



PART 131 MOS ASAP TECHNICAL WORKING GROUP TASKING INSTRUCTIONS and **THIRD REPORT**

20 September 2022

The Part 131 Manual of Standards (MOS) Technical Working Group (TWG) is established to operate and report to the Aviation Safety Advisory Panel (ASAP) in accordance with the Terms of Reference of the ASAP dated 2017 (or as amended).

BACKGROUND/CONTEXT

Civil Aviation Safety Regulation (CASR) Part 131 was made in December 2019 and commenced on 2 December 2021. The Civil Aviation Safety Authority (CASA) formed a working group to discuss the policies to be articulated in the Part 131 Manual of Standards (MOS) who first met in February 2020. CASA proposes shifting this industry working group into an ASAP TWG to remain in line with current consultation processes. For consistency, CASA also proposes the appointment of the same industry members for the ASAP TWG. (See 'Membership' below).

Since February 2020, CASA has been progressively developing a draft Manual of Standards (MOS) that can be consulted with industry representatives prior to conducting a public consultation activity.

It is intended that the TWG reviews the draft MOS in 2-3 tranches for convenience, however the draft MOS is intended to be publicly consulted as an entire document.

PURPOSE

In conducting this activity, the TWG is to utilise relevant technical expertise and industry sector insight for the analysis, development and review of legislation in accordance with agreed policy principles.

The TWG will:

- Provide industry sector insight and understanding of current needs and challenges.
- Provide current, relevant technical expertise for the development, analysis and review of legislative and non-legislative solutions to the identified issues.
- Assist with the development of policies, regulations, advisory materials and transition strategies.
- Provide endorsement and or conditional endorsement of policies, regulations, advisory materials and transition strategies for consideration by the ASAP and CASA.

SPECIFIC OBJECTIVES

1. The TWG is to evaluate whether the draft Part 131 MOS will:
 - a) Achieve the policy intent/identified key proposals
 - b) Be implementable by the Australian aviation industry
2. The TWG is to provide a concise summary to the ASAP recommending either:
 - a) That the ASAP endorse the Part 131 MOS.
 - b) That the ASAP endorse the Part 131 MOS provided certain issues are resolved.
 - c) That the ASAP does not endorse the Part 131 MOS due to underlying policy inconsistencies.

KEY POLICY PROPOSALS

Key proposal 1: Consolidate the operational standards for lighter-than-air aircraft engaged in the following activities:

- Balloon transport operations

- Specialised balloon operations
- Recreational balloon operations
- Tethered gas balloon operations

Note. The definition of what constitutes a standard visual signal, the requirement for an intercepted aircraft to comply with ICAO Annex 2 and the placarding requirements for experimental aircraft (including Part 131 experimental aircraft) are contained in the Part 91 MOS.

Key proposal 2: Define balloon flying training to mean two kinds of activity:

- Balloon flying training for the authorisation granted by a Part 131 ASAO
- Balloon flying training conducted as a prescribed activity under regulation 206 of CAR in accordance with Part 5 of CAR

Key proposal 3: Apply, where possible, outcome-based rules for safe flight and encourage operators to identify hazards and risk mitigation strategies.

Key proposal 4: Apply additional operational requirements for balloon transport operators.

Key proposal 5: The Part 131 MOS will include delayed start dates for requirements introducing change unable to be reasonably complied by 2 December 2021.

TWG MEETINGS

- 30 March 2021
- 20 April 2021
- 10 August 2021: First TWG report provided to ASAP
- 4 November 2021
- 12 November 2021: Second TWG report provided to ASAP
- 20 September 2022: Third TWG report provided to ASAP

ROLES AND RESPONSIBILITIES

CASA	TWG Members
<ul style="list-style-type: none"> • Organise meetings and workshops, and produce agendas, papers and supporting materials • Facilitate meetings and workshops • Record insights and findings • Communicate openly and consistently with TWG members about project status and issues • Respect the time of all TWG members by minimising work required to achieve outcomes 	<ul style="list-style-type: none"> • Commit to supporting the project objectives and timeline • Engage and collaborate constructively at all times • Prepare for working group activities by reviewing agendas, papers and supporting materials • Provide timely and considered advice in meetings, and between meetings as required • Respond to requests for feedback on draft materials within agreed timeframes

CONSENSUS

A key aim of the TWG is that a consensus be reached, wherever possible, in the finalisation and preparation of advice for the ASAP.

The TWG will be guided by the ASAP Terms of Reference (Section 6 - attached) with respect to determining and documenting consensus.

MEMBERSHIP

Members of the TWG have been appointed by the ASAP Chair, following ASAP processes.

The Part 131 MOS TWG consists of the following members:

- Clayton Priddle
- Damian Crock
- Graeme Day
- Jacky Jansse
- Jay Schesser
- John Wallington
- Martin Tregale
- Steve Buckley
- Steve Griffin
- Sean Kavanagh

The TWG CASA Lead, Brenda Cattle, was supported by CASA subject matter experts during the meeting.

The ASAP Secretariat was represented by Chace Eldridge.

MEETING SUMMARY – 20 SEPTEMBER 2022

- The aim of the meeting was to discuss CASA's responses to the issues with the Part 131 MOS raised by TWG members, clarify the process to reconsider policies by presenting a safety case and review the guidance material provided to the TWG.
- The TWG broadly supported the proposed changes to the MOS. However, there was no clear consensus and ongoing discussions are being held regarding the interpretation of over-water flight rules in relation to the performance of a risk assessment. The TWG would provide further information via a 'safety case' for minimum height over built-up areas, VFR flight through cloud and any other required matters. CASA will advise the TWG what is required within each 'safety case'.
- The TWG resolved issues around pilot harness restraints, supplemental oxygen systems and the process for presenting a safety case for CASA to reconsider policy. The remainder of the proposed MOS changes were generally accepted.
- CASA will provide TWG members with further guidance and information on risk assessments and subsequent assessments of their operations. The TWG also provided feedback on the completeness of the Plain English Guide (PEG) in reference to the requirements across both Part 91 and Part 131.
- CASA advised that the MOS could have ongoing amendments and outlined to the TWG the amendment process for any issues that do arise overtime.
- Another meeting will soon be held to review a revised MOS exposure draft.

PROCESS FOR ACHIEVING CONSENSUS

As required by the ASAP (& TWG) Terms of reference, there must be agreement by all participants on the method used for obtaining consensus.

To obtain consensus, the TWG will discuss their views on the provided material during the meeting then address the below Outcomes.

The CASA Lead has also provided commentary of the effectiveness of the TWG and whether it is believed that the recorded outcomes are a fair representation of the TWG from a CASA

perspective.

SUMMARY OF OUTCOMES – Third TWG Report, 20 September 2022

Topic 1 – Expansion of TWG Tasking Instructions

FULL CONSENSUS / GENERAL CONSENSUS / DISSENT

Comments:

The TWG members were in full consensus that their Tasking Instructions (As seen in the Specific Objectives and Key Policy Proposals section of this report) should be expanded to allow consideration and discussion of CASR Part 91 and Part 131 and their impact on the ballooning industry. The TWG understand the difficulties associated with changing Regulations but feel it would be appropriate to examine and discuss these matters within the TWG environment.

The TWG were complimentary of the intent and effort behind the PEG and Sample Exposition and believe these will be helpful for industry; however, they suggested that these materials can be improved to become more comprehensive. It has also been noted that the TWG has been tasked with reviewing these guidance materials and that the Tasking Instructions should be updated to reflect this.

CASA Lead Summary

Brenda Cattle

Comment:

CASA thanks the TWG members for their ongoing efforts to progress this work. CASA acknowledges the concerns raised by TWG members and will continue to work with the TWG to progress the Part 131 MOS to ensure it achieves the policy intent and provides safe and practical outcomes for the industry.

CASA agrees that the Part 131 MOS TWG Tasking Instructions could be updated, specifically the Background/Context section, to more accurately reflect the current position. CASA also agrees that further clarity within the Tasking Instructions could be provided, but disagrees that the tasking instructions need to be expanded beyond its current scope.

Appendices

1. Extract from ASAP Terms of Reference

Appendix 1

ASAP and TWG Terms of Reference regarding Consensus (Extract)

- 6.1 A key aim of the ASAP is that a consensus be reached, wherever possible, in the finalisation and preparation of advice to the CEO/DAS.
- 6.2 For present purposes, 'consensus' is understood to mean agreement by all parties that a specific course of action is acceptable.
- 6.3 Achieving consensus may require debate and deliberation between divergent segments of the aviation community and individual members of the ASAP or its Technical Working Groups.
- 6.4 Consensus does not mean that the 'majority rules'. Consensus can be unanimous or near unanimous. Consensual outcomes include:
 - 6.4.1 **Full consensus**, where all members agree fully in context and principle and fully support the specific course of action.
 - 6.4.2 **General consensus**, where there may well be disagreement, but the group has heard, recognised, acknowledged and reconciled the concerns or objections to the general acceptance of the group. Although not every member may fully agree in context and principle, all members support the overall position and agree not to object to the proposed recommendation.
 - 6.4.3 **Dissent**, where differing in opinions about the specific course of action are maintained. There may be times when one, some, or all members do not agree with the recommendation or cannot reach agreement on a recommendation.

Determining and Documenting Consensus

- 6.5 The ASAP (and Technical Working Groups) should establish a process by which it determines if consensus has been reached. The way in which the level of consensus is to be measured should be determined before substantive matters are considered. This may be by way of voting or by polling members. Consensus is desirable, but where it is not possible, it is important that information and analysis that supports differing perspectives is presented.
- 6.6 Where there is full consensus, the report, recommendation or advice should expressly state that every member of the ASAP (or Technical Working Group) was in full agreement with the advice.
- 6.7 Where there is general consensus, the nature and reasons for any concern by members that do not fully agree with the majority recommendation should be included with the advice.
- 6.8 Where there is dissent, the advice should explain the issues and concerns and why an agreement was not reached. If a member does not concur with one or more of the recommendations, that person's dissenting
- 6.9 If there is an opportunity to do so, the ASAP (or Technical Working Group) should re-consider the report or advice, along with any dissenting views, to see if there might be scope for further reconciliation, on which basis some, if not all, disagreements may be resolved by compromise.