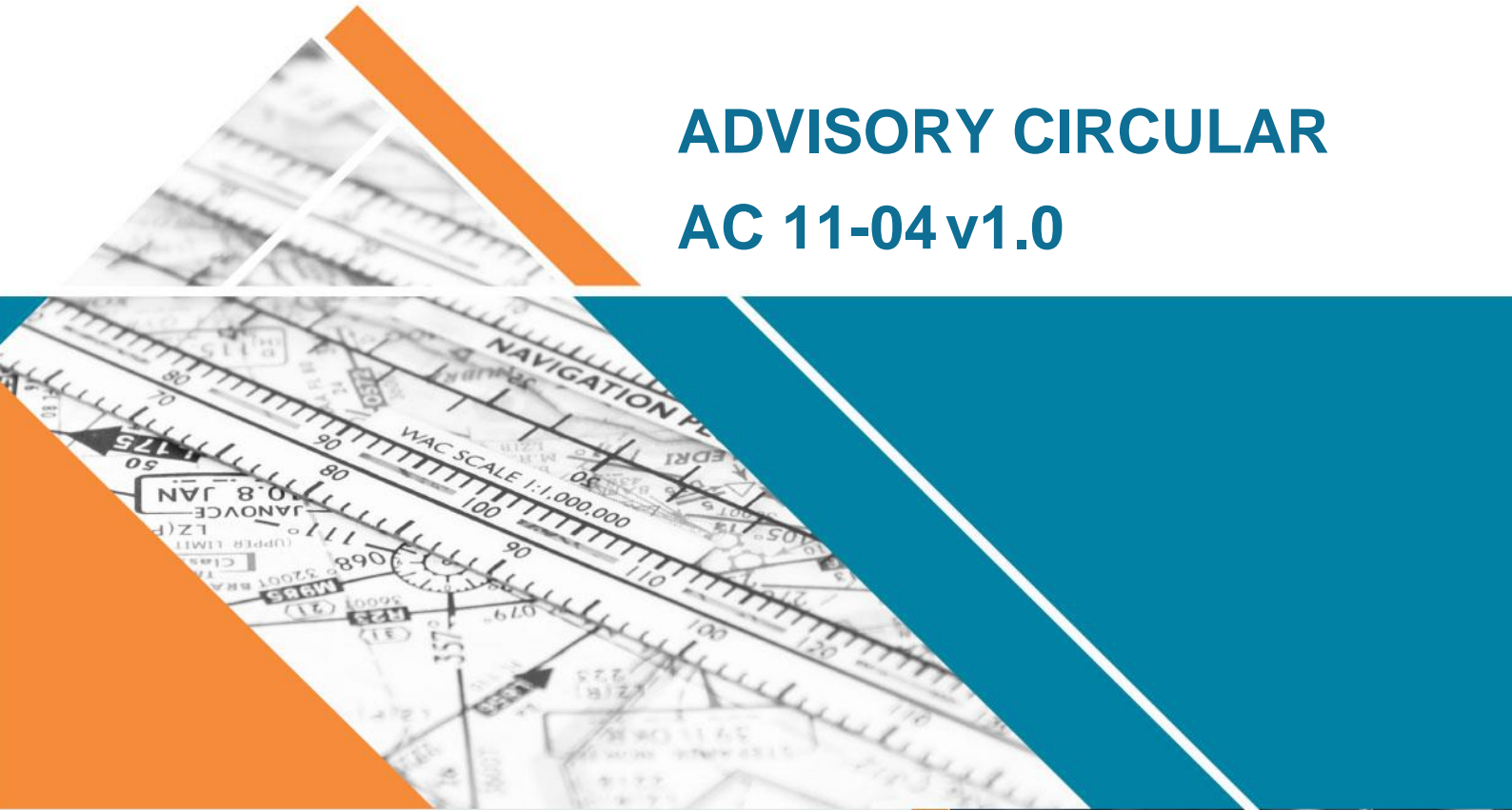




ADVISORY CIRCULAR

AC 11-04 v1.0



Approvals under CASR Parts 91, 103, 119, 121, 129, 131, 132, 133, 135, 138 and 149 (including MOS)



Date July 2022
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Advisory circulars are intended to provide advice and guidance to illustrate a means, but not necessarily the only means, of complying with the Regulations, or to explain certain regulatory requirements by providing informative, interpretative and explanatory material.

Advisory circulars should always be read in conjunction with the relevant regulations.

Audience

This advisory circular (AC) applies to persons who are required to hold, or seek to acquire, an approval under Parts 91, 103, 119, 121, 129, 131, 132, 133, 135, 138 or 149 of CASR. This includes where the approval is mentioned in any of the Part 91, 103, 119, 121, 131, 132, 133, 135, 138 or 149 Manuals of Standards (MOS).

Purpose

This AC provides guidance and information on the process to apply for an approval under Parts 91, 103, 119, 121, 129, 131, 132, 133, 135, 138 or 149 of CASR and subordinate MOS. Fundamental to the application process is the completion of a safety assessment and submission of a safety case to CASA.

For further information

For further information, contact CASA's Advisory and Drafting Branch (telephone 131 757).

Status

This version of the AC is approved by the Branch Manager Advisory and Drafting, Legal, International and Regulatory Affairs.

Version	Date	Details
v1.0	July 2022	Initial version.

Unless specified otherwise, all subregulations, regulations, Divisions, Subparts and Parts referenced in this AC are references to the *Civil Aviation Safety Regulations 1998 (CASR)*.

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1 Reference material

1.1 Acronyms

The acronyms and abbreviations used in this AC are listed in the table below.

Acronym	Description
AC	advisory circular
CAO	Civil Aviation Order
CAR	Civil Aviation Regulations 1988
CASA	Civil Aviation Safety Authority
CASR	Civil Aviation Safety Regulations 1998
MOS	Manual of Standards
PIC	pilot in command

1.2 Definitions

Terms that have specific meaning within this AC are defined in the table below. Where definitions from the legislation have been reproduced for ease of reference, these are identified by 'grey shading'. Should there be a discrepancy between a definition given in this AC and the Regulations, the definition in the Regulations prevails.

Term	Definition
civil aviation legislation	means: <ul style="list-style-type: none">a. the CAR or CASR; orb. legislative instruments made under the CAR or CASR, such as a Civil Aviation Order.
Safety assessment	An element of the risk management process that is used to assess safety concerns arising from, inter alia, deviations from standards and applicable regulations.

1.3 References

Legislation

Legislation is available on the Federal Register of Legislation website <https://www.legislation.gov.au/>

Document	Title
Part 11 of CASR	Regulatory Administrative Procedures – Subpart 11.B (Applications for authorisations) and Subpart 11.BA (Granting authorisations etc)
Part 91 of CASR	General operating and flight rules
Part 103 of CASR	Sport and recreation aircraft
Part 119 of CASR	Australian air transport operators—certification and management

Document	Title
Part 121 of CASR	Australian air transport operations—larger aeroplanes
Part 129 of CASR	Foreign air transport operators—certification and operating requirements
Part 131 of CASR	Balloons and hot air airships
Part 132 of CASR	Limited category aircraft
Part 133 of CASR	Australian air transport operations—rotorcraft
Part 135 of CASR	Australian air transport operations—smaller aeroplanes
Part 138 of CASR	Aerial work operations
Part 149 of CASR	Approved self-administering aviation organisations
Part 91 MOS	Part 91 (General operating and flight rules) Manual of Standards 2020
Part 121 MOS	Part 121 (Australian air transport operations—larger aeroplanes) Manual of Standards 2020
Part 132 MOS	Part 132 Manual of Standards Instrument 2016
Part 133 MOS	Part 133 (Australian air transport operations—rotorcraft) Manual of Standards 2020
Part 135 MOS	Part 135 (Australian air transport operations—smaller aeroplanes) Manual of Standards 2020
Part 138 MOS	Part 138 (Aerial work operations) Manual of Standards 2020
Part 149 MOS	Part 149 (Approved self-administering aviation organisations) Manual of Standards 2018

Advisory material

CASA's advisory material is available at <https://www.casa.gov.au/resources-and-education/publications-and-resources/guidance-material>.

Document	Title
AC 11-02	Exemptions against the CASR, CAR and CAO and MOS
AC 11-03	Electronically formatted certifications, records and management systems
AC 91-05	Performance-based navigation
AC 91-11	Approval to conduct low visibility operations Note: At the time of publishing, AC 91-11 had not yet been issued.
AC 91-20	Reduced vertical separation minima Note: At the time of publishing, AC 91-20 had not yet been issued.
AC 121-07	Approval to conduct extended diversion time operations Note: At the time of publishing, AC 121-07 had not yet been issued.
AC 121-11	Part 121 alternate aerodromes Note: At the time of publishing, AC 121-11 had not yet been issued.

Document	Title
AC 133-02	Performance class 2 with exposure operations
AC 138-05	Aerial work risk management
Part 91 AMC/GM	General operating and flight rules
Part 119 AMC/GM	Australian air transport operators—certification and management
Part 121 AMC/GM	Australian air transport operations—larger aeroplanes
Part 131 AMC/GM	Balloons and hot air airships
Part 133 AMC/GM	Australian air transport operations - rotorcraft
Part 135 AMC/GM	Australian air transport operations—smaller aeroplanes
Part 138 AMC/GM	Aerial work operations

1.4 Forms

CASA's forms are available at <https://www.casa.gov.au/search-centre/forms-and-templates>

Form number	Title
	Application - Air Operator's Certificate/ Aerial Work Certificate/ Associated Approvals
	Application - Air Operator's Certificate (balloon operations) / Associated Approvals
	Application - Approval for operations in North Atlantic High-Level Airspace (NAT HLA)
	Application - Approval to conduct Air Display
	Application - Exemption (CASR Subpart 11.F)
	Application - Minimum Equipment List
	Application - Part 91 Approvals - General
	Application - Part 91 Approvals - Low Visibility and PBN Operations
	Application - Part 131 approvals - other than AOC holder

2 Overview

2.1 Background

- 2.1.1 This AC contains multiple references to rules within Part 11 of CASR. Generally, Part 11 uses the term *authorisation* as the Part applies to a range of different authorisations, and not just the approvals mentioned in the flight operations regulations and the MOS's to which this AC applies. However, in this AC, the term approval will be used in place of '*authorisation*' to standardise the scope of this AC.
- 2.1.2 Other words and phrases used in this AC have the same meanings as in the Act, CASRs and CARs.
- 2.1.3 Under Part 11 of CASR, CASA may only issue an approval if certain specified conditions are met. If the relevant conditions are not met, then CASA cannot issue the approval. If an approval cannot be issued, but CASA decides that the relevant activity be allowed to occur, then the available pathways are to change the rule or issue an exemption, if that is appropriate on safety grounds. Further guidance on exemptions can be found in [AC 11-02](#).
- 2.1.4 Some approvals have, in addition to the conditions for the grant of an approval outlined in Part 11 of CASR, additional conditions that must be met by the applicant. They are specified in the relevant regulation or MOS relating to the specific approval. Some examples of this are:
- subsection 2.07(3C) of the Part 91 MOS contains conditions on an approval for NVIS reductions in visibility
 - subsection 11.08(3) of the Part 91 MOS contains specific conditions in relation to NAT-HLA approvals
 - Divisions 1, 2 and 3 of Chapter 2 of the Part 121 MOS contain conditions relevant to EDTO approvals for a Part 121 operation.

2.2 What is the difference between an approval and an exemption in relation to the flight operations regulations?

- 2.2.1 An exemption is a legal instrument issued by CASA which exempts a person or organisation from complying with a particular regulation or standard. Exemptions are limited to a period of no more than 3 years and can only be reissued at expiry of that 3-year period if there are valid reasons why a continuation of the exemption is necessary¹.
- 2.2.2 Most frequently, an approval is a legal instrument issued by CASA which permits a person or organisation to conduct a kind of activity not otherwise permitted, or to conduct an activity using an alternative means of compliance to the methods of compliance specified in the regulations or MOS. Approvals may be time limited or enduring.

¹ See paragraph 11.175(1)(b) of CASR.

3 Application for an approval

3.1 Relevant legislation

3.1.1 Regulations 11.020 to 11.050 of CASR outline who can apply for approvals, when an application for an approval is taken to be complete by CASA and the activities CASA can ask an applicant to undertake, as part of its assessment of the application. For further information, see paragraph 4.1.1 of this AC.

3.1.2 Regulations 11.055 to 11.080 of CASR outline:

- the requirements CASA must meet prior to granting an authorisation
- how CASA must provide notice of its decision on an application
- the requirements with which persons who receive an approval must comply.

Note: Two examples are that a person must notify CASA if they change their address (see regulation 11.070 of CASR) or business status (see regulation 11.072 of CASR).

3.2 Who may apply for an approval?

3.2.1 The approvals are required to be held by either a pilot in command (PIC) or an operator. These entities can apply for an approval in relation to themselves, or a person holding a power of attorney for the pilot in command or operator may apply for the approval on their behalf.

Note: Regulation 11.033 of CASR, which discusses applications by agents, only applies to remote pilot licenses as no determination² has been made for other types of authorisations (within the meaning of *authorisation* as defined in regulation 11.005 of CASR).

3.3 When to apply for an approval

3.3.1 Although no minimum period prior to an approval being required is set by the regulations for an application to be considered as complete by CASA, applicants are strongly recommended to submit their application for approval at least 3 months prior to when the approval is required.

3.3.2 Applications for approvals are generally processed in priority order based on receipt of the application. Generally, CASA will not prioritise an application that is received with insufficient notice due to poor planning by the relevant person. CASA would not normally accept commercial impact on business as a sole suitable justification for an application needing to receive higher priority. CASA will also need to establish if the reduced timeframe available will be adequate for proper assessment of the safety impact.

3.3.3 However, CASA is aware there may be unforeseen and genuine circumstances when an approval will be required within a very short time frame. In these circumstances CASA will prioritise short notice applications on receiving suitable justification why the application was not submitted at a more appropriate earlier date.

² See paragraph 11.033(2)(a) and subregulation 11.033(3) of CASR.

3.4 Where to submit an approval application

3.4.1 Applications for approvals are to be sent to the address specified on the [relevant form](#).

3.5 How to apply for an approval

3.5.1 Many approval forms are multi-purpose. Persons applying for approvals only need to complete the form elements required for the specific approval, or approvals, that are the subject of the application.

3.5.2 The relevant form outlines the minimum requirements for any approval application.

3.5.3 CASA will not accept an application to be complete unless it has met the requirements specified in regulation 11.030 of CASR. These include:

- it is made in the manner, or on the form, approved by CASA for that purpose
- it includes all of the information required by the form (if there is a form)
- it includes all the information required for a particular approval by the specific regulation or a relevant MOS provision
- it is accompanied by every document required by the specific regulation or a relevant MOS provision
- that if a fee³ is payable for the application then the fee has been paid.

3.5.4 The applicant should provide adequate information for consideration of granting the approval. Delays in processing the application may be incurred if the application does not include adequate information.

3.5.5 Particularly for applications where the approval is being sought to enable the conduct of an activity using an alternative means of compliance to one specified by the regulations or MOS, the application needs to explain how a level of safety, equivalent to that of the safety controls from the regulations or MOS that are proposed to be varied, will be maintained using the alternative means of compliance, i.e., through the completion of a safety assessment⁴.

3.5.6 Renewals of approvals are treated, from an application perspective, as if they are an initial application. An applicant for the renewal of an approval should be aware that a renewal application does not automatically entitle the person to the granting of a further approval under the same or similar terms. Each application will be assessed on its merits at the time of the application.

3.6 Notification of decision to the applicant

3.6.1 CASA will notify the applicant in writing of its decision in accordance with the requirements of regulation 11.060 of CASR.

3.6.2 If CASA refuses to grant an approval, or imposes conditions not sought by the applicant, then CASA will give reasons for its decision.

³ Refer to the Civil Aviation (Fees) Regulations 1995.

⁴ Guidance on conducting a safety assessment is further described in Chapter 7 of this AC.

3.6.3 As outlined in regulation 11.056 of CASR, CASA may impose conditions on an approval. If conditions are applied CASA will provide reasons for imposing the conditions. It is a criminal offence not to comply with conditions on an approval. For further information see Chapter 5 of this AC.

3.7 Commencement, duration, and transfer of approvals

3.7.1 Some approvals might be a legislative instrument for the purposes of the Legislation Act 2003. They must be registered on the [Federal Register of Legislation](#) and must be tabled in both Houses of Parliament. CASA will undertake the necessary Government and legal procedures necessary to give effect to such an approval.

3.7.2 An approval will normally start on the date stated in the approval document.

3.7.3 An approval will also contain an expiry date or circumstances in which the approval will expire. This may be after a number of hours of operation or a calendar date or after some specific event, such as an air display.

3.7.4 Under routine circumstances, from an administrative efficiency perspective, CASA tries to align the expiry dates of approvals with the expiry date of any AOC, aerial work certificate or Part 141 certificate held by an applicant of that kind.

3.7.5 If an expiry date is specified, the approval ceases at the end of the specified day.

Example: An approval granted for 3 years on 12 June 2013 would expire at midnight on 11 June 2016.

3.7.6 Regulation 11.080 of CASR specifies that an approval is not transferable. They are not property and cannot be handed from person to person.

3.7.7 As approvals can only be issued to specified legal persons or entities, should another entity wish to take advantage of the approval it must apply for the same approval in its own right.

4 CASA consideration of an approval application

- 4.1.1 The regulations that are most relevant to CASA's consideration of an application for an approval are regulations 11.035-11.050 of CASR. Under these regulations, CASA may ask the applicant to:
- provide further information
 - provide a copy of specific documents
 - undertake a test or tests of competence
 - come to a CASA office to be interviewed
 - carry out a demonstration.
- 4.1.2 In considering an approval application, the test of safety applied by CASA is, in most circumstances, that granting the approval will preserve a level of aviation safety that is at least acceptable⁵. For approvals which, if granted, would permit the applicant to conduct an activity using a means of compliance different to the means specified in a regulation or MOS, the acceptable level of aviation safety is a level which is equivalent to the level of aviation safety for that activity established by the Act, CAR, CASR, CAO or MOS. See Chapter 7 of this AC for information on the safety assessments that are required to support such approval applications.
- 4.1.3 Considerable research and investigation is often required before CASA can make a decision to grant or refuse to grant an approval. Therefore, it is highly recommended that the application should be made at least three months before the requested start date.
- 4.1.4 In processing each application, CASA will consider all the information provided as well as anything in its records concerning the applicant. If there is anything adverse to the applicant in its records which CASA intends to take into account, CASA will inform the applicant in writing that it intends to take this information into account and will invite the applicant to make a written submission about the matter within a reasonable period. If the applicant responds with a written submission within that time, then CASA will take the response into consideration.
- 4.1.5 If the applicant previously held an approval that was revoked, CASA will take the reasons for the revocation into account as well as the evidence that the applicant submits about their capacity to carry out the functions necessary to gain the approval.
- 4.1.6 CASA will analyse the safety assessment to verify that:
- appropriate coordination has been performed with the relevant stakeholders
 - the risks have been properly identified and assessed, based on documented arguments such as physical or human factors studies, analysis of previous accidents and incidents etc.
 - the proposed mitigation measures adequately address the risk
 - the time frames for planned implementation are acceptable.

⁵ See paragraph 11.055(1B)(b) of CASR. Whether subregulation 11.055(1A) or (1B) applies to a particular approval is specified in the relevant empowering regulation for the approval in each CASR Part: see regulations 91.045, 103.020, 119.025, 121.010, 129.020, 131.035, 132.035, 133.015, 135.020, 138.025 and 149.005 of CASR.

- 4.1.7 On completion of the analysis of the application, including any safety assessment, CASA will, as applicable, provide formal approval to the applicant. CASA may choose to impose additional conditions to ensure safety.
- 4.1.8 If some risks have been underestimated, or have not been identified, further coordination may be required to reach an agreement on safety acceptance.
- 4.1.9 If no agreement can be reached, a statement with reasons for rejecting the application will be provided for possible re-submission by the applicant.

5 Conditions on an approval

- 5.1.1 A set of standard conditions applies to every approval. These can be found in regulations 11.070, 11.071, 11.072, 11.073, 11.074 and 11.075 of CASR.
- 5.1.2 The regulations most relevant to additional conditions placed on approvals by CASA are regulations 11.056 and 11.067 of CASR.
- 5.1.3 CASA may impose additional conditions on an approval that it is satisfied are necessary:
- if subregulation 11.055(1B) does **not** apply—in the interests of the safety of air navigation
 - if subregulation 11.055(1B) does apply— in the interests of preserving a level of aviation safety that is at least acceptable
 - to ensure that, as far as practicable, the environment is protected from:
 - o the effects of the operation and use of aircraft
 - o the effects associated with the operation and use of aircraft.
- 5.1.4 All conditions imposed by CASA will be in writing and set out in the notice to the applicant or attached to the approval.
- 5.1.5 CASA will provide reasons for imposing conditions which were not sought by the applicant.
- 5.1.6 Conditions might relate to the:
- circumstances in which the approval is operative
 - procedures to be used by the holder of the approval
 - record-keeping by the holder of the approval
 - specify alternative means of compliance to a prescriptive rule.
- 5.1.7 CASA will typically impose a condition on an approval that a copy of it be included in a relevant document in the possession of the approval holder, for example, its exposition / operations manual, procedures manual, aircraft logbook, personal logbook, etc.
- 5.1.8 A breach of a condition is an offence under regulation 11.077 of CASR. Further, a person who is not complying with an approval does not gain the benefit of the approval, and hence may also be in breach of the provision of CASR that required the approval to be held to conduct a particular activity, or which required an approval to be held to vary from the requirements of a regulation or MOS provision.

6 Variation, suspension or cancellation of an approval

- 6.1.1 Subpart 11.D of CASR (regulations 11.120-11.132 inclusive) contains the rules for a person holding an approval to vary, suspend or cancel the approval.
- 6.1.2 Regulation 11.067 of CASR applies in relation to CASA varying a condition on an approval, or imposing new conditions on an approval, after the approval has been granted. Broadly, CASA can only do this in a limited range of circumstances and must provide the approval holder with the opportunity to make a submission in relation to CASA's intent, and properly consider any submission made by the approval holder prior to making a final decision.
- 6.1.3 A decision by CASA to vary conditions or add new conditions is a decision that can be reviewed by the Administrative Appeals Tribunal (AAT) (see regulation 201.004 of CASR).
- 6.1.4 CASA may suspend or cancel an approval:
- on request by its holder⁶
 - if CASA is satisfied that certain grounds exist but subject to CASA giving notice in writing to the approval holder and allowing the holder to show cause within a specified period (as applicable)⁷.
- 6.1.5 CASA may not provide prior notice of its intention to cancel an approval in circumstances of serious and imminent risk to air navigation, or where the applicant has been found guilty of breaching a condition of the approval or a related provision of the legislation. Where CASA cancels an approval, it will do so in writing and will state the reasons for the cancellation.

⁶ See regulation 11.130 of CASR.

⁷ Depending on the approval, see either regulation 269 of CAR or subsection 33 (3) of the Acts Interpretation Act 1901.

7 Safety assessments

7.1 Introduction

- 7.1.1 Where the applicant is seeking an approval to use an alternate means of compliance other than that method of compliance specified in the regulations or MOS, the content of the application must provide information that enables CASA to determine that a level of aviation safety equivalent to the level established by the relevant regulation or MOS will be maintained. The most common means of providing this information to CASA is via the inclusion of a safety assessment with the approval application.
- 7.1.2 The safety assessment should be conducted to identify and assess concerns arising from the alternate means of compliance. The safety assessment should be comprehensive, thorough and demonstrate that the applicant has evaluated, in depth, the potential hazards and the effectiveness of the proposed safety controls.
- 7.1.3 Background information should provide CASA with an understanding of:
- the current situation
 - what operations, persons and activities will be affected by the proposed alternative safety controls (i.e., stakeholders involved or affected).
- 7.1.4 A safety assessment comprises four basic steps (the following subsections of this AC expand on these steps):
- identification of the regulation or MOS provision proposed to be varied
 - hazard identification and analysis
 - risk assessment and development of alternative safety controls
 - development of an implementation plan for the alternative controls and conclusion of the assessment.
- 7.1.5 If third parties could be impacted by the proposed alternative safety controls, the applicant should consult with these parties and provide evidence of this consultation and its effects (if any) on the applicant's safety assessment. This would include the scope of items discussed during consultation and collaboration with stakeholders, and any recommendations provided by the stakeholders. Proposed safety controls reliant on third party actions will need to be accompanied by evidence of the processes and procedures in place to provide assurance that the third party can support the proposed safety controls.
- 7.1.6 The objective of the safety assessment is to:
- study the potential impact of the absence of the regulation or MOS safety controls
 - identify the specific alternative controls to ensure the level of aviation safety remains equivalent
 - estimate the effectiveness of each alternative control
 - develop a proposed process to periodically review the alternative controls to ensure they achieve the desired level of safety and thereby remain appropriate.
- 7.1.7 The safety assessment should be approved by the accountable manager before it is submitted to CASA as part of an approval application.

7.1.8 The safety assessment should clearly show the:

- identified hazards to aviation safety
- associated risks
- identified safety controls, including evaluations of these safety controls.

7.1.9 The risk matrices used to carry out the risk assessment should be provided to CASA as part of the safety assessment and the application for the approval.

7.2 Identification of the regulatory non-compliance

7.2.1 An initial evaluation of the effectiveness of the proposed alternative safety controls compared to the regulations or MOS should be conducted and documented.

7.2.2 Any perceived aviation safety concerns are to be described in detail, including situations in which the risk may manifest, and any stakeholders involved or affected as well as their potential to influence specific operations.

7.2.3 All aviation safety concerns are to be analysed to determine whether they may be retained or rejected based on acceptability or tolerance. If rejected, the justification for rejecting the non-compliance should be documented.

7.3 Hazard identification and analysis

7.3.1 Aviation safety hazards related to aircraft equipment, systems or operational procedures are initially identified using methods such as:

- brainstorming sessions with persons who have relevant industry knowledge and experience (expert opinion and operational judgement)
- safety surveys
- interrogating reporting systems/trend analysis
- reviewing serviceability reports
- reviewing the outcomes of incident investigations (accident causal factors)
- reviewing learnings from events that have occurred at other persons conducting similar activities (if available)
- exploring findings from internal and external audits.

7.3.2 All potential outcomes or consequences for each identified hazard are to be identified and recorded.

7.3.3 Hazard identification and analysis should avoid being narrow or targeted. The limiting of hazard identification may inhibit the development of robust safety analysis.⁸

⁸ For additional guidance on hazard identification refer to AC 119-01 'Safety management systems for air transport operations' and AC 138-05 'Risk management for aerial work operators' which provide guidance on this topic in different circumstances and operational contexts.

7.4 Risk assessment and development of safety controls

- 7.4.1 Understanding the risks to the safe operation of aircraft is the basis for the development of appropriate and effective risk mitigation measures that might be needed to ensure safe operations.
- 7.4.2 The level of risk of each identified potential consequence is estimated by conducting a risk assessment. This risk assessment will determine the probability of the outcome occurring, based on experience as well as on any available data (e.g., accident database, occurrence reports), and the likelihood and severity of the consequence.
- 7.4.3 In some cases, a quantitative approach may be possible. In other instances, such as changes to the operational environment or procedures, a qualitative analysis may be more relevant.
- 7.4.4 Once each hazard has been identified and analysed in terms of potential impact, and assessed for probability and severity of its occurrence, it must be ascertained that all associated risks can be appropriately managed. An initial identification of existing mitigation measures is required to be conducted prior to the identification of any additional measures.
- 7.4.5 All risk mitigation measures, whether currently being applied or still under development, need to be evaluated for the effectiveness of their risk management capabilities.

7.5 Development of an implementation plan and conclusion of the assessment

- 7.5.1 The last phase of the safety assessment process is the development of a plan for the implementation of the proposed alternative safety controls.
- 7.5.2 The proposed implementation plan should include:
- each control to be implemented
 - a breakdown of tasks required to implement each of the controls
 - the person who has been assigned responsibility to complete each task
 - the date each task is required to be completed.
- 7.5.3 It is the responsibility of the operator to ensure that agreed controls are effectively implemented in a timely manner and for monitoring the effectiveness of each control.