



WELLINGTON NEW ZEALAND

PURSUANT to Section 28 of the Civil Aviation Act 1990

I, MAURICE WILLIAMSON, Minister of Transport,

HEREBY MAKE the following ordinary rules.

SIGNED AT Wellington

This *10* day of *October* 1995

by **MAURICE WILLIAMSON**

Maurice Williamson
Minister of Transport

Civil Aviation Rules

Part 92

Carriage of Dangerous Goods by Air

Docket Nr. 1047

Civil Aviation Rules
Part 92

Carriage of Dangerous Goods by Air

RULE OBJECTIVE, EXTENT OF CONSULTATION AND COMMENCEMENT

The objective of Part 92 is to define a regulatory safety boundary to govern the carriage of dangerous goods by air. The boundary prescribes the minimum safety requirements applicable to each person who conducts any function associated with the carriage of dangerous goods by air.

In May 1990, the Air Transport Division of the Ministry of Transport published a notice of intention to carry out a complete review of the aviation regulatory system. This notice, in Civil Aviation Information Circular Air 3, listed the areas in which rules would be made and invited interested parties to register their wish to be part of the consultative process. This register was identified as the Regulatory Review Consultative Group. Some 67 organisations and individuals registered their wish to be consulted in the development of rules for the carriage of dangerous goods by air.

A draft document was developed by the rules rewrite team in consultation with the members of the consultative group. An informal draft was published and distributed to the consultative group, and some other parties, for comment in April 1994.

A period of informal consultation followed. This consultation included some written comments, telephone discussions and informal meetings with interested parties to discuss the informal draft rule. This process culminated in the issue of Notice of Proposed Rule Making 94-5 under Docket number 1047 NR on 16 November 1994.

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

A period of 50 days was allowed for comment on the rule which was later extended by another 30 days. Fourteen written submissions were received in response to this notice. Further discussions were held with some members of the consultative group to address various aspects. These discussions and submissions were considered and where appropriate the rules were amended to take account of the matters and issues raised.

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

Part 92 comes into force on 14 November 1995.

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List of Rules

Subpart A — General	3
92.1 Applicability	3
92.3 Definitions	4
92.5 Classification	8
92.7 General carriage requirements	8
92.9 Forbidden dangerous goods	8
92.11 Exceptions	9
92.13 Carriage by passenger or crew member	10
92.15 Offer of goods	11
92.17 Custody of dangerous goods	11
Subpart B — Packaging, Packing, Marking, and Labelling	12
92.51 Packaging requirements	12
92.53 Packaging approval	12
92.55 Packing requirements	13
92.57 Marking requirements	13
92.59 Labelling requirements	13
Subpart C — Offer of Dangerous Goods	14
92.101 Applicability	14
92.103 Offer of dangerous goods	14
92.105 Dangerous goods transport document	14
Subpart D — Operator	16
92.151 Applicability	16
92.153 Acceptance of dangerous goods	16
92.155 Acceptance check	17
92.157 Aircraft loading restrictions	17
92.159 Incompatible dangerous goods	18
92.161 Separation, segregation, and security	18
92.163 Loading inspection	19
92.165 Unloading inspection	19
92.167 Removal of damage or leakage	19
92.169 Infectious substances	20
92.171 Radioactive material	20
92.173 Information to pilot-in-command	20
92.175 Information to employees	21
92.177 Information in cargo acceptance areas	21

92.179 Information to passengers 21

92.181 Custody by operator 22

Subpart E — Training 22

92.201 Applicability 22

92.203 Dangerous goods training programmes 22

92.205 Recurrent training 23

92.207 Personnel records 24

Appendix A—Dangerous Goods Training Programme 24

Subpart A — General

92.1 *Applicability*

- (a) This Part prescribes rules governing the carriage of dangerous goods by air.
- (b) This Part shall not apply to—
 - (1) articles or substances that are—
 - (i) carried on an aircraft to provide medical aid to a patient during flight; or
 - (ii) carried on an aircraft to provide veterinary aid or a humane killer for an animal during flight; or
 - (iii) carried on an aircraft for the purpose of an agricultural aircraft operation; or
 - (iv) required to be aboard an aircraft in accordance with the airworthiness or operational requirements of the Civil Aviation Rules; or
 - (v) approved by the Director to meet special operational requirements; or
 - (vi) part of the emergency or lifesaving equipment aboard an aircraft provided by the operator; or
 - (2) aerosols, alcoholic beverages, perfumes, colognes, safety matches and liquefied gas lighters carried by the operator for use or sale aboard an aircraft that carries passengers, during the flight or a series of flights, but this Part shall apply to—
 - (i) disposable gas lighters; and
 - (ii) those lighters liable to leak when exposed to reduced pressure; or
 - (3) dry ice intended for use in food and beverage service aboard the aircraft.

(c) Articles and substances intended as replacements for those in paragraphs (b)(1)(iv) and (v) shall be carried in accordance with this Part except that, when consigned by operators, aircraft batteries are not subject to a gross mass quantity limitation.

92.3 Definitions

In this Part—

Aerosols means any non-refillable receptacle made of metal, glass, or plastic and containing a gas compressed, liquefied or dissolved under pressure, with or without a liquid, paste, or powder, and fitted with a self-closing release device allowing the contents to be ejected as solid or liquid particles in suspension in a gas, as a foam, paste, or powder, or in a liquid or gaseous state:

Cargo aircraft means an aircraft, other than an aircraft that carries passengers, which is carrying goods or property:

Class 1 dangerous goods means —

- (1) explosive substances, except those where the predominant hazard is one appropriate to another class; or
- (2) explosive articles, except devices containing explosive substances in such quantity or of such a character that their inadvertent or accidental ignition or initiation during transport will not cause any manifestation external to the device by projection, fire, smoke, heat, or loud noise; or
- (3) substances and articles not mentioned in subparagraph (1) or (2) which are manufactured with a view to producing a practical explosive or pyrotechnic effect:

Class 2 dangerous goods means—

- (1) compressed gases; or
- (2) liquefied gases; or
- (3) gases in solution; or
- (4) refrigerated liquefied gases; or
- (5) mixtures of gases; or
- (6) mixtures of one or more gases with one or more vapours of substances of other classes; or
- (7) articles charged with a gas; or

- (8) tellurium hexafluoride; or
- (9) aerosols:

Class 3 dangerous goods means flammable liquids, but does not include liquids or mixtures of liquids or liquids containing solids in solution or suspension with a flashpoint of more than 35°C if—

- (1) they do not sustain combustion when subjected to the method of testing for combustibility given in the Technical Instructions; or
- (2) their fire point according to ISO 2592 is greater than 100°C; or
- (3) they are miscible solutions with a water content of more than 90 % by mass:

Class 4 dangerous goods means—

- (1) solids which, under conditions encountered in transport, are readily combustible or may cause or contribute to fire through friction; or
- (2) self-reactive and related substances which are liable to undergo a strongly exothermic reaction; or
- (3) desensitised explosives which may explode if not diluted sufficiently; or
- (4) substances which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up in contact with air, and being then liable to catch fire; or
- (5) substances which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities:

Class 5 dangerous goods means—

- (1) substances which, although in themselves not necessarily combustible, may generally, by yielding oxygen, cause or contribute to the combustion of other material; or
- (2) organic substances which contain the bivalent —O—O— structure and may be considered derivatives of hydrogen peroxide, where one or both of the hydrogen atoms have been replaced by organic radicals:

Class 6 dangerous goods means—

- (1) substances liable to cause death or injury or harm human health if swallowed, inhaled, or touched; or

- (2) substances containing viable micro-organisms including a bacterium, virus, rickettsia, parasite, fungus, or a recombinant, hybrid or mutant, that are known or reasonably believed to cause disease in humans or animals:

Class 7 dangerous goods means any material with a specific activity greater than 70 kBq/kg:

Class 8 dangerous goods means substances which, in the event of leakage, can—

- (1) cause severe damage by chemical action when in contact with living tissue; or
- (2) materially damage other freight or the means of transport:

Class 9 dangerous goods means articles or substances which, during carriage by air, present a danger not covered by the other classes:

Compressed gas means a gas other than in solution which when packaged under pressure for transport is entirely gaseous at 20° C:

Consignment means one or more packages of dangerous goods accepted by an operator from one consignor at one time and at one address, receipted for in one lot and moving to one consignee at one destination address:

Flammable liquids means—

- (1) liquids or mixtures of liquids or liquids containing solids in solution or suspension, which give off a flammable vapour at temperatures of not more than 60.5°C closed-cup test or not more than 65.6°C open-cup test, normally referred to as the flash point; or
- (2) liquids offered for transport at temperatures at or above their flashpoint:

Gas means a substance which—

- (1) at 50° C has a vapour pressure greater than 300 kPa; or
- (2) is completely gaseous at 20° C at a standard pressure of 101.3 kPa:

Gas in solution means compressed gas which when packaged for transport is dissolved in a solvent:

Handling agent means an agency which performs on behalf of the operator some or all of the operator's functions including receiving, loading, unloading, transferring, or other processing of passengers or cargo:

Liquefied gas means a gas which when packaged for transport is partially liquid at 20° C:

Operator means a person engaged in or offering to engage in an aircraft operation:

Overpack means an enclosure used to contain one or more packages and to form one handling unit for convenience of handling and stowage:

Package means the complete product for the packing operation consisting of the packaging and its contents prepared for transport:

Packaging means the receptacle and any other components necessary for the receptacle to perform its containment function and to ensure compliance with the packing requirements of Annex 18 to the Convention:

Packing means the art and operation by which articles or substances are enveloped in wrappings, enclosed in packagings or otherwise secured:

Postal article has the same meaning as in the Postal Services Act 1987:

Proper shipping name means the name—

- (1) used to describe a particular article or substance in all shipping documents and notifications and, where appropriate, on packagings; and
- (2) indicated in Table 2-14 of the Technical Instructions:

Pyrophoric liquid means a liquid which may ignite spontaneously when exposed to air the temperature of which is 55° C or below:

Receptacle means a containment vessel for receiving and holding substances or articles, including any means of closing:

Refrigerated liquefied gas means a gas which when packaged for transport is partially liquid because of its low temperature:

Regular shipper means any person who—

- (1) manufactures or supplies dangerous goods and offers those dangerous goods for carriage by air; or
- (2) provides a service to the public to arrange the offer of dangerous goods for carriage by air:

Technical Instructions means the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by decision of the

Council of the International Civil Aviation Organisation under Annex 18 of the Convention (Doc 9284-AN/905; 1995-1996 Edition):

Telarc means the Testing Laboratory Registration Council established by section 3 of the Testing Laboratory Registration Act 1972:

UN number means the 4 digit number assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods to identify a substance or a particular group of substances:

Unit load device means any type of freight container, aircraft container, aircraft pallet with a net, or aircraft pallet with a net over an igloo, except for—

- (1) an overpack; or
- (2) a freight container for radioactive materials.

92.5 Classification

Each person who offers a dangerous good for carriage by air shall ensure it has been classified in accordance with the Technical Instructions.

92.7 General carriage requirements

(a) A person shall not offer or accept dangerous goods for carriage by air unless those goods are classified, documented, certificated, described, packaged, marked, and labelled in accordance with the Technical Instructions, and in the condition for shipment prescribed by the Technical Instructions.

(b) A person shall not carry dangerous goods by air unless those goods are accepted, handled, and carried in accordance with the Technical Instructions.

92.9 Forbidden dangerous goods

(a) Except as provided in paragraph (b), a person shall not offer or accept dangerous goods for carriage by air if the dangerous goods are forbidden for carriage by air under the Technical Instructions.

(b) A person may offer or accept the following forbidden dangerous goods for carriage by air if approved by the Director:

- (1) articles or substances identified in columns 9 and 10, or 11 and 12, of the Dangerous Goods List in the Technical Instructions as being forbidden, including those articles or substances described as *not otherwise specified*;
- (2) substances offered for carriage in a liquid state at temperatures equal to or exceeding 100° C, or in a solid state at temperatures equal to or exceeding 240° C:

- (3) radioactive material contained in—
 - (i) vented Type B(M) packages as defined in the Technical Instructions; or
 - (ii) packages which require external cooling by an ancillary cooling system; or
 - (iii) packages subject to operational controls during carriage:
- (4) packages containing radioactive liquid pyrophoric material;
- (5) packages containing radioactive material which is also explosive;
- (6) infected live animals.

92.11 Exceptions

(a) A member of the Police may carry dangerous goods in an aircraft in the course of that person's duties without complying with this Part if the aircraft is performing an operation solely for Police purposes.

(b) A person may offer or accept Class 1 dangerous goods for carriage by air without complying with this Part if—

- (1) approval is obtained from the Chief Inspector; and
- (2) safety and emergency procedures are established for the carriage of the goods; and
- (3) the goods are—
 - (i) in a proper condition for carriage by air; and
 - (ii) stowed and secured for safe carriage; and
- (4) only those persons essential for the operation are carried in or on the aircraft; and
- (5) the flight is conducted clear of any congested area of a city, town, or settlement.

(c) In this rule Chief Inspector has the same meaning as in the Explosives Act 1957.

(d) A person may offer or accept dangerous goods for carriage by air that are for the recreational use of passengers without complying with this Part if—

- (1) the dangerous goods are carried in an unpressurised aircraft that—
 - (i) has a MCTOW of 5700 kg or less; and
 - (ii) is on a domestic VFR flight; and
- (2) the dangerous goods are not forbidden under the Technical Instructions for carriage by air in an aircraft that carries passengers; and
- (3) safety and emergency procedures for the carriage of the dangerous goods are established; and
- (4) each item of dangerous goods is identified; and
- (5) the pilot-in-command is informed of the hazardous nature of the goods; and
- (6) the dangerous goods are—
 - (i) in a proper condition for carriage by air; and
 - (ii) segregated if they are likely to react dangerously together; and
 - (iii) stowed, secured, and, if necessary, packed, to prevent leakage or damage in flight; and
- (7) only those passengers associated with the dangerous goods are carried aboard the aircraft.

92.13 Carriage by passenger or crew member

A person shall not carry dangerous goods or cause dangerous goods to be carried aboard an aircraft in checked or carry-on baggage or on their person unless permitted by the Technical Instructions.

92.15 Offer of goods

- (a) Each person who offers an article or substance for carriage by air shall—
- (1) if the article or substance is not a dangerous good, provide the operator with a signed document that—
 - (i) accurately describes the article or substance; or
 - (ii) states that the article or substance is not a dangerous good; or
 - (2) if the article or substance is a dangerous good, comply with Subpart C.
- (b) Paragraph (a)(1) shall not apply to—
- (1) a postal article; or
 - (2) checked or carry-on baggage.

92.17 Custody of dangerous goods

- (a) Any dangerous goods offered or accepted for carriage by air that are associated with an accident or incident reported under Part 12 shall be deemed to be in the custody of the Director.
- (b) The Director may—
- (1) inspect and open any of those goods specified in paragraph (a); and
 - (2) retain samples of the contents for testing and analysis and for evidential purposes.

[Until Part 12 comes into force, accidents and incidents involving dangerous goods are reported under regulation 31(5) of the Civil Aviation Regulations 1953]

Subpart B — Packaging, Packing, Marking, and Labelling

92.51 Packaging requirements

(a) A person shall not mark, label, certify, or offer a packaging as meeting the requirements of this Part unless the packaging is—

- (1) manufactured, fabricated, marked, maintained, reconditioned, or repaired in accordance with the Technical Instructions; and
- (2) tested in accordance with the Technical Instructions; and
- (3) for a New Zealand manufactured packaging, tested by an organisation accredited by Telarc for testing; and
- (4) except for class 7 dangerous goods, approved by the Director; and
- (5) for class 7 dangerous goods, approved by the National Radiation Laboratory of the Ministry of Health.

(b) Paragraphs (a)(3), (4), and (5) shall not apply to a packaging that is not required by the Technical Instructions to be tested or that is transported domestically from an international flight.

92.53 Packaging approval

(a) An application for an approval under 92.51(a)(4), or renewal of an approval, shall be made by submitting to the Director a packaging performance test report in accordance with the Technical Instructions.

(b) The approval referred to in paragraph (a) shall be granted if—

- (1) the packaging performance test report indicates a successful result; and
- (2) the applicant pays any applicable fees or charges prescribed by regulations made under the Act.

(c) Each approval issued under paragraph (b) shall—

- (1) be granted or renewed for a period of up to five years; and
- (2) remain in force until it expires or is revoked; and
- (3) specify markings to be placed on the packaging in accordance with the Technical Instructions.

[All packaging approvals granted by the Department of Labour or Ministry of Health prior to this Part coming into force remain valid until they expire or until 1 June 1996 whichever is the sooner.]

92.55 Packing requirements

Each person who packs dangerous goods for carriage by air shall—

- (1) pack the goods in accordance with the Technical Instructions; and
- (2) except where the Technical Instructions otherwise provides, ensure that the packaging—
 - (i) is used as specified in the applicable test; and
 - (ii) conforms in all respects with the design type, including the method of packing and size and type of any inner packagings, which was tested.

92.57 Marking requirements

Each person who marks a package or overpack containing dangerous goods for carriage by air shall mark the package or overpack—

- (1) in accordance with the Technical Instructions; and
- (2) with the following:
 - (i) the proper shipping name of the dangerous goods, and, if appropriate, supplemented with the technical name;
 - (ii) when assigned, the corresponding UN number, preceded by the letters UN;
 - (iii) the name and address of the person who offers the dangerous goods for carriage by air and the consignee;
 - (iv) such other markings as are specified in the Technical Instructions.

92.59 Labelling requirements

Each person who labels a package or overpack containing dangerous goods for carriage by air shall—

- (1) label each package and overpack in accordance with the Technical Instructions; and
- (2) ensure each hazard label indicates the nature of the hazard—
 - (i) prominently in English, on the lower half of each label; and
 - (ii) in accordance with the Technical Instructions.

Subpart C —Offer of Dangerous Goods

92.101 Applicability

(a) This Subpart prescribes rules governing the offer of dangerous goods for carriage by air.

(b) Each person who performs a function required by this Subpart on behalf of the person who offers the dangerous goods for carriage by air, shall perform that function in accordance with this Subpart.

92.103 Offer of dangerous goods

Each person who offers a package or overpack containing dangerous goods for carriage by air shall ensure that—

- (1) the dangerous goods are not forbidden under the Technical Instructions for carriage by air; and
- (2) the dangerous goods are certified in accordance with this Subpart; and
- (3) the dangerous goods are packaged, packed, marked, and labelled in the manner described in Subpart B; and
- (4) when required by the Technical Instructions, the dangerous goods are accompanied by a dangerous goods transport document that has been executed and signed in accordance with 92.105; and
- (5) they have otherwise complied with the Technical Instructions.

92.105 Dangerous goods transport document

Each person who offers dangerous goods for carriage by air shall, subject to 92.103(4), provide the operator with 2 copies of a completed and signed dangerous goods transport document that—

- (1) accurately describes the dangerous goods in the following order by their—
 - (i) proper shipping name; and
 - (ii) class or, when assigned, division, including for Class 1, compatibility group; and
 - (iii) UN number, if any, preceded by the letters UN; and
 - (iv) where assigned, the appropriate packing group; and
- (2) bears the following declaration signed by the person who offered the dangerous goods for carriage by air:

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and UN number, and are classified, packaged, marked and labelled and are in all respects in a proper condition for carriage by air according to applicable international and national government regulations; and

- (3) complies with any additional requirements prescribed by the Technical Instructions.

Subpart D — Operator

92.151 *Applicability*

- (a) This Subpart prescribes rules governing the—
- (1) acceptance, handling, storage, loading, and inspection of dangerous goods by operators; and
 - (2) provision of information by operators concerning dangerous goods.
- (b) Where a person performs a function required by this Subpart on behalf of the operator, that person shall perform the function in accordance with this Subpart.
- (c) Nothing in this Subpart should be interpreted as requiring an operator to carry a particular article or substance or as preventing an operator from imposing special requirements on the carriage of a particular article or substance.

92.153 *Acceptance of dangerous goods*

An operator shall not accept for carriage by air a package, overpack, or, where permitted by the Technical Instructions, a unit load device, containing dangerous goods, unless—

- (1) it is accompanied by 2 copies of the dangerous goods transport document prescribed in 92.105, except where the Technical Instructions state that such a document is not required; and
- (2) the package, overpack, or unit load device has been—
 - (i) inspected in accordance with 92.163; and
 - (ii) marked and labelled in accordance with 92.57 and 92.59.

92.155 Acceptance check

Each operator who accepts dangerous goods for carriage by air shall—

- (1) use an acceptance check-list to ensure that—
 - (i) the requirements in 92.153 are performed; and
 - (ii) the dangerous goods transport document meets the requirements in 92.105; and
- (2) maintain a record of the results of the acceptance check; and
- (3) retain the record required in subparagraph (2) for a minimum period of 6 months.

92.157 Aircraft loading restrictions

(a) Except as provided in paragraph (b), an operator shall not carry dangerous goods in an aircraft cabin occupied by passengers or on the flight deck of an aircraft.

(b) An operator may—

- (1) permit a passenger or crew member to carry dangerous goods in checked or carry on baggage or on their person if permitted to do so under the Technical Instructions; and
- (2) permit carriage of radioactive material in an aircraft cabin occupied by passengers or on the flight deck of an aircraft if permitted to do so as an excepted package under the Technical Instructions; and
- (3) if performing a domestic operation, carry the following dangerous goods in the cargo compartment of a passenger cabin, where the aircraft is not equipped with a class B cargo compartment:
 - (i) Class 1, Division 1.4 Compatibility Group S explosives;
 - (ii) Class 2, Division 2.2, non-flammable, non-toxic gas;
 - (iii) Class 3, flammable liquids, Packing Group III;
 - (iv) Class 4, Division 4.1, flammable solids, Packing Group III;
 - (v) Class 5, Division 5.1, oxidising substances, Packing Group III;
 - (vi) Class 6, Division 6.1, poisonous substances, Packing Group III;
 - (vii) Class 7, radioactive materials loaded in compliance with the minimum separation distances;

- (viii) Class 8, Packing Group III substances:
- (ix) Class 9, miscellaneous goods.

(c) An operator may carry dangerous goods in a main deck cargo compartment of an aircraft that carries passengers if the compartment meets all certification requirements for a class B cargo or baggage compartment.

(d) Each operator who accepts dangerous goods for carriage by air shall load packages of dangerous goods bearing the *Cargo Aircraft Only* label on cargo aircraft.

92.159 Incompatible dangerous goods

An operator who accepts dangerous goods for carriage by air shall not stow packages containing dangerous goods which might react dangerously together, next to each other or in a position that would allow interaction between them in the event of leakage.

92.161 Separation, segregation, and security

Each operator who accepts dangerous goods for carriage by air shall—

- (1) stow packages of poisons and infectious substances in accordance with the Technical Instructions; and
- (2) stow radioactive materials separate from persons, live animals, and undeveloped film in accordance with the Technical Instructions; and
- (3) protect the dangerous goods loaded on an aircraft from being damaged; and
- (4) secure such goods in the aircraft in a manner that will prevent any movement in flight which would change the orientation of the packages.

92.163 Loading inspection

An operator shall not load—

- (1) a package or overpack containing dangerous goods onto an aircraft or into a unit load device unless it has been—
 - (i) inspected immediately prior to loading; and
 - (ii) found free from evidence of leakage or damage; and
- (2) a unit load device onto an aircraft until the device has been—
 - (i) inspected immediately prior to loading; and
 - (ii) found free of any evidence of leakage from, or damage to, any dangerous goods contained within.

92.165 Unloading inspection

Each operator who carries a package or overpack containing dangerous goods by air shall inspect the package or overpack for signs of damage or leakage when unloading from the aircraft or unit load device.

92.167 Removal of damage or leakage

Where evidence of damage or leakage is found when unloading an aircraft, the operator shall—

- (1) inspect the area of the aircraft where the dangerous goods or unit load device was stowed for damage or contamination; and
- (2) remove any hazardous contamination.

92.169 Infectious substances

Where any package containing infectious substances loaded on an aircraft appears to be damaged or leaking, the operator shall—

- (1) avoid handling the package or keep handling to a minimum; and
- (2) inspect adjacent packages for contamination and put aside any that may be contaminated; and
- (3) inform the appropriate public health authority or veterinary authority and provide information on any other countries of transit where any persons may have been exposed to danger; and
- (4) notify the consignor or the consignee.

92.171 Radioactive material

Each operator who carries dangerous goods by air shall, where the aircraft has been contaminated by radioactive materials—

- (1) immediately take the aircraft out of service; and
- (2) not return the aircraft into service until the radiation level at any accessible surface and the remaining contamination does not exceed the values specified in the Technical Instructions.

92.173 Information to pilot-in-command

(a) Each operator of an aircraft in which dangerous goods are to be carried shall, before the departure of the aircraft, provide the pilot-in-command of the aircraft with written information concerning those goods in accordance with the Technical Instructions.

(b) The operator shall ensure that the information in paragraph (a) is—

- (1) readily available to the pilot-in-command during the flight; and
- (2) presented on a dedicated form.

(c) Each operator of an aircraft in which dangerous goods are being carried that require a dangerous goods transport document to be completed under 92.105 shall, before the departure of the aircraft, provide the pilot-in-command of the aircraft with information for use in emergency response to accidents and incidents involving the dangerous goods being carried.

(d) The operator shall ensure that the information required in paragraph (c) is readily available to the pilot-in-command during the flight.

(e) The operator shall ensure that the information required in paragraph (c) is that provided by—

- (1) the current ICAO Doc 9481 *Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods*; or
- (2) any other document which provides similar information concerning the dangerous goods being carried.

92.175 Information to employees

Each operator shall provide such information to their employees and, where applicable, their handling agent, as will enable them to carry out their responsibilities with regard to the carriage of dangerous goods including—

- (1) instructions on action to be taken in emergencies arising involving the dangerous goods; and
- (2) such other information as specified in the Technical Instructions.

92.177 Information in cargo acceptance areas

(a) Each operator shall display notices to the public at cargo acceptance areas providing information about the carriage of dangerous goods.

(b) The notices in paragraph (a) shall be—

- (1) sufficient in number; and
- (2) prominently displayed.

92.179 Information to passengers

(a) Each operator shall inform passengers of the type of goods that they are prohibited from carrying aboard an aircraft.

(b) The information required by paragraph (a) shall be provided—

- (1) by notices sufficient in number and prominently displayed—
 - (i) at each location where tickets are issued and baggage checked; and
 - (ii) in each aircraft boarding and baggage claim area; and
- (2) with the passenger ticket.

92.181 Custody by operator

Where the operator is in possession of dangerous goods that are deemed to be in the custody of the Director under 92.17, the operator—

- (1) shall take all reasonable precautions to secure the goods until they are in the possession of the Director; and
- (2) may release the goods taken into custody when the Director states that they are no longer needed for inspection, testing, analysis, or evidential purposes.

Subpart E — Training**92.201 Applicability**

This Subpart prescribes rules governing the dangerous goods training requirements for—

- (1) regular shippers of dangerous goods and their agents; and
- (2) operators who accept dangerous goods for carriage by air; and
- (3) handling agents who accept dangerous goods for carriage by air; and
- (4) agencies, organisations and persons, other than operators, involved in processing or carrying by air either passengers or cargo; and
- (5) agencies engaged in the security screening of passengers and their baggage.

92.203 Dangerous goods training programmes

(a) Each holder of an air operator certificate issued under Part 119 or the certificate holder's handling agent shall ensure that personnel assigned duties involving dangerous goods have satisfactorily completed a dangerous goods training programme, including recurrent training under 92.205 where applicable, in accordance with Appendix A conducted by—

- (1) the certificate holder where the holder is authorised to provide training for those personnel; or
- (2) the holder of an aviation training certificate issued under Part 141.

[Until Parts 119 and 141 come into force, the approvals required under regulation 31 of the Civil Aviation Regulations 1953 shall remain in force.]

(b) Each person, other than the holder of an air operator certificate or the certificate holder's handling agent, shall ensure that personnel assigned duties

involving dangerous goods have satisfactorily completed a dangerous goods training programme, including recurrent training under 92.205 where applicable, in accordance with Appendix A conducted by the holder of—

- (1) an aviation training certificate issued under Part 141; or
- (2) a current International Air Transport Association dangerous goods training programme Certificate of Accreditation.

[Until Part 141 comes into force, the approvals required under regulation 31 of the Civil Aviation Regulations 1953 remain in force.]

(c) The operator of a New Zealand registered aircraft in a foreign state is not required to comply with paragraph (a) where the loading and unloading of aircraft is performed by personnel of that state who—

- (1) are supervised by a person who has completed the training requirements under 92.203; or
- (2) have satisfactorily completed a dangerous goods training programme required by that state; or
- (3) have satisfactorily completed a dangerous goods training programme conducted by—
 - (i) another operator that is a member airline of the International Air Transport Association; or
 - (ii) the holder of a current International Air Transport Association dangerous goods training programme Certificate of Accreditation.

(d) The operator or handling agent of a foreign registered aircraft in New Zealand is not required to comply with paragraph (a) if the personnel who are assigned dangerous goods duties have satisfactorily completed a dangerous goods training programme required by the State of the aircraft's registry.

92.205 Recurrent training

Each person who is required under 92.203 to have completed a dangerous goods training programme shall—

- (1) within 2 years of completing the programme, undertake a recurrent dangerous goods training programme; and
- (2) repeat the recurrent dangerous goods training programme at intervals not exceeding 2 years.

92.207 Personnel records

(a) Each person to whom this Subpart applies shall retain a record, for every person assigned duties involving dangerous goods, for the duration of the person's employment.

(b) The record required to be retained under paragraph (a) shall identify for each person—

- (1) the initial training programme and last recurrent training undertaken; and
- (2) when it was undertaken; and
- (3) the identity of the person and organisation that conducted the training; and
- (4) the result and competence achieved.

Appendix A—Dangerous Goods Training Programme

Each dangerous goods training programme undertaken by a person shall be commensurate with the duties involving dangerous goods assigned to that person and include—

- (1) general familiarisation training, aimed at providing familiarity with the general provisions; and
- (2) function-specific training, providing detailed training in the requirements applicable to the function for which the person is responsible; and
- (3) safety training, covering the hazards presented by dangerous goods, safe handling and emergency response procedures; and
- (4) the following applicable subject matter:

Category of Personnel	Subject Matter
Operator acceptance personnel	New Zealand legislation; classification of dangerous goods; prohibitions; packing instructions; labelling and marking; dangerous goods transport document(s) operator responsibilities; shipper responsibilities; emergency procedures
Personnel engaged in the ground handling storage and loading of dangerous goods	General philosophy; labelling and markings; handling and loading procedures; compatibility; emergency procedures
Passenger handling personnel and security staff who screen passengers and baggage	General philosophy; New Zealand legislation; dangerous goods prohibited; exceptions for passengers; general label identification
Flight crew members	General philosophy; New Zealand legislation; labelling and marking; pilots notification; emergency procedures; compatibility; loading procedures
Crew members other than flight crew members	General philosophy; New Zealand legislation; dangerous goods prohibited; exceptions for passengers; general label identification; emergency procedures
Packers	Classes of dangerous goods; list of dangerous goods; general packing requirements; equivalents; specific packing instructions; labelling and marking
Regular shippers and their agents	Classification of dangerous goods; list of dangerous goods' prohibitions; packing instructions; labelling and marking; shippers responsibilities; dangerous goods transport document

CONSULTATION DETAILS

*(This statement does not form part of the rules contained in Part 92.
It provides details of the consultation undertaken in making the rules.)*

Background to the Rules

In April 1988 the Swedavia McGregor – Report on civil aviation regulation in New Zealand was completed. Following the recommendations contained in that report, the Air Transport Division of the Ministry of Transport commenced a complete review and rewrite of all existing civil aviation legislation, and where necessary initiated new legislation for the areas not previously covered.

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

New Zealand's revised legislation is published as the Civil Aviation Rules (CAR). The CAR are divided into Chapters which reflect a range of related topics. Each Chapter is divided into Parts that contain individual rules relating to a particular aviation activity.

Each Part of the CAR is accompanied by at least one Advisory Circular (AC) which expands, in an informative way, specific requirements of that Part and describes an acceptable means of compliance. For example an AC may contain the minimum acceptable practice or standard that would be necessary to meet a rule.

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

The FAR have been used as a starting point for the development of most CAR but there are likely to be significant differences in the content of the rule. The equivalent rules in the US are contained in Parts 100 - 177 of Chapter 49 of the Code of Federal Regulations which have also incorporated the ICAO standards. This Chapter is administered by the Department of Transport as it covers the three modes of transport. The Department of Transport has delegated authority to the FAA for the enforcement of the requirements relating to the carriage of dangerous goods by air.

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

Notice of Proposed Rule Making

To provide public notice of, and opportunity for comment on, the proposed new rules the Authority issued Notice of Proposed Rule Making 94-5 under Docket Number 1047 NR on 16 November 1994. This Notice proposed the introduction of Civil Aviation Rules Part 92 to provide a regulatory safety boundary for the carriage of dangerous goods by air.

Supplementary Information

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

Availability of the Document

Any person may view a copy of these rules at Aviation House, 1 Market Grove, Lower Hutt. Copies may be obtained from Publishing Solutions Ltd, PO Box 983, Wellington 6015, Telephone 0800 800 359.

Summary of Comments on Docket Number 1036 NPRM

1. General Comments on the NPRM

From the 14 submissions received, 7 general issues were raised. These are discussed as follows:

1.1 The New Zealand Air Line Pilot's Association was critical of what it refers to as the continuing inadequacy of the economical analysis conducted by the Authority stating;

"Of note in this particular analysis is the absence of any consideration or computation of the increased costs involved in the consequent increase in required training, the monitoring of maintenance of the higher standards, and the changes to handling systems and procedures that will necessarily result from the changes".

CAA response: This rule is based on the ICAO recommended practices and procedures as is the present requirements under Regulation 31 of the Civil Aviation Regulations 1953 and as such there is no increase in the requirements. The cost of training is likely to be reduced as the approval process, unlike the present requirement of approving each individual, only requires the organisation and its principal officers to be approved.

1.2 The New Zealand Dangerous Goods Air Transport Council noted that some of the definitions and terminology used in the NPRM differed from those contained in the Technical Instructions. They suggested that they should be aligned with those prescribed by ICAO unless there is good cause to differ.

CAA response: The CAA agrees and the definitions and terminology in the final rule have, where possible, been aligned with those of ICAO.

1.3 The New Zealand Dangerous Goods Air Transport Council stated that commercial airlines use the IATA Dangerous Goods Regulations as their working document and that Part 92 or its Advisory Circular should state that compliance with this document deems compliance with the ICAO requirement.

CAA response: The CAA does not agree. The IATA Dangerous Goods Regulations are not regulations made with any statutory authority and as such cannot be incorporated as a means of compliance with this Part or ICAO. The Authority is aware of its usage by airlines and that it is based on the ICAO Technical Instructions and the use of this document is addressed in Advisory Circular 92-01 stating:

"It is acceptable to use the IATA Dangerous Goods Regulations for training but operators and shippers should ensure that the syllabus accurately reflects the

requirements contained in those parts of the Technical Instructions incorporated in the rules”.

The CAA does not object to the use of the IATA document by airlines provided that it is consistent with this Part.

1.4 The New Zealand Dangerous Goods Air Transport Council considered that the use of the term **shipper** used in two different contexts creates a problem. To overcome this it is suggested that a new definition of **Transport Operator** be introduced.

CAA response: The CAA recognises that there were difficulties with the use of the term **shipper** in the NPRM and has therefore amended the final rule to exclude the use of that term. The requirements for the various functions involving dangerous goods are now placed on the operator or on each person who performs the function. The term **shipper** is replaced by reference to the person who offers goods for carriage by air.

1.5 The Waikato Regional Airport Authority Limited suggested that shippers and operators should be required to submit a plan for approval by the aerodrome operator where it is proposed to transport dangerous goods by air from aerodromes certificated under Part 139. This comment was submitted on the basis that aerodrome operators assume wide responsibilities (and liabilities) for the safe operation of their aerodromes. It follows therefore that aerodrome operators have the right of approval of the procedures to be adopted by users at the aerodrome, where such users may create hazards for others. Compliance with the provisions of the Resource Management Act 1991 in dealing with contamination and ensuring that terminal evacuation plans are not compromised by dangerous goods storage and handling are two examples of areas of vital concern to aerodrome operators.

CAA response: The CAA does not agree. Rule 139.57—Aerodrome Emergency Plan provides the aerodrome operator adequate authority to address any emergencies arising from the handling and storage of dangerous goods and any other type of emergency.

1.6 The New Zealand Dangerous Goods Air Transport Council submitted that there should be a new rule to address other markings and labelling required by other international and national air transport regulations which could conflict with the dangerous goods marks and labels.

CAA response: The CAA does not consider that a rule is required on this topic. The rules do not prohibit the use of other labels or markings and the Technical Instructions address their use and the precautions to be taken.

1.7 International Transchem Management suggested that the handling agent should be included in a number of rules applicable to the operator.

CAA response: The CAA agrees and has effected this by including the handling agent in the definition section and applicability rule for Subpart D - Operator.

2. Specific Comments on the NPRM

Specific comments received from 11 submissions are discussed as follows

2.1 92.1 Applicability

Rural Aviation (1963) Ltd stated that as Part 92 should be applicable to all operations, this rule should be amended to remove any possible confusion as to the applicability of the rule. It is possible that a number of private operators believed that it was not applicable to them and therefore refrained from commenting.

CAA response: The intent of the applicability statement was that this Part applied to all classes of operations as was the case in the previous regulatory requirements. The final rule has been amended to make the applicability clearer. CAA did receive comments from and had discussions with private operators.

The New Zealand Dangerous Goods Air Transport Council suggested that paragraph (b)(4) should detail those articles and substances which are allowed to be carried as specified in the Technical Instructions.

CAA response: The CAA agrees and the final rule has been amended accordingly.

The Helicopter Division of the Aviation Industry Association suggested that a new subclause be included addressing the carriage of agricultural chemicals.

CAA response: The CAA agrees and the final rule has been amended accordingly.

2.2 92.3 Definitions

The New Zealand Dangerous Goods Air Transport Council and International Transchem Management suggested that the definition of “shipper” should be amended for clarity.

CAA response: The term “shipper” is not used in the final rule and therefore there is no requirement for the term to be defined.

International Transchem Management considered that the rule should include the definition of the term “regular shipper”.

CAA response: The CAA agrees and the term “regular shipper” is defined in the final rule.

Ansett New Zealand suggested that the terms **direct supervision** and **supervised** as used in 92.69 should be defined.

CAA response: The term **supervised** is the only term used in the final rule and the definition of this term can be found in the Concise Oxford Dictionary.

The New Zealand Dangerous Goods Air Transport Council suggested that the definition of “Technical Instructions” should be as amended from time to time or as the current edition.

CAA response: The CAA agrees and the Civil Aviation Act 1990 is being amended to allow incorporated documents to be defined this way. Until then the incorporation can only be of an existing and specific document.

The New Zealand Dangerous Goods Air Transport Council suggested that the term “Transport Operator” should be used and defined in the rule.

CAA response: The CAA does not agree as the reason for the use of the term is no longer relevant due to the realigning of the rule with the Technical Instructions.

The New Zealand Dangerous Goods Air Transport Council and International Transchem Management suggested that the following notes should be added at the end of the “Unit load device” definition—

- *Note 1 - An overpack is not included in this definition.*
- *Note 2 - A freight container for radioactive materials is not included in this definition*

CAA response: The CAA agrees with both comments and has amended the rule accordingly.

The New Zealand Air Line Pilot's Association considered that, in addition to the definition of **Class B cargo compartment**, Class A and C compartments should be included for completeness.

CAA response: The CAA disagrees as only the term **Class B cargo compartment** is used in the rule and therefore must be defined. The definitions of the other classes are contained in FAR 25 incorporated by reference in CAR Part 21.

Manukau Polytechnic submitted that **aircraft operator** or **operator** should be included in the definitions.

CAA response: The CAA agrees and the definition of **operator** has been inserted in the Rule. Note however, that this definition is different from the general definition in Part 1 and is only applicable to this Part.

2.3 92.5 Offer of Goods

Manukau Polytechnic and International Transchem Management suggested that paragraph (a) should be amended by deleting the term "shipper."

CAA response: The CAA agrees and has amended the rule accordingly.

The New Zealand Dangerous Goods Air Transport Council suggested that the paragraph should read **Each person who offers cargo to a transport operator or an aircraft operator for carriage by air shall provide a signed document that....**

CAA response: The CAA has amended the rule in accordance with the Technical Instructions and therefore this rule now applies to any person who offers cargo for carriage by air.

The New Zealand Dangerous Goods Air Transport Council suggested that paragraph (b) should be amended by adding passenger baggage.

CAA response: The CAA agrees and has amended the rule accordingly.

International Transchem Management submitted that paragraph (a) should refer to "Each person who consigns cargo for carriage on board an aircraft must make a written statement".

CAA response: The CAA believes that the meaning suggested by the commenter has been covered by the wording in the final rule.

International Transchem Management submitted that paragraph (a)(3) should be deleted on the basis that if the goods were live fish, why have a statement that they are not dangerous goods.

CAA response: The CAA disagrees. If the person does not know whether the goods are dangerous they should not be making that comment. This statement is meant to cover people who know that the goods are not dangerous goods but wish to avoid accurately describing the goods.

2.4 92.11 Classification

Manukau Polytechnic suggested that the words **to an aircraft operator** in subparagraph (2) be deleted.

CAA response: The CAA agrees and the amendment has been made accordingly.

2.5 92.15 Packaging Requirements

International Transchem Management and the New Zealand Dangerous Goods Air Transport Council submitted that the packaging requirements should be stated as being in compliance with the Technical Instructions. One of the commenters stated that a restriction based on local approval would present a problem on the use of international packagings.

CAA response: The CAA agrees that the packagings should comply with the Technical Instructions but there is a need to address the requirements for the testing of New Zealand manufactured packagings and that has now been made by reference to Telarc. The rule also addresses the use of international packaging.

The New Zealand Dangerous Goods Air Transport Council suggested that paragraph (b) should be deleted.

CAA response: The CAA agrees and paragraph (b) has been deleted.

International Transchem Management suggested that it is incorrect to require packaging approved by the Department of Labour or the Ministry of Health. The CAA should ensure that packaging tests have been carried out by a Telarc approved laboratory and CAA should issue approvals as being the competent authority.

CAA response:

The CAA agrees that, except for class 7 dangerous goods, it is the appropriate authority to approve packagings. The CAA does not agree that it is incorrect to require packaging for class 7 dangerous goods to be approved by the Ministry of Health. The Radiation Protection Laboratory, which was set up under the Ministry of Health, has the expertise in this type of dangerous goods and the Ministry of Health has the responsibility under the Radiation Protection Act 1982 for regulating the transport of radioactive goods.

International Transchem Management suggested that not all dangerous goods require approved packagings and that the New Zealand packaging testing and approval requirements should not apply to packagings arriving from other countries.

CAA response: The CAA agrees and the rule is amended accordingly.

2.6 92.17 Labelling Requirements

The New Zealand Dangerous Goods Air Transport Council suggested that the term **unit load device** be deleted as it is the responsibility of the aircraft operator to label these.

CAA response: The CAA agrees and the amendment has been made.

International Transchem Management suggested that this rule be replaced by a more general section as not all packaging require labels.

CAA response: The CAA believes that the rule is as general as it possibly can and does not agree on making it even more general. The rule requires packages to be labelled in accordance with the Technical Instructions which will identify those packagings that do not require to be labelled.

2.7 92.19 Marking Requirements

The New Zealand Dangerous Goods Air Transport Council suggested that the ID number required by IATA be included.

CAA response: The CAA disagrees as this rule is based on the ICAO requirements not the IATA requirements. The use of other markings is

addressed in the rules. An operator may mark a packaging with the IATA ID number providing the ICAO requirements are complied with.

2.8 92.21 Transport Document

The New Zealand Dangerous Goods Air Transport Council suggested that the word **aircraft** be deleted and another that the term **transport operator** be included.

CAA response: The CAA agrees that the term **aircraft** should be deleted and has effected this change accordingly. The issue with respect to the term **transport operator** has already been addressed but in essence the term is not used in the Technical Instructions and its use would not promote harmonisation with the ICAO recommended practices.

2.9 92.23 Dangerous Goods Transport Document

The New Zealand Dangerous Goods Air Transport Council suggested that the words **the person who offers the dangerous goods for carriage by air** be replaced by the term **shipper**.

CAA response: As stated previously, the term **shipper** is no longer used so the words **the person who offers the dangerous goods for carriage by air** has to be written in full.

The New Zealand Dangerous Goods Air Transport Council and International Transchem Management suggested that the rule be amended as written in the Technical Instructions.

CAA response: The CAA agrees with the suggestions and where possible the rule has been amended to harmonise with the Technical Instructions.

2.10 92.25 Shippers Personnel

The New Zealand Dangerous Goods Air Transport Council suggested that this section be deleted and covered in the relevant Subpart.

CAA response: The CAA agrees and the rule has been amended accordingly.

International Transchem Management suggested that the employees of freight forwarders be included in the requirement to be trained.

CAA response: The CAA agrees and the applicability of Subpart E—Training has been extended to cover them.

International Transchem Management asked how long the records of their personnel training were to be kept.

CAA response: The CAA agrees that the period for the maintenance of records should be specified. The rule has been amended to specify retention periods similar to the provision specified in other rule parts.

2.11 92.51 Dangerous Goods Requirements

Manukau Polytech suggested that the word **immediately** should be deleted or there should be a differentiation between radioactive and non-radioactive goods.

CAA response. The CAA agrees that the immediate removal of contamination by non-radioactive goods is an unreasonable requirement and has amended the rule accordingly.

The Helicopter Division of the Aviation Industry Association suggested that this rule should also apply to dangerous goods being carried externally by helicopters.

CAA response: The CAA does not agree as passengers are not allowed to be carried on external load operations. If there are circumstances which make compliance with this Part unreasonable this will be addressed in the development of Rule Part 133—Helicopter External Load Operations.

The New Zealand Air Line Pilot's Association expressed the view that the risk that dangerous goods pose cannot be any less of a risk when carried on domestic VFR flight. This commenter suggested that the provisions of this rule should be limited in one of the following areas:

- limited to aircraft of 2250kg MCTOW or less; or
- limited to single engine aircraft; or
- limited to aerial work operation

CAA response: the CAA does not agree as a similar provision to this rule has been in force for a number of years without incident. This is a practical solution to the circumstances addressed in this rule and the limitation to VFR operations minimises any risk posed by these types of dangerous goods.

Rural Aviation (1963) Ltd suggested that this provision should be extended to a pressurised aircraft operating IFR or VFR provided the dangerous goods are carried in an unpressurised compartment. This commenter stated that "We are unable to see an increased level of safety arising by restricting the carriage of dangerous goods to VFR operations."

CAA response: The CAA does not agree. The provision of this rule was made on the premise that the VFR unpressurised aircraft has options available to cope

with an inflight incident which are not available in IFR flight or in a pressurised aircraft.

International Transchem Management considered that the quantity limitations shown in the Technical Instructions should be applicable to dangerous goods carried under the provisions of this rule.

CAA response: The CAA does not agree. This same provision has been in force for some time under the Civil Aviation Regulations without incident. The principle of this provision is to have the total requirement in the rule without a need to refer to the Technical Instructions which would be the case if quantity limitations were applied. This provision affects only the operator and those needing the carriage of dangerous goods who will be passengers on the flight. There will be no passengers on the flight who are not associated with the dangerous goods being carried.

International Transchem Management considered that paragraph (b)(2) should be amended by adding "which are necessary or appropriate for the journey".

CAA response: The CAA does not agree as the dangerous goods allowed to be carried under this rule are those required by the passengers after the flight, for recreational purposes, and not for the flight journey itself.

2.12 92.53 Dangerous Goods Compartments

International Transchem Management suggested that the rule should state "...may carry in the main deck baggage or cargo compartment of an aircraft not fitted with underfloor holds the following dangerous goods...".

CAA response: The CAA does not agree as an aircraft can have a class B cargo compartment not located underfloor.

Ansett New Zealand considered that the wording of paragraph (a) is confusing.

CAA response: The CAA agrees and has amended the paragraph to clearly state the requirements.

Ansett New Zealand noted that the rule does not address the carriage of dangerous goods by passengers.

CAA response: The CAA agrees that this is required and has amended the rule to cover the carriage of dangerous goods by passengers.

2.13 92.55 Forbidden Dangerous Goods

The New Zealand Air Line Pilot's Association, International Transchem Management and the New Zealand Dangerous Goods Air Transport Council

considered that paragraph (b) should be deleted and one of the commenters considered that paragraph (d) should also be deleted.

CAA response: The CAA agrees and has deleted these paragraphs.

2.14 92.57 Acceptance of Dangerous Goods

International Transchem Management suggested that the rule should state "carriage by air is only permitted to carry them in accordance with the Technical Instructions, shall ensure that the dangerous goods are accompanied by 2 copies of the dangerous goods transport document".

CAA response: The requirement to carry dangerous goods in accordance with the Technical Instructions is prescribed elsewhere in these rules. The requirement for 2 copies of the dangerous goods transport document is included in this rule.

International Transchem Management suggested that the rule should include the circumstance when the Technical Instructions do not require such a document.

CAA response: The CAA agrees and has amended what is now Part 92.153(1) by adding "except where the Technical Instructions state that such a document is not required".

International Transchem Management suggested that the rule should state that the document must be of the type shown in the IATA Dangerous Goods Regulations.

CAA response: The CAA does not agree as the specification for the document is specified in this Part based on the ICAO specification. The IATA document may be used provided it complies with the ICAO specification.

2.15 92.65 Removal of Contamination

Ansett New Zealand suggested that the wording of paragraphs (1) and (2) means that the aircraft could not be ferried to a maintenance base as is permitted under the present regulatory requirements.

CAA response: The CAA agrees and has made provision for ferry flights in this rule.

2.16 92.69 Operator's Personnel

International Transchem Management and the New Zealand Dangerous Goods Air Transport Council suggested that the personnel required to be trained should include regular shippers, handling or shippers agents and agencies.

CAA response: The CAA agrees and has included these in the training applicability.

International Transchem Management suggested that the words "approved by their National Authority" should be added to paragraph (c).

CAA response: The CAA does not agree that this is necessary as that foreign country will determine whether the training is required to be approved.

International Transchem Management suggested that a new paragraph should be added requiring each training programme be subject to review and approval as determined by the appropriate national authority.

CAA response: The CAA does not consider that this is necessary as the ongoing certification or accreditation process will ensure that this activity is done.

2.17 92.73 Information to Personnel

International Transchem Management suggested that this rule should require the operator to address the requirements of this rule in the operator's dangerous goods manual.

CAA response: The CAA agrees but the requirement to document the procedures for compliance with this rule will be made under Part 119 - Air Operator Certification as part of the required exposition.

Ansett New Zealand suggested that the word "crew members" in paragraph (a) should be deleted as they complicate the meaning of the sentence.

CAA response: The CAA does not agree. Crew members, as opposed to flight crew members, need to be addressed in this rule.

Ansett New Zealand queried the requirements applicable to operators who do not carry dangerous goods.

CAA response: This rule part is only applicable to operators who carry dangerous goods. The requirements of this rule and 92.75 applicable to operators who do not carry dangerous goods will be addressed in Part 121 and 135 operating rules applicable to air transport operations.

The New Zealand Air Line Pilot's Association suggested that the information provided to the flight crew should include at least the UN number, the proper shipping name and the appropriate drill code.

The New Zealand Dangerous Goods Air Transport Council in their comment about the final rule suggested that the appropriate drill code should not be included on the basis that—

- it is not an ICAO requirement
- safety will be compromised as errors will be more likely where operators staff will have to refer to two publications in order to supply this information to flight crew
- it would be more practical for the flight crew, who have the manual, to cross reference the UN number and the proper shipping name which refers to the drill code. Surely it is the flight crews responsibility to satisfy themselves that this information is correct.
- ICAO has produced Doc 9481 to provide guidance for flight crew in dealing with inflight emergencies. It is not practical for ground handling staff to have to deal with this publication in addition to their own procedures, and the Technical Instructions. [NZDGATC]

CAA response: The CAA agrees with the requirement for the inclusion of the UN number and proper shipping name. The CAA does not agree with the suggestion that the operator is required to provide the drill code. CAA agrees with the comments made by the New Zealand Dangerous Goods Air Transport Council against this proposal as it is the flight crews responsibility to determine the correct drill code from Doc 9481 and the introduction of another party to determine the code does not alter that responsibility. However, the CAA considers that the operator should provide the pilot-in-command with the current edition of ICAO Doc 9481 when dangerous goods are being carried so that the drill code can be identified in the event of a dangerous goods incident. A new rule has been included for this provision similar to that contained in the Technical Instructions.

2.18 92.75 Information to Passengers

International Transchem Management suggested that this rule should contain the same provisions contained in Chapter 9 of the Technical Instructions.

CAA response: The CAA agrees and has changed the term **aircraft operator** to **operator** to more accurately reflect the Technical Instructions.

The New Zealand Dangerous Goods Air Transport Council suggested that the rule title should be changed to "Information to the Public". This suggestion is made on the basis that it should be applicable to operators who do not carry dangerous goods and at mail acceptance points.

CAA response: The CAA does not agree. As previously stated the requirements applicable to the operator who does not carry dangerous goods will be contained in the air transport operating rules. The requirement to provide information at mail acceptance points is contained in the Postal Services Act 1987 and does not need to be addressed in this rule.

2.19 92.77 Custody of Dangerous Goods

International Transchem Management stated "The main question here is that a operator should not be accepting dangerous goods if they are forbidden, not classify etc." and "There should be provision here for those dangerous goods that are offered incorrectly under (1) and (2)."

CAA response: The CAA agrees that as written there may be confusion whether an operator may accept goods that are forbidden. Paragraphs (a)(1) and (2) are deleted and the final rule refers to accident or incident involving dangerous goods reported under Part 12. Until Part 12 comes into force, accidents and incidents involving dangerous goods are reported under Regulation 31(5) of the Civil Aviation Regulations 1953. The term *incident* is defined widely in Part 11 and will include such matters as misdescription of dangerous goods.

2.20 92.79 Reporting Dangerous Goods Accidents and Incidents

The Waikato Regional Airport Limited suggested that shippers and operators should also be required to report dangerous goods accidents and incidents to the operator of any aerodrome certificated under Part 139 where the aerodrome is in any way impacted by the accident or incident. It should also be acknowledged that the aerodrome operator has the final determination as to where contaminated aircraft or goods should be located to limit risk and disruption to other aerodrome users.

CAA response: The CAA does not agree. There is ample provision and authority for the aerodrome operator to address dangerous goods accidents and incidents which might impact on the safety or use of the aerodrome under Part 139, rule 139.57, Aerodrome Emergency Plan.

2.21 92.101 Dangerous Goods Training Programme

The New Zealand Dangerous Goods Air Transport Council suggested that 92.25 and 92.69 should be deleted and 92.101 should contain all the personnel training requirements based on the wording used in the Technical Instructions.

CAA response: The CAA agrees and the rule has been amended accordingly.

Ansett New Zealand suggested that the training programmes specified in this rule and 92.103 need more distinct titles to avoid confusion between them.

CAA response: The CAA agrees and in response to other comments on the 92.25 and 92.69 has deleted 92.103 and any reference to awareness training.

Ansett New Zealand suggested that the note to this rule and 92.103 should refer to CASO 1 Section 8 rather than regulation 31 of the Civil Aviation Regulations 1953.

CAA response: The CAA does not agree as the present approvals for dangerous goods training are issued under the authority of regulation 31.

International Transchem Management suggested that each instructor in a training course referred to in Appendix A must be approved by the Authority.

CAA response: The CAA does not agree as it would not be consistent with the philosophy applied to the certification of organisations where the authority does not intervene in the operator's personnel. This philosophy requires the management staff of the organisation to be fit and proper persons. The organisation appoints other personnel in accordance with the criteria they have established for each function to be conducted.

International Transchem Management suggested that paragraph (b) should be deleted because this is all covered in the Appendix A and advisory circular AC92-02.

CAA response: The CAA does not agree. In the NPRM paragraph (b) was not covered in Appendix A. The rule has, in response to previous comments, been amended and structured to reflect the requirements in the Technical Instructions. The contents of paragraph (b) are maintained to identify the three phases of training whereas the Appendix specifies the training programme subject matter applicable to personnel. This is repeated in the advisory circular as part of the information for a completeness of the training requirements.

2.22 Appendix A - Training Programmes.

International Transchem Management suggested that the category of personnel in the first line of the table should read "Aircraft operators or their handling agents and freight forwarders acceptance personnel."

CAA response: The CAA agrees that handling agents and freight forwarders acceptance personnel should be included within the category of personnel. The final rule has been amended to make Subpart E applicable to them.

International Transchem Management suggested that the word personnel used after CAA shipper's in the last line should be deleted.

CAA response: The CAA agrees and refers to its previous answer.

3 Further Consultation

Members of the consultative group were invited to a presentation of the final rule as there was a significant change in the structure as compared to the NPRM rule. Those attending indicated that the structure was acceptable and they were invited to make written submission if they so wished.

Three organisations submitted comments on the final rule which are addressed as follows.

3.1 92.3 Definitions

Chemie-Tech Limited suggested that the definition of dangerous goods should include the definition of each Class of dangerous goods as provided in the Technical Instructions. The reason was to enable industry to determine from Part 92 whether their product was a dangerous good and thus the definition would act as a trigger to obtain further information from the Technical Instructions.

CAA response: The CAA agrees and has amended the definition of dangerous goods to include individual definitions of the various Classes which are found in the Technical Instructions.

3.2 92.15 Offer of Goods

The New Zealand Dangerous Goods Air Transport Council suggested that there may be problems in determining where the offer of goods has been made. In order to cover this the following addition to the rule was suggested: "unless a signed contract exists between the shipper and the operator stating that the goods offered for transport are not dangerous goods".

CAA response: The CAA does not consider that the suggested provision is required. The law of Agency will apply in this situation whether the agent is

acting for the operator or the person offering the goods. It should be possible for a prepayment system to operate based upon an initial signed declaration by the offeror that goods carrying a particular label are not dangerous.

3.3 92.51 Packaging Requirements

International Transchem Management repeated their earlier NPRM comments that the CAA is the sole competent authority for the approval of packaging.

CAA response: The CAA can only reiterate its earlier response to the same commenter of the same subject raised in response to the NPRM.

3.4 92.55 Marking Requirements

The New Zealand Dangerous Goods Air Transport Council suggested that the rule does not take into account identification numbers which are used by IATA carriers but are not required by the Technical Instructions.

CAA response: The CAA has addressed the use of other markings in response to a suggestion made by the same commenter about the same requirement in the NPRM. Operators may place other markings on packagings, such as IATA ID numbers, provided that they cannot be confused with or conflict with any markings prescribed in this rule.

3.5 92.57 Labelling Requirements

The New Zealand Dangerous Goods Air Transport Council suggested that a small alteration is needed in the terminology of paragraph (2) to read "Ensures each hazard label indicates the nature of the hazard".

CAA response: The CAA agrees and has adopted the suggested wording.

3.6 92.105 Dangerous Goods Transport Document

The New Zealand Dangerous Goods Air Transport Council suggested that the rule should take into account IATA requirements for the completion of the transport document in respect of the need for ID numbers and the specific format of the shippers declaration. As all shippers declarations currently follow the IATA format, there will be major problems with international consignments.

CAA response: The CAA does not agree. As previously stated the IATA regulations are not recognised as being legislation. The major airlines may be affiliated with IATA and use their documentation but there are a number of domestic air transport operators without this affiliation. The IATA affiliated airlines may include the requirement for additional information such as ID

number providing that the document contains the information prescribed by this rule.

3.7 92.157 Flight Deck and Passenger Aircraft Loading Restrictions

The New Zealand Dangerous Goods Air Transport Council noted that the word "division" had been omitted from paragraph (3)(i).

CAA response: The CAA agrees that the word is needed in this paragraph and has now included the word "Division".

3.8 92.177 Information in Cargo Acceptance Areas

The New Zealand Dangerous Goods Air Transport Council suggested that, because cargo is often accepted by courier drivers who are unable to provide the appropriate notices, the rule should refer to "cargo acceptance terminals".

CAA response: The CAA does not agree as the word terminal, though in common use, by definition would not improve the rule for this purpose. The rule has been amended to read "cargo acceptance areas" and the CAA does not consider that a courier driver pick-up occurs in such an area.

3.9 92.201 Applicability

The New Zealand Dangerous Goods Air Transport Council suggested that the rule should include operators and handling agents who do not accept dangerous goods.

CAA response: This same comment was raised and responded to in the NPRM commentary. CAA agrees with the suggestion but it will be addressed in the appropriate air transport certification and operating rules.

International Transchem Management suggested that as written it could be interpreted that Freight Forwarders do not have to be trained. Paragraph (4) should be amended by adding "organisations or persons".

CAA response: The CAA agrees and the rule is amended as suggested.

3.10 92.203 Dangerous Goods Training Programme

The New Zealand Dangerous Goods Air Transport Council suggested that as rule 93.205 referred to an "approved course" the word "approved" should be used in paragraph (a) for consistency.

CAA response: The CAA agrees that there was an inconsistency and that the requirement for recurrent training in 92.205 should be the same as that

prescribed in this rule. Rule 92.203 has been amended to include recurrent training which in effect means that the programmes are approved.

3.11 92.207 Personnel Records

International Transchem Management suggested that the rule does not address the length of time that these records must be kept.

CAA response: The CAA agrees and has responded to this same comment submitted on the NPRM that the rule is amended to prescribe the time of record retention.

3.12 Appendix A—Dangerous Goods Training Programmes

The New Zealand Dangerous Goods Air Transport Council suggested that the programme specified for regular shippers should also include their agents.

CAA response: The CAA agrees and has amended the table accordingly.

International Transchem Management suggested that regular shippers should be deleted from the Table and replaced with “Agencies, organisations or persons involved in the handling and processing of cargo or passengers”.

CAA response: The CAA agrees that agencies, organisations or persons involved in the handling and processing of cargo or passengers should be applicable and Subpart E has been amended to include agencies, organisations or persons involved in the handling and processing of cargo or passengers.

Transition Arrangements

1. Packaging approvals are currently given for a term of 5 years. All those approvals given prior to Part 92 coming into force shall not expire until their 5 year period has elapsed.

2. All combination packaging will have to be approved by the CAA once Part 92 comes into force.

3. Training approvals for operators will continue to be granted under Regulation 31(6) until Part 119 comes into force. Other organisations can either apply under Regulation 31(6) (until Part 141 comes into force) or under Part 92.203.

Regulatory Evaluation

Subject to any fine tuning necessary to satisfy legal requirements, the following action will occur at the time of commencement of this Part:

Civil Aviation Regulations

1. Revocation of regulation 31 except 31(5) & (6) & (10)

2. Amendments of regulations — none

Civil Aviation Rules — none

New Zealand Civil Airworthiness Requirements — none

Civil aviation safety orders— Revocation of Caso 13

Aeronautical information circular— Revocation of Gen A104/91

Commencement

Part 92 comes into force on 14 November 1995.

Conclusion

The Authority concludes from this consultation that the majority of the aviation industry participants favour the direction of the new rules. Specific issues that were identified in the comments received from the consultative group have been addressed. The rules also meet New Zealand's international obligations under the applicable ICAO Annex. The comments and all the background material used in developing the rules are held on the docket file and are available for public scrutiny. Persons wishing to view the docket file should call at Aviation House, 1 Market Grove, Lower Hutt and ask for docket file 1047.