase in the Index required by paragraph

(a) of this section, the certificate holder shall comply with the increased requirements.

(c) *Reduction in rescue and firefighting.* During air carrier operations with only aircraft shorter than the Index aircraft group required by paragraph (a) of this section, the certificate holder may reduce the rescue and firefighting to a lower level corresponding to the Index group of the longest air carrier aircraft being operated.

(d) *Procedures for reduction in capability.* Any reduction in the rescue and firefighting capability from the Index required by paragraph (a) of this section in accordance with paragraph (c) of this section shall be subject to the following conditions:

(1) Procedures for, and the persons having the authority to implement, the reductions must be included in the airport certification manual.

(2) A system and procedures for recall of the full aircraft rescue and firefighting capability must be included in the airport certification manual.

(3) The reductions may not be implemented unless notification to air carriers is provided in the Airport/Facility Directory or Notices to Airmen (NOTAM), as appropriate, and by direct notification of local air carriers.

(e) *Vehicle communications.* Each vehicle required under § 139.317 shall be equipped with two-way voice radio communications that provides for contact with at least—

(1) Each other required emergency vehicle;

(2) The air traffic control tower, if it is located on the airport; and

(3) Other stations, as specified in the airport emergency plan.

(f) *Vehicle marking and lighting.* Each vehicle required under § 139.317 shall—

(1) Have a flashing or rotating beacon; and

(2) Be painted or marked in colors to enhance contrast with the background environment and optimize daytime and nighttime visibility and identification.

(g) *Vehicle readiness.* Each vehicle required under § 139.317 shall be maintained as follows:

(1) The vehicle and its systems shall be maintained so as to be operationally capable of performing the functions required by this subpart during all air carrier operations.

(2) If the airport is located in a geographical area subject to prolonged

temperatures below 33 degrees Fahrenheit, the vehicles shall be provided with cover or other means to ensure equipment operation and discharge under freezing conditions.

(3) Any required vehicle that becomes inoperative to the extent that it cannot perform as required by paragraph (h)(1) of this section shall be replaced immediately with equipment having at least equal capabilities. If replacement equipment is not available immediately, the certificate holder shall so notify the Regional Airports Division Manager and each air carrier using the airport in accordance with § 139.341. If the required Index level of capability is not restored within 48 hours, the airport operator, unless otherwise authorized by the Administrator, shall limit air carrier operations on the airport to those compatible with the Index corresponding to the remaining operative rescue and firefighting equipment.

(h) *Response requirements.* (1) With the airport rescue and fire-fighting equipment required under this part and the number of trained personnel which will assure an effective operation, each certificate holder shall—

(i) Respond to each emergency during periods of air carrier operations; and

(ii) When requested by the Administrator, demonstrate compliance with the response requirements specified in this section.

(2) The response required by paragraph (h)(1)(ii) of this section shall achieve the following performance:

(i) Within 3 minutes from the time of the alarm, at least one required airport rescue and firefighting vehicle shall reach the midpoint of the farthest runway serving air carrier aircraft from its assigned post, or reach any other specified point of comparable distance on the movement area which is available to air carriers, and begin application of extinguishing agent.

(ii) Within 4 minutes from the time of alarm, all other required vehicles shall reach the point specified in paragraph (h)(2)(i) of this section from their assigned post and begin application of extinguishing agent.

(i) *Personnel.* Each certificate holder shall ensure the following:

(1) All rescue and firefighting personnel are equipped in a manner authorized by the Administrator with protective clothing and equipment needed to perform their duties.

(2) All rescue and firefighting personnel are properly trained to perform their duties in a manner authorized by the Administrator. Such personnel shall be trained prior to initial performance of rescue and

firefighting duties, and receive recurrent instruction every 12 consecutive calendar months. Curriculum for initial and recurrent training shall include at least the following areas:

(i) Airport familiarization.

(ii) Aircraft familiarization.

(iii) Rescue and firefighting personnel safety.

(iv) Emergency communications systems on the airport, including fire alarms.

(v) Use of the fire hoses, nozzles, turrets, and other appliances required for compliance with this part.

(vi) Application of the types of extinguishing agents required for compliance with this part.

(vii) Emergency aircraft evacuation assistance.

(viii) Firefighting operations.

(ix) Adapting and using structural rescue and firefighting equipment for aircraft rescue and firefighting.

(x) Aircraft cargo hazards, including hazardous materials/dangerous goods incidents.

(xi) Familiarization with firefighters' duties under the airport emergency plan.

(3) All rescue and firefighting personnel participate in at least one live-fire drill every 12 consecutive calendar months.

(4) At least one of the required personnel on duty during air carrier operations has been trained and is current in basic emergency medical services. Such personnel shall be trained prior to initial performance of emergency medical services, and receive recurrent instruction every 12 consecutive calendar months. Training shall include at least 40 hours covering the following areas:

(i) Bleeding.

(ii) Cardiopulmonary resuscitation.

(iii) Shock.

(iv) Primary patient survey.

(v) Injuries to the skull, spine, chest, and extremities.

(vi) Internal injuries.

(vii) Moving patients.

(viii) Burns.

(ix) Triage.

(5) Each certificate holder shall maintain a record of all training given to each individual under this section for 24 consecutive calendar months after completion of training. Such records shall include, at a minimum, a description and date of training received.

(6) Sufficient rescue and firefighting personnel are available during all air carrier operations to operate the vehicles, meet the response times, and meet the minimum agent discharge rates required by this part;

(7) Procedures and equipment are established and maintained for alerting rescue and firefighting personnel by siren, alarm, or other means authorized by the Administrator, to any existing or impending emergency requiring their assistance.

(j) *Hazardous materials guidance.* Each aircraft rescue and firefighting vehicle responding to an emergency on the airport shall be equipped with, or have available through a direct communications link, the North American Emergency Response Guidebook published by the U.S. Department of Transportation or similar response guidance to hazardous materials/dangerous goods incidents.

(k) *Emergency access roads.* Each certificate holder shall ensure that roads which are designated for use as emergency access roads for aircraft rescue and firefighting vehicles are maintained in a condition that will support those vehicles during all-weather conditions.

(l) *Methods and procedures.* FAA Advisory Circulars contain methods and procedures for ARFF and emergency medical equipment and training that are acceptable to the Administrator.

(m) *Implementation.* Each holder of a Class II, III, or IV airport operating certificate shall implement the requirements of this section no later than 24 consecutive calendar months after [the effective date of the final rule].

#### **§ 139.321 Aircraft rescue and firefighting: Exemptions.**

(a) Under § 139.111, a certificate holder may petition the Associate Administrator for Airports for an exemption from ARFF requirements of §§ 139.317 and 139.319.

(b) Each petition filed under this section must—

(1) Be submitted in writing at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate to the Regional Airports Division Manager;

(3) Set forth the text of § 139.317 or § 139.319 from which the exemption is sought;

(4) Explain the interest of the certificate holder in the action requested, including the nature and extent of relief sought, and alternative means of compliance proposed; and

(5) Contain information, views, or arguments that demonstrates that the requirements of § 139.317 or § 139.319 would be unreasonably costly, burdensome, or impractical.

(c) The Associate Administrator for Airports may grant an exemption to the requirements of §§ 139.317 and 139.319 if it is determined that—

(1) The certificate holder's compliance with the requirements of §§ 139.317 and 139.319 would be unreasonably costly, burdensome, or impractical; and

(2) The exemption granted would provide a level of safety in responding to emergencies involving air carrier operations that is equivalent to the rescue and firefighting response required under §§ 139.317 and 139.319. In determining whether to grant an exemption, the Administrator shall consider the certificate holder's provisions for the following:

(i) Pre-arranged firefighting and basic emergency medical response that is on-airport 15 minutes before and 15 minutes after an air carrier aircraft takes off or lands;

(ii) Capability of responding emergency equipment and fire extinguishing agents to address aircraft fire and rescue situations;

(iii) Initial and recurrent training of responding personnel on the use of emergency equipment, basic emergency medical response, and airport familiarization;

(iv) Procedures to provide replacement emergency equipment or personnel in the event pre-arranged firefighting and basic emergency medical response specified in paragraph (c)(2)(i) of this section becomes unavailable; and

(v) Planned action to come into compliance with the rescue and firefighting response requirements of §§ 139.317 and 139.319.

(d) Upon approval of the petition, the certificate holder shall include in the airport certification manual the exemption approved under paragraph (c) of this section.

#### **§ 139.323 Handling and storing of hazardous substances and materials.**

(a) Each certificate holder which acts as a cargo handling agent shall establish and maintain procedures for the protection of persons and property on the airport during the handling and storing of any material regulated by the Hazardous Materials Regulations (49 CFR parts 171 through 180), that is, or is intended to be, transported by air. These procedures shall provide for at least the following:

(1) Designated personnel to receive and handle hazardous substances and materials.

(2) Assurance from the shipper that the cargo can be handled safely, including any special handling procedures required for safety.

(3) Special areas for storage of hazardous materials while on the airport.

(b) Each certificate holder shall establish and maintain standards authorized by the Administrator for protecting against fire and explosions in storing, dispensing, and otherwise handling fuel, lubricants, and oxygen (other than articles and materials that are, or are intended to be, aircraft cargo) on the airport. These standards shall cover facilities, procedures, and personnel training and shall address at least the following:

(1) Bonding.

(2) Public protection.

(3) Control of access to storage areas.

(4) Fire safety in fuel farm and storage areas.

(5) Fire safety in mobile fuelers, fueling pits, and fueling cabinets.

(6) Training of fueling personnel in fire safety in accordance with paragraph (e) of this section. Such training at Class III airports must be completed within 12 consecutive calendar months after [the effective date of the final rule].

(7) The fire code of the public body having jurisdiction over the airport.

(c) Each certificate holder shall, as a fueling agent, comply with, and require all other fueling agents operating on the airport to comply with, the standards established under paragraph (b) of this section and shall perform reasonable surveillance of all fueling activities on the airport with respect to those standards.

(d) Each certificate holder shall inspect the physical facilities of each airport tenant fueling agent at least once every 3 consecutive calendar months for compliance with paragraph (b) of this section and maintain a record of that inspection for at least 12 consecutive calendar months. The certificate holder may use an independent organization to perform this inspection if—

(1) It is authorized by the Administrator; and

(2) It prepares a record of its inspection sufficiently detailed to assure the certificate holder and the FAA that the inspection is adequate.

(e) The training required in paragraph (b)(6) of this section shall include at least the following:

(1) At least one supervisor with each fueling agent shall have completed an aviation fuel training course in fire safety that is authorized by the Administrator. Such an individual shall be trained prior to initial performance of duties, and receive recurrent instruction every 24 consecutive calendar months.

(2) All other employees who fuel aircraft, accept fuel shipments, or otherwise handle fuel shall receive at least on-the-job training and recurrent instruction every 12 consecutive calendar months in fire safety from the

supervisor trained in accordance with paragraph (e)(1) of this section.

(f) Each certificate holder shall obtain written confirmation once every 12 consecutive calendar months from each airport tenant fueling agent that the training required by paragraph (e) of this section has been accomplished.

(g) Unless otherwise authorized by the Administrator, each certificate holder shall require each tenant fueling agent to take immediate corrective action whenever the certificate holder becomes aware of noncompliance with a standard required by paragraph (b) of this section. The certificate holder shall notify the appropriate FAA Regional Airports Division Manager immediately when noncompliance is discovered and corrective action cannot be accomplished within a reasonable period of time.

(h) FAA Advisory Circulars contain methods and procedures for the handling and storage of hazardous substances and materials that are acceptable to the Administrator.

#### **§ 139.325 Traffic and wind direction indicators.**

In a manner authorized by the Administrator, each certificate holder shall provide the following on its airport:

(a) A wind cone that provides surface wind direction information visually to pilots. Supplemental wind cones must be installed at each runway end or at least at one point visible to the pilot while on final approach and prior to takeoff. If the airport is open for air carrier operations during hours of darkness, the wind direction indicators, including the required supplemental indicators, must be lighted.

(b) For airports serving any air carrier operation when there is no control tower operating, a landing strip and traffic pattern indicator for each runway with a right-hand traffic pattern. If there is no segmented circle, such landing strip and traffic pattern indicators must be installed on or near the end of the runway.

(c) FAA Advisory Circulars contain methods and standards for the installation, lighting and maintenance of wind cones and segmented circles that are acceptable to the Administrator.

#### **§ 139.327 Airport emergency plan.**

(a) In a manner authorized by the Administrator, each certificate holder shall develop and maintain an airport emergency plan designed to minimize the possibility and extent of personal injury and property damage on the airport in an emergency. The plan shall—

(1) Include procedures for prompt response to all of the emergencies listed in paragraph (b) of this section, including a communications network; and

(2) Sufficient detail to provide adequate guidance to each person who must implement it; and

(3) To extent practicable, provide for emergency response for the largest air carrier aircraft that the airport reasonably can be expected to serve.

(b) The plan required by this section must contain instructions for response to—

(1) Aircraft incidents and accidents;

(2) Bomb incidents, including designated parking areas for the aircraft involved;

(3) Structural fires;

(4) Fires at fuel farms or fuel storage areas;

(5) Natural disaster;

(6) Hazardous materials/dangerous goods incidents;

(7) Sabotage, hijack incidents, and other unlawful interference with operations;

(8) Failure of power for movement area lighting; and

(9) Water rescue situations, as appropriate.

(c) The plan required by this section must address or include—

(1) To the extent practicable, provisions for medical services including transportation and medical assistance for the maximum number of persons that can be carried on the largest air carrier aircraft that the airport reasonably can be expected to serve;

(2) The name, location, telephone number, and emergency capability of each hospital and other medical facility, and the business address and telephone number of medical personnel on the airport or in the communities it serves, agreeing to provide medical assistance or transportation;

(3) The name, location, and telephone number of each rescue squad, ambulance service, military installation, and government agency on the airport or in the communities it serves, that agrees to provide medical assistance or transportation;

(4) An inventory of surface vehicles and aircraft that the facilities, agencies, and personnel included in the plan under paragraphs (c)(2) and (c)(3) of this section will provide to transport injured and deceased persons to locations on the airport and in the communities it serves;

(5) Each hangar or other building on the airport or in the communities it serves that will be used to accommodate uninjured, injured, and deceased persons;

(6) Crowd control, specifying the name and location of each safety or security agency that agrees to provide assistance for the control of crowds in the event of an emergency on the airport; and

(7) The removal of disabled aircraft including to the extent practical the name, location and telephone numbers of agencies with aircraft removal responsibilities or capabilities.

(d) The plan required by this section must provide for—

(1) The marshalling, transportation, and care of ambulatory injured and uninjured accident survivors;

(2) The removal of disabled aircraft;

(3) Emergency alarm or notification systems; and

(4) Coordination of airport and control tower functions relating to emergency actions, as appropriate.

(e) The plan required by this section shall contain procedures for notifying the facilities, agencies, and personnel who have responsibilities under the plan of the location of an aircraft accident, the number of persons involved in that accident, or any other information necessary to carry out their responsibilities, as soon as that information is available.

(f) The plan required by this section shall contain provisions, to the extent practicable, for the rescue of aircraft accident victims from significant bodies of water or marsh lands adjacent to the airport which are crossed by the approach and departure flight paths of air carriers. A body of water or marsh land is significant if the area exceeds one-quarter square mile and cannot be traversed by conventional land rescue vehicles. To the extent practicable, the plan shall provide for rescue vehicles with a combined capacity for handling the maximum number of persons that can be carried on board the largest air carrier aircraft that the airport reasonably can be expected to serve.

(g) Each certificate holder shall—

(1) Coordinate its plan with law enforcement agencies, rescue and firefighting agencies, medical personnel and organizations, the principal tenants at the airport, and all other persons who have responsibilities under the plan;

(2) To the extent practicable, provide for participation by all facilities, agencies, and personnel specified in paragraph (g)(1) of this section in the development of the plan;

(3) Ensure that all airport personnel having duties and responsibilities under the plan are familiar with their assignments and are properly trained; and

(4) At least once every 12 consecutive calendar months, review the plan with

all of the parties with whom the plan is coordinated as specified in paragraph (g)(1) of this section, to ensure that all parties know their responsibilities and that all of the information in the plan is current.

(h) Each holder of a Class I airport operating certificate shall hold a full-scale airport emergency plan exercise at least once every 36 consecutive calendar months.

(i) FAA Advisory Circulars contain methods and procedures for the development of an airport emergency plan that are acceptable to the Administrator.

(j) The emergency plan required by this section shall be submitted by each holder of a Class II, III, or IV airport operating certificate no later than 12 consecutive calendar months after [the effective date of the final rule.]

#### § 139.329 Self-inspection program.

(a) In a manner authorized by the Administrator, each certificate holder, or designee, shall inspect the airport to assure compliance with this subpart—

(1) Daily, except as otherwise required by the airport certification manual;

(2) When required by any unusual condition such as construction activities or meteorological conditions that may affect safe air carrier operations; and

(3) Immediately after an accident or incident.

(b) Each certificate holder shall provide the following:

(1) Equipment for use in conducting safety inspections of the airport;

(2) Procedures, facilities, and equipment for reliable and rapid dissemination of information between airport personnel and its air carriers;

(3) Procedures to ensure that qualified inspection personnel perform the inspections, as specified under § 139.303; and are trained annually in least the following areas:

(i) Airport familiarization.

(ii) Airport emergency plan.

(iii) Notice to Airmen (NOTAM) notification procedures.

(iv) Ground vehicle operations.

(v) Discrepancy reporting procedures.

(vi) Airport marking, lighting and sign systems; and

(4) A reporting system to ensure prompt correction of unsafe airport conditions noted during the inspection, including wildlife strikes.

(c) Each certificate holder shall prepare and keep for at least 6 consecutive calendar months, and make available for inspection by the Administrator on request, a record of each inspection prescribed by this section, showing the conditions found and all corrective actions taken.

(d) FAA Advisory Circulars contain methods and procedures for the conduct of airport self-inspections that are acceptable to the Administrator.

**§ 139.331 Ground vehicles.**

In a manner authorized by the Administrator, each certificate holder shall—

(a) Limit access to movement areas and safety areas only to those ground vehicles necessary for airport operations;

(b) Establish and implement procedures for the safe and orderly access to, and operation on, the movement area and safety areas by ground vehicles, including provisions identifying the consequences of noncompliance with the procedures by an employee, tenant, or contractor;

(c) When an air traffic control tower is in operation, ensure that each ground vehicle operating on the movement area is controlled by one of the following:

(1) Two-way radio communications between each vehicle and the tower;

(2) An escort vehicle with two-way radio communications with the tower to accompany any vehicle without a radio; or

(3) Measures authorized by the Administrator for controlling vehicles, such as signs, signals, or guards, when it is not operationally practical to have two-way radio communications with the vehicle or an escort vehicle;

(d) When an air traffic control tower is not in operation, provide adequate procedures to control ground vehicles on the movement area through prearranged signs or signals;

(e) Ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport that has access to the movement area is familiar with the airport's procedures for the operation of ground vehicles and the consequences of noncompliance; and

(f) On request by the Administrator, make available for inspection any record of accidents or incidents on the movement areas involving air carrier aircraft and/or ground vehicles.

**§ 139.333 Obstructions.**

In a manner authorized by the Administrator, each certificate holder shall ensure that each object in each area within its authority which exceeds any of the heights or penetrates the imaginary surfaces described in part 77 of this chapter is either removed, marked, or lighted. However, removal, marking, and lighting are not required if they are determined to be unnecessary by an FAA aeronautical study. FAA Advisory Circulars contain methods and

procedures for the lighting of obstructions that are acceptable to the Administrator.

**§ 139.335 Protection of nav aids.**

In a manner authorized by the Administrator, each certificate holder shall—

(a) Prevent the construction of facilities on its airport that, as determined by the Administrator, would derogate the operation of an electronic or visual navaid and air traffic control facilities on the airport;

(b) Protect, or if the owner is other than the certificate holder, assist in protecting, all nav aids on its airport against vandalism and theft; and

(c) Prevent, insofar as it is within the airport's authority, interruption of visual and electronic signals of nav aids.

**§ 139.337 Public protection.**

(a) In a manner authorized by the Administrator, each certificate holder shall provide—

(1) Safeguards to prevent inadvertent entry to the movement area by unauthorized persons or vehicles; and

(2) Reasonable protection of persons and property from aircraft blast.

(b) Fencing meeting the requirements of part 107 of this chapter in areas subject to part 107 of this chapter is acceptable for meeting the requirements of paragraph (a)(1) of this section.

**§ 139.339 Wildlife hazard management.**

(a) In accordance with its airport certification manual and the requirements of this section, each certificate holder shall take immediate action to alleviate wildlife hazards whenever they are detected.

(b) In a manner authorized by the Administrator, each certificate holder shall ensure that a wildlife hazard assessment is conducted when any of the following events occurs on or near the airport:

(1) An air carrier aircraft experiences a multiple bird strike or engine ingestion.

(2) An air carrier aircraft experiences a damaging collision with wildlife other than birds.

(3) Wildlife of a size or in numbers capable of causing an event described in paragraph (b)(1) or (2) of this section has access to any airport flight pattern or aircraft movement area.

(c) The assessment required in paragraph (b) of this section shall be conducted by a wildlife damage management biologist that has at least a Bachelor of Science degree in wildlife biology, wildlife management or related field and professional training and/or experience in wildlife hazard

management at airports, or an individual working under the direct supervision of the such an individual. The assessment shall contain at least the following:

(1) An analysis of the events or circumstances which prompted the assessment.

(2) Identification of the wildlife species observed, and their numbers, locations, local movements, and daily and seasonal occurrences.

(3) Identification and location of features on and near the airport that attract wildlife.

(4) A description of wildlife hazard to air carrier operations.

(5) Recommended actions for reducing identified wildlife hazards to air carries operations.

(d) The assessment shall be submitted to the Administrator for approval and determination of the need for a wildlife hazard management plan. In reaching this determination, the Administrator will consider:

(1) The wildlife hazard assessment required under paragraph (b) of this section.

(2) Actions recommended in the wildlife hazards assessment to reduce wildlife hazards.

(3) The aeronautical activity at the airport.

(4) The views of the certificate holder.

(5) The views of the airport users.

(6) Any other known factors relating to the wildlife hazard of which the Administrator is aware.

(e) When the Administrator determines that a wildlife hazard management plan is needed, the certificate holder shall formulate and implement a plan using the wildlife hazard assessment as a basis. The plan shall:

(1) Provide measures to alleviate or eliminate wildlife hazards to air carrier operations;

(2) Be submitted to, and approved by, the Administrator prior to implementation; and

(3) As authorized by the Administrator, become a part of the Airport Certification Manual.

(f) The plan shall include at least the following:

(1) A list of the individuals having authority and responsibility for implementing each aspect of the plan.

(2) A list prioritizing the following actions identified in the wildlife hazard assessment and target dates for their completing:

(i) Wildlife population management;

(ii) Habitat modification; and

(iii) Land use changes.

(3) Requirements for and, where applicable, copies of local, State, and Federal wildlife control permits.

(4) Identification of resources that the certificate holder will provide to implement the plan.

(5) Procedures to be followed during air carrier operations, that at a minimum includes:

(i) Designation of personnel responsible for implementing the procedures;

(ii) Provisions to conduct physical inspections of the aircraft movement areas and other areas critical to successfully manage known wildlife hazard before air carrier operations begin;

(iii) Wildlife hazard control measures; and

(iv) Ways to effectively communicate between wildlife control personnel and any air traffic control tower operating at the airport.

(6) Describe procedures to review and evaluate the wildlife hazard management plan annually or following an event described in paragraphs (b)(1), (2) and (3) of this section, including:

(i) The plan's effectiveness in dealing with known wildlife hazards on and in the airport's vicinity; and

(ii) Aspects of the wildlife hazards, as described in the wildlife hazard assessment, that should be reevaluated.

(7) A training program conducted by qualified wildlife damage management biologist(s) to provide airport personnel with the knowledge and skills needed to successfully carry out the wildlife hazard management plan required by paragraph (d) of this section.

(g) At Class II or III airports, implementation of the wildlife mitigation procedures shall take into account the frequency and size of air carrier aircraft.

(h) FAA Advisory Circulars contain methods and procedures for wildlife hazard management at airports that are acceptable to the Administrator.

#### **§ 139.341 Airport condition reporting.**

In a manner authorized by the Administrator, each certificate holder shall:

(a) Provide for the collection and dissemination of airport condition information to air carriers.

(b) In complying with paragraph (a) of this section, utilize the NOTAM system, as appropriate, and other systems and procedures authorized by the Administrator.

(c) In complying with paragraph (a) of this section, provide information on the following airport conditions that may affect the safe operations of air carriers:

(1) Construction or maintenance activity on movement areas, safety areas, or loading ramps and parking areas.

(2) Surface irregularities on movement areas, safety areas, or loading ramps and parking areas.

(3) Snow, ice, slush, or water on the movement area or loading ramps and parking areas.

(4) Snow piled or drifted on or near movement areas contrary to § 139.313.

(5) Objects on the movement area or safety areas contrary to § 139.309.

(6) Malfunction of any sign or lighting system required by § 139.311.

(7) Unresolved wildlife hazards as identified in accordance with § 139.339.

(8) Non-availability of any rescue and firefighting capability required in § 139.317, § 139.319, or § 139.321.

(9) Any other condition as specified in the airport certification manual, or which may otherwise adversely affect the safe operations of air carriers.

(d) FAA Advisory Circulars contain methods and procedures for using the NOTAM system and the dissemination of airport information that are acceptable to the Administrator.

#### **§ 139.343 Identifying, marking, and reporting construction and other unserviceable areas.**

(a) In a manner authorized by the Administrator, each certificate holder shall—

(1) Mark and, if appropriate, light in a manner authorized by the Administrator—

(i) Each construction area and unserviceable area which is on or adjacent to any movement area or any other area of the airport on which air carrier aircraft may be operated;

(ii) Each item of construction equipment and each construction roadway, which may affect the safe movement of aircraft on the airport; and

(iii) Any area adjacent to a navaid that, if traversed, could cause derogation of the signal or the failure of the navaid; and

(2) Provide procedures, such as a review of all appropriate utility plans prior to construction, for avoiding damage to existing utilities, cables, wires, conduits, pipelines, or other underground facilities.

(b) FAA Advisory Circulars contain methods and procedures for identifying and marking construction areas that are acceptable to the Administrator.

#### **§ 139.345 Noncomplying conditions.**

Unless otherwise authorized by the Administrator, whenever the requirements of subpart D of this part cannot be met to the extent that uncorrected unsafe conditions exist on the airport, the certificate holder shall limit air carrier operations to those portions of the airport not rendered unsafe by those conditions.

Issued in Washington, DC, on June 2, 2000.

**Paul L. Galis,**

*Acting Associate Administrator for Airports.*

[FR Doc. 00-14524 Filed 6-20-00; 8:45 am]

**BILLING CODE 4910-13-U**