Federal Aviation Administration
Aviation Rulemaking Advisory Committee

Airport Certification Issue Area
Friction Measurement and Signing Working Group

Task 1 – Review Part 139

Task Assignment

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Friction Measurement and Signing Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of friction measurement and signing working group.

SUMMARY: Notice is given of the establishment of the Friction Measurement and Signing Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on airport certification issues.

FOR FURTHER INFORMATION CONTACT: Robert E. David, Assistant Executive Director, Airport Certification Issues, Aviation Rulemaking Advisory Committee, Office of Airport and Safety Standards (AAS–300), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3085; fax (202) 267–5383.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration has established an Aviation Rulemaking Advisory Committee (ARAC) (56 FR 219, January 22, 1991; and 58 FR 9230, February 19, 1993). One area of the ARAC deals with airport certification issues.

Task

Specifically, the working group's tasks are the following:

— Review Code of Federal Regulations (CFR) Title 14, Chapter I, Part 139 and supporting material, previous studies and surveys, procedures and interpretations for the purpose of determining if it would be appropriate to undertake rulemaking and/or develop policy relative to performing friction measurement to be used in the maintenance of air carrier runway surfaces; and

— Review CFR Title 14, Chapter I, Part 139 and Advisory Circular 150/5340–18C, "Standards for Airport Sign Systems," and supporting material for the purpose of developing a notice of proposed rulemaking which would require these distance remaining signs at some or all the airports certificated under part 139.

If deemed appropriate, draft for ARAC notices of proposed rulemaking for each task proposing new or revised requirements, supporting economic analyses and other required analyses, advisory and guidance material, and any other collateral documents the working group determines to be needed.

Reports

A. Recommend time line(s) for completion of the tasks, including rationale, for consideration at the meeting of the ARAC to consider airport certification issues held following publication of this notice.

B. Give a detailed conceptual presentation on the proposed recommendation to the ARAC before proceeding any further with the tasks.

C. Give a status report on the tasks at each meeting of the ARAC held to consider airport certification issues.

The Friction Measurement and Signing Working Group will be comprised of experts from those organizations having an interest in the task assigned. A working group member need not necessarily be a representative of one of the member organizations of ARAC. An individual who has expertise in the subject matter and wishes to become a member of the working group should write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the working group. The request will be reviewed with the Assistant Chair of the ARAC for airport certification issues and the Chair of the Friction Measurement and Signing Working Group, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of the ARAC are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC to consider airport certification issues will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Friction Measurement and Signing Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on October 4, 1994.

Robert E. David,

Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 94–24955 Filed 10–7–94; 8:45 am]

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Recommendation Letter

AIRPORTS COUNCIL INTERNATIONAL

August 30, 2002

Mr. Nicholas A. Sabatini
Associate Administrator for Regulation and Certification
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Mr. Sabatini:

On June 21, 2001, the ARAC Airport Certification Issues Group met to vote on two issues that remained open from one of our working groups. The final recommendations from the Runway Friction Measurement and Runway Distance Remaining Signage working group (WG) were presented to the Issues group for discussion and submission to FAA. The following is the recommendation of the Issues group:

> **Task 1, Friction Measurement:** The WG recommends regulatory action to amend 14 CFR 139.305, Paved areas, and submitted a draft notice of proposed rulemaking (NPRM), titled "Runway Friction Measurement," dated January 29, 1999.
>
> The WG stated that consensus had been reached on the need for a rule change to part 139. This NPRM (see attachment) contains the WG's draft regulatory language and preamble discussion, but does not contain a regulatory evaluation (cost/benefit analysis), nor has it undergone a legal review.
>
> **ACTION:** ARAC voted unanimously to submit the NPRM recommendation to FAA for action, completing this task.
>
> I request that this task be closed as it is now complete.

Task 2, Distance Remaining Signs: The WG recommends no regulatory action (majority opinion) on the signage task. As consensus had not been reached by the WG, both the majority and minority opinions were reviewed.

The Air Line Pilots Association (ALPA) holds the minority opinion that regulatory action is necessary to ensure all airports have the required signs.

The majority opinion (all other WG members) stated that no regulatory action is necessary, as voluntary compliance already has resulted in approximately 97 percent of all airports having the requisite signage in place. A regulatory action would not have a corresponding impact for the time/resource allocation needed.

ACTION: The ARAC voted, with dissenting opinions, to recommend no regulatory action to FAA, closing the task. The ARAC also recommends that FAA actively pursue ensuring advisory circulars detail the important benefits of proper signage, encouraging the remaining airports to apply smart business/safety practices. The dissenting opinions were from the members of ARFFWG and the National Air Disaster Alliance, who joined ALPA in registering their concerns over possible safety issues if regulatory action was not taken.

I request that you close the Runway Distance Remaining Signage task without a regulatory action.

Best regards,

Ian A. Redhead
Assistant Chair for ARAC Airport Certification

Cc: Ben Castellano, FAA
Jennifer A. Banks, ACI-NA

Recommendation

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. XXXXX; Notice No. 9X-XXXX]

RIN 2120-XXXX

Runway Friction Measurement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to require airports that serve certain scheduled air carriers to establish a runway friction measurement program to ensure that runways, available for use by turbojet aircraft, meet minimum acceptable runway friction values. Runway surface deterioration, which can lead to friction loss and result in reduced aircraft braking efficiency and loss of directional control, has become a significant safety consideration. Currently, methods used to measure runway friction values and the frequency of the measurements are inconsistent and, in some cases, inadequate to ensure acceptable levels of safety. To ensure acceptable levels of safety, airports would be required as part of the runway friction measurement program, to identify minimum runway friction values, conduct initial and periodic runway friction measurements using

approved equipment, and record and retain the results of the measurements.

DATES: Comments must be received on or before [*60 days after date of publication in the Federal Register*.]

ADDRESSES: Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA-YYYY-NNNN, 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590. Comments also may be sent electronically to the following Internet address: 9-NPRM-CMTS@faa.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Benedict Castellano, Airport Safety and Compliance Branch, AAS-310, Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8728. For information on issues involving runway friction measurements that are performed for operational purposes, which are not addressed in this notice, contact Rick Marinelli, Airport Safety and Compliance Branch, AAS-100, Design and Operations Criteria Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-7669.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule 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 also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT 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.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered to the extent practicable. The proposals contained in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those

comments on which the following statement is made: "Comments to Docket No. XXXXX." 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), the Government Printing Office's (GPO) electronic bulletin board service (telephone: (202) 512-1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (800) 322-2722 or (202) 267-5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page 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 rulemaking documents should request from the above office a copy of Advisory Circular (AC) No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

Statement of the Problem

When commercial turbojet aircraft were introduced to U.S. airports in 1962, they were operated on the same smooth, nongrooved runway pavement surfaces as those previously used by piston engine aircraft exclusively. Turbojets, with their greater weight and higher landing speeds, have been involved in aircraft skidding and hydroplaning incidents and accidents that were attributed partially to inadequate friction levels between the runway surface and the aircraft's tires. This loss of friction was caused by a variety of factors including water on the runway, smoothing or "polishing" of the runway surface, and contaminants on the runway such as rubber and fuel.

To address this problem, several research studies were conducted by the National Aeronautics and Space Administration, the United States Air Force, and the United Kingdom's Ministry of Transportation to investigate various types of surface treatments that would eliminate the

potential for loss of aircraft control because of reduction in friction levels. Results of the studies showed that the use of grooving techniques (also known as macrotexturing) and the use of open-graded, thin asphalt concrete surface layers called "porous friction course" (also known as microtexturing) provided runways with good friction characteristics. Macrotexturing allows excess water on the surface of the runway to drain off the runway through channels grooved into the runway surface. Microtexturing permits rainwater to permeate through the course and drain off the runway transversally preventing water buildup on the runway surface.

Today most airports in the United States use these methods and materials. Consequently, the frequency of accidents and incidents, caused by loss of directional control and inadequate stopping capability, have been reduced greatly. However, the skid resistance of these surfaces will, over time, begin to deteriorate because of repeated usage, environmental conditions, and contaminants. As the runway deteriorates, the macrotexturing may crumble or fill in and the microtexture may become "polished." In addition, contaminants, primarily rubber deposits from aircraft tires, collect in the micro and macrotextures, thereby, reducing runway friction.

Currently, the FAA provides guidance and procedures in AC 150/5320-12C "Measurement, Construction, and Maintenance of Skid-Resistant Airport Pavement Surfaces," for the design and construction of skid-resistant pavement, pavement evaluation with friction measuring equipment, and maintenance of high skid-resistant pavements. However, there is no formal FAA requirement for airports to regularly inspect and record runway friction levels or to ensure runways are maintained in a manner that provides adequate friction levels. This NPRM proposes to amend 14 CFR part 139 to include these requirements for airports that serve certain scheduled air carrier turbojet aircraft.

This NPRM addresses runway friction measurements that are performed for maintenance purposes. These measurements differ from measurements performed for operational purposes, which are taken during periods of inclement weather that may affect runway conditions. Snow, ice, and slush pose unique problems in maintaining adequate runway friction and are being addressed separately by the FAA. To obtain further information regarding friction measurements for operational purposes, see the section "For Further Information Contact" in this document.

The National Transportation Safety Board

Since 1974 the National Transportation Safety Board (NTSB) has issued several safety recommendations regarding runway friction and friction measurement citing reduced friction levels as contributing factors in aircraft accidents and incidents. The FAA responded to certain recommendations made before 1994 by revising AC 150/5320-12. In 1994, the NTSB issued an Aircraft Accident Report (A-94-29) following the April 14, 1993, American Airlines accident at Dallas/Fort Worth International Airport, in which a McDonnell Douglas DC-10-30 aircraft skidded off the runway during a period when numerous thunderstorms were in the area. The investigation of the accident revealed that the surface of the landing runway had deteriorated as a result of high levels of jet traffic and weather-related erosion. In addition, the NTSB found that a rubber buildup at the approach end of the runway resulted in friction levels that fell below FAA minimum standards identified in AC 150/5320-12B. Although the NTSB did not find, in this case, that rubber buildup contributed to the loss of directional control, the NTSB did issue a recommendation with the accident report that the FAA require all airports that hold operating certificates issued under part 139 to perform runway friction measurement tests regularly. This proposal responds to that recommendation.

Aviation Rulemaking Advisory Committee

The FAA has established an Aviation Rulemaking Advisory Committee (ARAC) consisting of representatives from the aviation industry to provide advice and recommendations to the FAA on a wide range of safety-related issues. The ARAC forms working groups that are tasked with making recommendations to the ARAC. These recommendations, if accepted by the ARAC, are then presented to the FAA.

In June 1994, the FAA determined that it would be appropriate to request that the ARAC review NTSB Recommendation A-94-29. As a result, the Friction Measurement and Signing Working Group of the ARAC was established on October 4, 1994 (October 11, 1994, 59 FR 51471). The FAA tasked the working group of the ARAC with reviewing part 139 and supporting material, previous studies and surveys, procedures, and interpretations for the purpose of determining if it would be appropriate to undertake rulemaking and/or develop policy relative to performing runway friction measurement to be used in the maintenance of air carrier runway surfaces. The working group included representatives from the Air Line Pilots Association, the Air Transport Association of America, the American Association of Airport Executives, AMR Corporation, the Boeing Commercial Airplane Group, Douglas Products

Division, the International Brotherhood of Teamsters Airline Division, and K.J. Law Engineers.

In completing its task, the working group considered regulatory and nonregulatory alternatives. The alternatives considered were to (1) take no action, (2) encourage voluntary compliance, (3) subject airports to FAA conducted runway friction measurements, and (4) establish a regulatory requirement for airports to conduct runway friction measurements. The working group rejected the option of taking no action because doing so would not address NTSB recommendations and would not accomplish the FAA's safety objectives. The voluntary compliance alternative also was rejected based on an informal survey conducted by the working group. The survey results reported that only 34 out of 87 airports surveyed voluntarily measure runway friction levels. Finally, the working group rejected the option of FAA conducted measurements because of limited FAA resources. After review and consideration of the alternatives, the ARAC recommended that the FAA expand the regulatory requirements to require airports that serve certain air carriers to conduct runway friction measurements for maintenance purposes on runways serving turbojet aircraft. This recommendation from the ARAC forms the basis for this NPRM.

Discussion of the Proposal

Runway Friction Measurement Program

Currently, there are no requirements for airports to conduct runway friction measurements. The FAA is proposing to add a new § 139.305(d) that would require airports that serve certain air carriers to establish an approved runway friction measurement program. The requirements of part 139 apply to airports that serve air carriers conducting scheduled and unscheduled passenger operations using aircraft that have a seating capacity of more than 30 passengers. However, the proposed requirements would apply only to airports that hold an airport operating certificate issued under part 139 that serve air carriers conducting scheduled passenger operations using turbojet aircraft with a seating capacity of more than 30 passengers.

The FAA recognizes that there are a number of factors, including the volume and type of aircraft served by an airport, that affect the rate of runway deterioration and reduction in runway friction levels. These factors should be considered when identifying acceptable friction values and intervals at which the runway should be inspected to ensure runway friction values are at or above the minimum acceptable level. Therefore, rather than mandating specific minimum acceptable runway friction values and inspection intervals, the FAA is proposing that each certificate holder

be required to establish a runway friction measurement program. The FAA would require that the measurement program include minimum runway friction values, procedures for maintaining runways in accordance with those values, and procedures for conducting periodic runway friction measurements. These friction values and the measurement intervals would be identified based on the results of an initial or "baseline" runway friction measurement that the certificate holder would be required to conduct before establishing its runway friction program. The program would be subject to review and FAA approval, and the certificate holder would be required to include the program in its approved airport certification manual as required by § 139.205(b)(9). This proposal would allow certificate holders to take into consideration the specific circumstances of the airport when developing the program while providing the FAA with the means to ensure airports are evaluating and maintaining runways as necessary to provide an adequate level of safety.

Proposed § 139.305(d) would require certificate holders to establish and to obtain approval by the Administrator of a runway friction measurement program within 24 months after the effective date of a final rule, if adopted. The FAA is proposing different compliance dates for conducting initial runway measurements, under proposed § 139.305(c), and for

compliance with the minimum friction values identified in the certificate holder's runway friction measurement program under proposed § 139.305(e). These compliance times are discussed later in this NPRM.

Initial Runway Friction Measurements

To establish an effective runway friction maintenance program, a certificate holder must initially determine the overall condition of a runway surface by measuring friction levels. The initial or "baseline" measurements will serve two purposes. First, the measurement will ascertain the condition of the runway. The results of the measurements then will enable airport operators to develop an effective runway maintenance program. For example, a program with frequent periodic friction measurements may be required if the initial measurement reveals a runway in marginal condition. Second, this initial measurement would serve as a baseline against which future measurements can be compared.

Section 139.305(c) would require this initial baseline measurement to be conducted on all runways available for use by air carrier turbojet operations at certificated airports. The FAA proposes a compliance date for § 139.305(c) that is 18 months after the effective date of a final rule. This proposed compliance date would allow certificate holders adequate time to conduct initial measurements and still

allow 6 months to obtain approval for their runway friction measurement program as required under the 24 month compliance period for § 139.305(d). Section 139.305(c) also would require that a baseline measurement be completed for any reconstructed, resurfaced, or newly constructed runway before becoming available for operational use by turbojet aircraft to ensure runways constructed in the future are in compliance with the minimum acceptable friction values identified by the certificate holder.

Approved Continuous Friction Measuring Equipment

To quantify runway surface friction, a reliable measurement method must be used. Currently, various methods including visual inspection are used to determine runway friction levels. The results of these inspections have been inconsistent and lack adequate accuracy. To ensure measurement results are consistent for all certificate holders conducting runway friction measurement tests, proposed § 139.305(c) and (d)(2) of this NPRM would require that continuous friction measuring equipment (CFME), approved by the Administrator, be used when evaluating runway surfaces. This equipment provides quantitative results that can be used to determine whether friction values meet acceptable standards. A list of approved CFME can be found in AC 150/5320-12.

The FAA recognizes that there are costs associated with obtaining access to CFME. These costs are addressed in the "Regulatory Evaluation Summary" section of this proposal. The FAA notes, however, that in the mid-1980s CFME became eligible for Airport Improvement Program funding. In addition, airports that receive limited air carrier use may choose to lease or share ownership of CFME or hire a qualified contractor to conduct measurements on behalf of the airport.

Runway Friction Values

Identification of Minimum Runway Friction Values

Section 139.305(d)(1) proposes that, as part of the approved friction measurement program, certificate holders would be required to identify minimum acceptable runway friction values. AC 150/5320-12C contains friction values that the FAA has determined are acceptable and may be used as a basis for certificate holders to identify minimum values. The AC identifies acceptable friction values according to the following categories: (1) new runway design/construction, (2) runway maintenance planning, and (3) minimum values. The new runway design/construction category suggests friction values for newly constructed runways. The runway maintenance planning category suggests friction values that are considered acceptable to conduct operations, but indicate that the certificate holder should

(1) monitor friction values to establish the rate and extent of the deterioration of friction, (2) investigate the reason for the deterioration, and (3) develop a plan for taking appropriate corrective actions. The minimum values category identifies friction values that indicate corrective action should be taken immediately after determining the cause of the friction deterioration.

Periodic Measurements

Because runway friction characteristics change over time depending on a variety of factors, including the type and frequency of aircraft activity, weather, and environmental conditions, it is necessary to continuously monitor runway friction levels. Therefore, in addition to requiring a baseline runway friction measurement, § 139.305(d)(2) of this proposal would require periodic runway friction measurements as part of the approved runway friction measurement program. The purpose of the periodic measurements would be not only to identify unacceptable runway friction levels, but also to identify the trend in changing runway conditions. These trends would assist airport operators in developing and revising runway maintenance plans and the FAA in evaluating these plans.

The intervals between the periodic measurements would be established by the airport operator and approved by the FAA. The interval schedule would be based on the initial

measurement and specific factors that affect the runway conditions at that airport. Because these factors will vary from airport to airport, so will the friction measurement intervals. For example, an airport that serves relatively few turbojet aircraft may only require friction measurements once every few years while an airport with a high volume of turbojet aircraft traffic may require friction measurements every week. AC 150/5320-12C provides guidance for identifying the frequency that friction measurements should be taken based on the number of daily turbojet aircraft landing per runway.

Recordkeeping Requirement

Section 139.305(d)(3) of this proposal would require that each certificate holder maintain records in sufficient detail to show compliance with initial and periodic runway friction measurements. The records also would require adequate detail to show compliance with the runway friction values that are identified in the certificate holder's approved runway friction measurement program. The data may include, but is not limited to, the date of the measurement, the runway that was inspected, the type of approved equipment used to perform the measurement, and the friction values obtained. To identify trends in runway deterioration, certificate holders would be required to retain the results of the four most recent measurements.

Because measurement intervals are expected to vary from airport to airport, the four most recent measurements may cover a relatively long or short period of time.

Compliance with Runway Friction Values

Proposed § 139.305(e) would require that certificate holders serving air carriers conducting scheduled operations ensure runways available for turbojet operations meet the minimum acceptable runway friction values identified in the runway friction measurement program by a date approved, in writing, by the Administrator. The amount of time needed to bring existing runways into compliance will vary depending on the cause of decreased runway friction levels and the action that is required to correct any runway friction deficiencies. For example, if runway surface friction levels are below the minimum acceptable level identified in the certificate holder's runway friction measurement program because of rubber deposits, the situation may be corrected quickly, relatively inexpensively, and with little impact on airport operations. However, if the runway requires resurfacing, the corrective action may require the approval of additional funds from Government agencies, contract bidding, and advanced planning and notification to airport users of operational changes to accommodate possible runway closures. The FAA recognizes that bringing runways into compliance with the runway friction values identified

in the approved runway friction measurement program will vary among certificate holders. Therefore proposed § 139.305(e) provides that the certificate holder would identify a reasonable compliance date which would be required to be approved in writing by the Administrator.

Acceptable Standards and Procedures

Currently, § 139.305(c) states that the FAA ACs in the 150 series contain acceptable standards and procedures for the maintenance and configuration of paved areas. This NPRM proposes to amend § 139.305(c) by redesignating that paragraph as § 139.305(f) and revising paragraph (f) to indicate that these ACs also contain acceptable standards and procedures for friction measurement.

Paperwork Reduction Act

[TO BE COMPLETED.]

Compatibility With ICAO Standards

[TO BE COMPLETED.]

[Option One] 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 determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

OR

[Option Two] 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.

OR

[Option Three] 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 the following differences with these proposed regulations. If this proposal is adopted, the FAA intends to file **[a difference/these differences]** with ICAO.

Regulatory Evaluation Summary

[TO BE COMPLETED.]

Changes to Federal regulations must undergo several economic analyses. First, Executive Order (EO) 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 requires agencies to analyze the economic effect of regulatory

changes on small entities. Third, the OMB directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule **[is/is not]** "a significant regulatory action" under section 3(f) of EO 12866 and therefore, **[is/is not]** subject to review by OMB. This proposed rule **[is/is not]** considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034, February 26, 1979). This proposed rule **[would/would not]** have a significant impact on a substantial number of small entities and **[would/would not]** constitute a barrier to international trade. 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 the final regulatory evaluation.

Initial Regulatory Flexibility Determination

[TO BE COMPLETED]

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601-612, was enacted by Congress to ensure small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a regulatory flexibility analysis if a proposed rule has a significant economic impact on a substantial number of small business entities. FAA Order 2100.14A, Regulatory

Flexibility Criteria and Guidance, establishes threshold costs and small entity size standards for complying with RFA requirements.

International Trade Impact Statement

[TO BE COMPLETED.]

The provisions of this proposed rule **[would have little/or no]** impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Federalism Implications

[TO BE COMPLETED.]

The regulations proposed herein **[would/would not]** have substantial direct effects 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, in accordance with Executive Order 12612, it is determined that this proposal **[would/would not]** have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

[TO BE COMPLETED.]

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C. 1501-1571, requires each Federal agency, to the extent permitted by law, to prepare a

written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule **[does/does not]** contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year.

Energy Impact

[TO BE COMPLETED.]

List of Subjects in 14 CFR Part 139

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

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 139 of Title 14, Code of Federal Regulations as follows:

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

1. The authority citation for part 139 continues to read as follows:

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

2. Amend § 139.305 to redesignate and revise paragraph (c) as paragraph (f), and add new paragraphs (c), (d), and (e) to read as follows:

§ 139.305 Paved Areas.

* * * * *

(c) Each certificate holder serving air carriers that conduct scheduled operations must conduct an initial runway

friction measurement for each runway available for use by turbojet operations using approved continuous friction measurement equipment for:

(1) Existing runways, no later than [*18 months after the effective date of the final rule*]; and

(2) Any newly constructed runway or reconstructed or overlaid runway, before making that runway available for use.

(d) Each certificate holder serving air carriers that conduct scheduled turbojet operations must establish a runway friction measurement program that is approved by the Administrator no later than *[24 months after the effective date of the final rule]*. As part of its program, the certificate holder must:

(1) Identify minimum runway surface friction values for each runway and procedures for maintaining the runways in accordance with those values;

(2) Identify procedures for conducting periodic runway friction measurements using approved continuous friction measurement equipment; and

(3) Record, retain, and make available for inspection by the Administrator the results of the four most recent runway friction measurements. The records must contain adequate detail to show compliance with the values identified in paragraph (d)(1).

(e) Each certificate holder serving air carriers that conduct scheduled operations must ensure that its runways that are available for turbojet operations meet the minimum acceptable runway friction values identified in the certificate holder's runway friction measurement program as required under paragraph (d)(1) of this section by a date approved in writing by the Administrator.

(f) FAA Advisory Circulars in the 150 series contain standards and procedures for the maintenance, friction measurement, and configuration of paved areas acceptable to the Administrator.

Issued in Washington, DC, on

AIR LINE PILOTS ASSOCIATION

535 HERNDON PARKWAY ☐ P.O. BOX 1169 ☐ HERNDON, VIRGINIA 22070 ☐ (703) 689-2270

April 24, 1996

Ms. Loretta Scott
Chair, Small Airport Certification Working Group
Municipal Airport
3116 S. Great Southwest Parkway
Grand Prairie, TX 75051

Subject: Statement of Dissent to the Majority Position of the Aviation Rulemaking Advisory Committee Working Group (ARAC-WG) on Small Airport Certification and Minority Position Statement Submitted for the Working Group's Consideration

Dear Ms. Scott:

Per the guidance contained in "Operating Procedures for the Aviation Rulemaking Advisory Committee," the Air Line Pilots Association (ALPA) herewith submits a minority statement of dissent concerning the direction of the ARAC-WG . The statement is submitted now because (1) it is evident that the group is polarized and consensus will not be reached and (2) in order to limit, to the maximum possible extent, wasted time and effort by all parties concerned.

As was explained to the ARAC-WG at its meeting March 20, 1996, the Air Line Pilots Association (ALPA) strongly opposes the abandonment of the working group's charter and the majority's development of a voluntary, non-regulatory industry standard for all airports. The minority position statement (Attachment 1), submitted for consideration by the Working Group, describes ALPA's proposal for certification of small airports serving scheduled air carriers using aircraft with fewer than 31 seats and fully complies with the intent of the group's charter.

If the majority's course of action continues, it will certainly delay, and may prevent, achievement of the stated recommendations and goals of Congress, DOT/FAA, GAO and NTSB to certificate small airports serving airlines which utilize aircraft having fewer than 31 seats. It is our desire that the ARAC-WG expeditiously return to and fulfill its charter by adopting the minority position. Our rationale for developing and submitting this minority position follows.

CHRONOLOGY

- A 1987 GAO Report entitled "Aviation Safety -- Commuter Airports Should Participate in the Airport Certification Program" evaluated the requirements for airport participation in FAA's airport certification program, with emphasis on the impact on airports receiving service from regional airlines. GAO found that "the best alternative for enhancing airport safety is to extend the participation requirements to include all airports receiving regularly scheduled service."

- An internal FAA memorandum from the Manager, FAA Safety and Compliance Division, to the FAA's Assistant Chief Counsel, General Legal Services Division, dated March 25, 1988, was written concerning certification of small airports. This memorandum noted that the FAA's statutory authority to certificate airports is limited to those serving air carrier aircraft having more than 30 passenger seats. It concludes that a statutory amendment to expand this authority would be necessary before making the airport certification program applicable to all airports.

- The National Transportation Safety Board (NTSB) released its Commuter Airline Safety Study November 1994 which served as an impetus to DOT/FAA regulatory amendments concerning regional airlines. Contained in this study is a section on airport certification which discusses the GAO report cited above (Attachment 2). Included in this study is Recommendation A-94-203, which reads, "The NTSB recommends that the Federal Aviation Administration enhance the level of safety at airports served by commuter airlines by seeking legislative action within 6 months to include in the Airport Certification Program all airports served by air carriers that provide scheduled passenger service."

- In order to respond to the NTSB recommendation, DOT/FAA began discussing the possibility of submitting legislation which would grant FAA the authority to certificate all airports serving scheduled airline aircraft having 10 or more seats.

- The airport and regional airline communities quickly registered their concerns about the possibility of small airport certification. The February 15, 1995, issue of AAAE's Airport Report announced, "Four aviation organizations, AAAE, ACI-NA, RAA and NASAO, requested that FAA conduct more research before submitting legislation to Congress to extend FAR Part 139 airport certification requirements to airports served by scheduled air carriers with 10 to 30 seats." Tim Campbell, then-chairman of the AAAE, was more blunt, quoted in the March 28, 1995, Aviation Daily as saying that certification of small airports is "a solution in search of a problem. FAA's proposal is, pure and simple, an unfunded federal mandate that could eliminate commuter airline service to many small communities."

- At a meeting of the ARAC on Airport Certification Issues March 2, 1995, attendees were advised that Tony Broderick, FAA's Associate Administrator for Regulation and Certification, had requested that the ARAC-WG be formed to develop recommendations concerning what requirements are applicable to airports that have scheduled service with aircraft having a seating capacity of 10 to 30 seats. Mr. Broderick requested that the ARAC-WG provide him with such recommendations by the summer of 1995. The ALPA representative in attendance at this meeting supported the creation of the ARAC-WG based on this information.

- In response to NTSB recommendation A-94-203, the DOT Secretary sent a bill to the Senate March 24, 1995, which would grant FAA the authority to certificate airports serving regional airlines. A copy of the cover letter (Attachment 3) reads in part, "Following enactment [of

the enabling legislation] the FAA would implement the new provision by issuing a notice of proposed rulemaking (NPRM) to expand its current certification coverage and define the nature of the safety requirements that would be imposed."

- The legislation was quickly introduced into Congress by Sen. Wendell Ford (D-KY) and Rep. James Oberstar (D-MN). Said Senator Ford, "This legislation will put in place reasonable safety standards to protect commuter airline passengers before there are any fatalities. Let us not wait until an accident to justify the need for safety improvements. I commend the leadership at the FAA – David Hinson . . . and Linda Daschle . . . for this refreshing change in attitude." Congressman Oberstar agreed, saying: "I strongly believe that passengers traveling on commuter airlines are entitled to the same level of safety as passengers traveling on major airlines." See Attachments 4 and 5.

- NTSB classified this recommendation as "Open-Acceptable Action" April 7, 1995, noting that "FAA has initiated a request for legislative activity to revise the airport certification standards." However, the Board has asked the FAA to justify its limitation of certification to only those airports serving scheduled air carrier aircraft having 10 or more seats (Attachment 6).

- The creation of the ARAC-WG was announced in the May 2, 1995, Federal Register (Attachment 7). The tasking identified for the ARAC-WG reads in part, "Review Title 14, Code of Federal Regulations (CFR) part 139 and develop recommendations concerning what requirements are applicable to airports that have scheduled service with aircraft having a seating capacity of 10 to 30 seats." "Where it appears that it is not reasonable to apply a part 139 requirement at these airports, the ARAC shall examine alternatives to the requirement ..."

- By letter dated June 23, 1995, AAAE and ACI-NA commented on Docket No. 28154, Notice of Proposed Rulemaking, Commuter Operations and General Certification and Operations Requirements. Enclosed with that correspondence was an AAAE document entitled "Resolution Opposing Legislation to Certify Smaller Airports" (see Attachment 8). The resolution states in part, that the AAAE "urges Congress not to pass legislation giving FAA statutory authority to extend airport certification to commuter airports until the FAA and industry have had ample opportunity to develop a workable, cost-effective and meaningful response to the NTSB recommendation through the [ARAC] process."

- The first meeting of the ARAC-WG was held June 26-27, 1995, in Washington, D.C. According to the meeting's minutes, the chair of the group identified "three possible options on new FAR Part 139 rules for commuter operators with 10 to 30 seats." Those identified options are: (1) Change FAR Part 139 to read "10" passengers instead of "30" with exceptions required for some airports (2) make no changes to FAR Part 139 and (3) modify Part 139 to include smaller airports but suggest changes in requirements to reduce the economic impact on airport sponsors. Option 1 was deemed not viable. Option 2 was deemed viable but the ARAC-WG felt that "it may not satisfy Congress or the FAA." Option 3 was deemed viable and worthy of further consideration.

- One of the tasks performed by the ARAC-WG after the June 1995 meeting was a phone survey of airports that would be affected by the change to Part 139. Findings include: about 85% of the non-certificated airports are in Alaska; and, many of the surveyed airports' representatives had no idea what facilities were required under Part 139, but that did not preclude the majority of them from opining that they could not afford to meet the regulation.

- The next meeting of the group was held October 10-11, 1995, in Dallas, Texas. The most germane information contained in the meeting minutes, for purposes of this report, is the following:

  > Mr. Davis (FAA Attorney Advisor to the ARAC-WG) indicated that the FAA has no legal ability to change regulation requirements under Part 139. It was recommended in the 1984 [sic] GAO Report that the FAA pursue changing various Part 139 requirements. At that time the FAA felt that they did not have the legal authority to make such changes, and their position has not changed. Any recommendation from this Working Group would need to be a non-regulatory/voluntary program.

  Another excerpt from the minutes:

  > Ms. Scott asked the Working Group if there was [sic] any comments regarding the Group's recommendation that a non-regulatory Part 139 industry standard be proposed for those airports with 10-30 seat aircraft service, pending the outcome of the FAA's cost/benefit analysis. There was no objection to this proposal and the meeting was adjourned.

  ALPA disputes the assertion that there was no objection to the proposal. It is our belief that the ALPA representative's views were not adequately considered by the majority at this meeting.

- On October 19, 1995, the ARAC-WG reported to the Airport Certification Issues Committee on its progress and conclusions to date (Attachment 9). A portion of this report says, "[The ARAC-WG] concluded a Part 139-type certification **regulation is not warranted**. In anticipation of the Executive Committee's approval of our work plan, the committee developed a conceptual plan for a non-regulated industry standard for airport safety -- for all airports."

- On December 20, 1995, the FAA published its final rule on Commuter Operations and General Certification and Operations Requirements. Contained in Section V.G., Airports, is the following statement:

The FAA has assigned a task to the [ARAC] to recommend the requirements in part 139 that should be applicable to airports covered under any expanded legislation that would give the FAA authority to certificate airports serving airplanes with less than 30 passengers.

- The third, and most recent, meeting of the ARAC-WG occurred March 20, 1996, at FAA HQ. ALPA representatives were afforded an opportunity to make a presentation at that meeting to express their concerns about the group's decision to pursue a non-regulatory, voluntary approach to airport safety improvements. That presentation (Attachment 10) failed to convince any of the other members of the group of ALPA's view that the ARAC-WG is not fulfilling its charter. In group discussion thereafter, the group's FAA Attorney Advisor maintained that the DOT/FAA is not working to certificate small airports and that, further, the development of a voluntary, non-regulatory industry standard meets the intent of the agency.

  At this meeting, ALPA representatives also made available their proposal for developing the requirements for small airport certification, per the ARAC-WG charter (Attachment 1) which represents the minority position. This position identifies the use of a state-wide exemption plan by the state of Alaska, where 85% of affected airports are located, aimed at precluding unreasonable expenses in the certification process. Exemptions may also be requested for airports in the lower 48 states per Part 139.

SUMMARY

The following summary, including ALPA conclusions, is provided:

1. GAO, NTSB and DOT/FAA have each determined that there is a need for certification of small airports serving scheduled air carriers using equipment with fewer than 31 seats. The ARAC-WG has not been asked to make such a determination.

2. DOT/FAA has determined that it does not currently have the statutory authority to certificate airports serving such airports. As such, it has requested approval from Congress to grant it such authority.

3. Two influential members of Congress have submitted legislation, per the expressed desire of the DOT Secretary, to enable the FAA to certificate the small airports under consideration. This legislation has not gone forward because Congress is waiting for the ARAC-WG to reports its recommendations on what requirements should be applicable to these airports.

4. The ARAC-WG majority is opposed to, and is working to prevent, granting the FAA statutory authority to certificate small airports under consideration, contrary to the stated objectives of the four industry groups which requested the establishment of the group.

5. The ARAC-WG's charter is to "develop recommendations concerning what (emphasis added) requirements are applicable to airports," not whether requirements should be applicable to airports.

6. During its first meeting, the group identified three regulatory options for airport certification; this action was clearly outside the group's charter. Tellingly, the group also decided that making no changes to Part 139 "may not satisfy Congress or the FAA." That uncertainty was apparently eliminated after receiving flawed opinions from the FAA's Attorney Advisor in subsequent meetings.

7. FAA requested that the ARAC-WG's recommendations be supplied by the summer of 1995. That request was not fulfilled by the group. It appears likely that the group, if it continues its pace of deliberations, may not be prepared to provide recommendations until some time in 1997.

8. The ARAC-WG majority inappropriately concluded at its second meeting that a "Part 139-type certification **regulation is not warranted.**" Compounding this error, the group failed to adequately consider key aspects of certification before announcing such a conclusion. Information not gathered, even as of this date, includes: a completed cost/benefit analysis; an assessment of the enormously divergent airport managers' estimates of costs for identical improvements; reliable information on the ability of airports to pay for needed improvements; and, an examination of the 31 airports which are voluntarily certificated to determine how they have been able to afford it.

9. ALPA has proffered a very reasonable proposed list of requirements for certification of the small airports in question (the minority position) that meets the intent of the ARAC-WG's charter. That listing was not received favorably by the majority.

10. The voluntary, non-regulatory standard that is being developed will not constitute a list of requirements, per the ARAC-WG's tasking, and any further efforts to develop this standard will only further prolong the delivery of a totally flawed product.

RECOMMENDATIONS

There is much that could be said in defense of the concept of airport certification, and several salient points in that regard are included in ALPA's attached presentation. However, the purpose of this document is not to persuade the majority of the need for airport certification, because the decision to certificate the small airports in question has already been made by DOT/FAA. Rather, our desire is for the ARAC-WG to cease its efforts to stymie the desires of Congress, DOT/FAA, NTSB, GAO and the flying public, all of whom are desirous of improving the safety of regional airline operations.

We recommend that the ARAC-WG adopt the minority position and forward it to the ARAC for its approval. If the majority is unwilling to do so, or develop a revised version of same with

ALPA's input, we see no need for further deliberations by the ARAC-WG and the group should recommend its dissolution to the ARAC.

We regret that the majority's recalcitrance to fulfilling its charter has compelled the development of this statement of dissent. It is our sincere hope that the majority will cease its opposition to this important safety initiative.

We would like this statement to be added to the official record of the ARAC-WG and we look forward to the majority's reply.

Sincerely,

Capt. Jeff Cepuran
Member, ARAC-WG

Jerry Wright
Member, ARAC-WG

attachments

cc: S. MacLeod
C. Christie
J. Duval
B. David
ARAC-WG

MINORITY POSITION OF THE ARAC-WG

Summary of ALPA's Proposed Changes to FAR Part 139 to Incorporate Airports Serving Regional Aircraft Having Fewer than 31 Passenger Seats

139.1, Applicability -- Replace "30" with "9."

139.3, Definitions -- Change definition of "Air carrier;" replace "30" with "9." Change definition of "Air carrier aircraft;" replace "30" with "9."

139.5, Standards and Procedures for Compliance -- Acceptable as written.

139.101(a) & (b), Certification Requirements -- Replace "30" with "9."

139.103, Application for Certificate -- Acceptable as written.

139.105, Inspection Authority -- Acceptable as written.

139.107, Issuance of Certificate -- Acceptable as written.

139.109, Duration of Certificate -- Acceptable as written.

139.111, Exemptions -- It is recognized that many Alaskan airports are faced with climatic, terrain, remoteness, wildlife and staffing challenges not normally encountered by airports in the lower 48 states. Accordingly, the State of Alaska should submit a state-wide plan to the FAA calling for certain exemptions to airport certification requirements for airports served by small regional aircraft. Application of those regulations which are deemed unnecessarily costly, burdensome or impractical may be avoided through the normal exemption process.

More generally, any airports serving small regional aircraft which are required to be certificated have available to them the option of filing for exemptions under this section to those requirements which they believe to be unnecessarily costly, burdensome or impractical.

139.113, Deviations -- Acceptable as written.

139.201(a), Airport Operating Certificate -- The state of Alaska should be allowed to submit an airport certification manual which incorporates information on many or all of their airports served by small regional aircraft.

139.203, Preparation of Airport Certification Manual -- Acceptable as written.

139.205, Contents of Airport Certification Manual -- Acceptable as written.

139.207, Maintenance of Airport Certification Manual -- Acceptable as written.

139.209, Limited Airport Operating Certificate -- Not applicable to ARAC.

139.211, Preparation of Airport Certification Specifications -- Not applicable to ARAC.

139.213, Contents of Airport Certification Specifications -- Not applicable to ARAC.

139.215, Maintenance of Airport Certification Specifications -- Not applicable to ARAC.

139.217, Amendment of ACM or ACS -- Not applicable to ARAC.

139.301, Inspection Authority -- Acceptable as written.

139.303, Personnel -- Acceptable as written.

139.305, Paved Areas -- Acceptable as written.

139.307, Unpaved Areas -- Acceptable as written.

139.309, Safety Areas -- Acceptable as written.

139.311, Marking and Lighting -- Acceptable as written.

139.313, Snow and Ice Control -- All snow belt airports serving regional airlines should comply with this section.

139.315, ARFF: Index Determination -- Airports serving scheduled air carriers should be capable of a timely response to accidents (to help rescue any survivors) and to incidents (to prevent them from becoming accidents). It is ALPA's view that an informed traveling public strongly disagrees with the concept of leaving regional airline accident survivors at uncertificated airports to fend for themselves, as the status quo now dictates. Nor do we believe that they agree with the concept of failing to provide an adequate response to aircraft incidents in order to preclude their becoming accidents.

We believe it both morally imperative and operationally practical to require airport operators to provide an initial accident survivor response. As envisioned for small airports, this response should be provided by a properly trained and qualified person who is on stand-by during regional air carrier operations. The individual would be trained in basic life-saving and rescue skills and furnished a rescue vehicle capable of responding to incidents (e.g., engine fires, brake fires, etc.) and accidents. The respondent would be trained to call for mutual aid to any aircraft incident or accident.

139.317, ARFF: Equipment and Agents -- Minimum quantities should be changed to reflect those contained in AC 150/5210-6C. The response vehicle should be equipped to call mutual aid companies via cellular phone or radio.

139.319(j)(2)(iv), Emergency Communications -- The airport rescue person should be trained on mutual aid availability and which numbers to call in the event of an incident or accident needing more expertise and/or resources than he has available.

139.321, Handling and Storing of Hazardous Substances and Materials -- Acceptable as written.

139.323, Traffic and Wind Direction Indicators -- Revise to require wind cones at the ends of all certificated airports' runways, not just those in Class B airspace.

139.325, Airport Emergency Plan -- Acceptable as written.

139.327, Self-inspection program -- Acceptable as written.

139.329, Ground Vehicles -- Acceptable as written.

139.331, Obstructions -- Acceptable as written.

139.333, Protection of Navaids -- Acceptable as written

139.335(b), Public Protection -- As FAR 107, Airport Security, as currently written, this section would not apply to airports serving small regional aircraft.

139.337, Wildlife Hazard Management -- Acceptable as written.

139.339, Airport Condition Reporting -- Acceptable as written.

139.341, Identifying, Marking and Reporting Construction and other Unserviceable Areas -- Acceptable as written.

139.343, Noncomplying Conditions -- Acceptable as written

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