



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

14 November 2023

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 November 2021 (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
- 28 March 2023
- 27 June 2023: Fourth TWG report provided to ASAP
- 13 September 2023
- 14 November 2023: Fifth 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*

CASA was represented by:

- Brenda Cattle
- Alan Shore

The ASAP Secretariat was represented by Chace Eldridge, Matthew Di Toro and James O'Rourke.

**Denotes members not present in this TWG meeting.*

MEETING SUMMARY – 14 November 2023

- The aim of the meeting was to ask the TWG if the technical content of the Part 131 Manual of Standards was acceptable and that the intended policy was being met prior to the recommendation for making, and to discuss the steps to implementation.
- The TWG reviewed the changes made to the MOS resulting from public consultation, some of these included:
 - changes to the requirements for tethered flight. Permission can now more easily be given by stakeholders other than CASA
 - carriage of life jackets requirements for flight over water now to be documented in an operator's manual
 - removal of requirement for in-water training for the PIC if life jackets are carried.
- No issues were identified with the MOS. The TWG members approved the final product to be made once an appropriate commencement date had been agreed. CASA accepted industry feedback that the transition period should be longer than 6 months and queried whether 9 months was more appropriate. The TWG members suggested a longer transition period of perhaps 12 months.
- The TWG also added that extra time would provide operators the opportunity to improve the overall standard of their manuals. One TWG member flagged that from a private ballooning perspective, a shorter transition period was desirable. CASA will now liaise further with the TWG members out-of-session to establish a suitable commencement date. CASA will agree the commencement date with the TWG before finalising this.
- CASA agreed to refine the current Sample Operations Manual (SOM) as it will assist greatly with the transition.
- CASA thanked the TWG for their efforts in reviewing and assisting with the development of the Guide. It was generally agreed that the Guide was a much-improved document.
- There were several matters raised that are outside the scope of the current Part 131 MOS.

These were as follows:

- One TWG member noted the matter of passage through cloud to VFR on top was still on the table. CASA noted that this will require an extensive body of work and will be prioritised accordingly..
 - There was discussion around whether a change of envelope represented a significant or non-significant change. Ultimately, it was determined that the legislation could be further clarified and improved; however, it was not causing immediate issues for industry. It was recognised that this was a separate issue to the MOS and would be resolved through a regulatory amendment package in future. CASA will engage with the TWG members in future on this matter.
- CASA acknowledged that work was still being done to secure further internal inspectorate resourcing for the ballooning sector.
 - Any required changes to the TWG membership will be considered ahead of new work packages in 2024 (maintenance and licensing). they also noted that further work was to be done on other areas of the ballooning regulatory suite.

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 – Fifth TWG Report, 14 November 2023

Topic 1 – Does the TWG recommend that the MOS is suitable for making?

FULL CONSENSUS / GENERAL CONSENSUS / DISSENT

Comments:

The TWG members were in full consensus to support the making of the Part 131 MOS.

The TWG members look forward to working with CASA to determine a suitable commencement date for the MOS and continuing to progress other regulatory development projects related to Part 131 and the ballooning sector.

CASA Lead Summary

Brenda Cattle

Comment:

CASA thanks the TWG members for their significant effort to finalise the content of the Part 131 MOS. We will continue to work with the TWG to settle on a commencement date. CASA looks forward to the opportunity to work with industry further in order to facilitate improved manuals and the realisation of the intended safety benefits.

CASA intends to continue to engage through the TWG process on tranches 2 and 3 of the Part 131 Standards Development Project and to proactively manage the current issues register.

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 reconsider 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.