Australian Government
Civil Aviation Safety Authority

SUMMARY OF CONSULTATION

Proposed new Manual of Standards Part 138 (Aerial Work Operations) and regulation amendments

Part 138 Manual of Standards Instrument 2020

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Contents

Overview

This consultation sought detailed comments on the proposed Part 138 MOS. It also sought feedback on proposed amendments to the Part 138 Regulations that were made into law during December 2018 for commencement on 2 December 2021.

The consultation opened on 30 April 2020 and the closure date was extended from 3 June to 17 June 2020 following several requests for more time in which to respond.

This document summarises the main themes that emerged from review of the responses.

Respondents

CASA received a total of 114 submissions, which included 2 separate sets of identical responses numbering 71 in total. Eighty-two people consented to have their comments published on the CASA website. Eighty-two respondents identified as current aerial work AOC holders, 1 identified as an aerial work operator without an AOC and 15 identified as pilots conducting aerial work operations.

Content analysis

Each submission was systematically evaluated and coded to determine the key issues and themes expressed in the responses. Examples of submissions received in response to the policy proposals have been included in the feedback section below.

Feedback is attributed to the respondents via anonymous ID labels. Where the respondent has agreed for their response to be published, the complete responses are available from the CASA Consultation Hub.

Policy Proposal - Aerial Work Passengers

The aim of this proposed policy is to appropriately differentiate between *air transport passengers* and *aerial work passengers*, by identifying classes of people that from a risk perspective, are necessary to the aerial work operation and appropriate to be carried.

Key feedback

Feedback on this policy proposal was varied, ranging from the proposal being a positive step forward with strong support to the proposal being an unnecessary extra definition.

Clarity of who could be an aerial work passenger

Most responses were of the opinion that the definition lacked clarity and could be improved.

The suggested means of improving the definition ranged from it being made simpler without adding more examples or explanative text, to a prescriptive list of who is and who isn't an *aerial work passenger*.

Carriers liability insurance

Concerns were also raised by several respondents as to whether aerial work passengers would be covered by carrier's liability insurance.

Examples of this wide-ranging feedback are extracted below.

> ANON-92FN-6VRS-G - The definition is spread over about 3 or four docs, its open to alternative interpretation by FOIs and lawyers. Its more complicated than it needs to be, it's a step forward but could be simpler and more robust (NOT by adding more examples or explanatory text.

> ANON-92FN-6V5M-D - The intention of this policy is sound. To me there is still some confusion about who is an aerial work passenger. Perhaps more examples need to be offered (as was done by Aviation Ruling 3/2004) or the definition further refined.

> ANON-92FN-6VR6-K We believe this gives more clarity and freedom for the carriage of some passengers that, in the past, were in a grey area.

> ANON-92FN-6VRE-2 We are a company with both Charter and Aerial Work on our AOC so for us it is possible to switch classification when required to account for the type of person being carried. The main benefit to having an aerial work passenger classification on current aerial work operations conducted by companies with both Charter and Aerial Work on their AOC, is that it alleviates the requirement to comply with Charter Flight/Duty Limits when switching from one to the other for a particular operation and avoids confusion. It also confirms that some people are being employed to be on the aircraft as part of their job and more technically should be classified as aerial work passengers.
>
> These are the primary reasons we support the concept.

CASA response

Aerial work passenger definition

The definition of an *aerial work passenger* underwent significant redrafting after the public consultation with input from the technical working group (TWG).

The provision includes an outcome-based class of person who is present other than for mere convenience or enjoyment and who is reasonably and closely associated with the purposes of the operator's operations. An operator is required to describe in their operations manual the circumstances in which they carry an aerial work passenger and the purpose of their carriage in relation to the operation. In this way the operator can clarify the situations where a person would be an aerial work passenger in the context of their operation rather than CASA attempting to provide an exhaustive list. For example, the carriage of a property owner to identify hazards for the pilot prior to mustering. This is very similar outcome to the current CASA Ruling 3/2004 which was cited by many respondents in their submission. At paragraph (9) of the ruling, the role of passengers carried on aerial work flights is required to be detailed in the operations manual of the operator.

The proposal is to develop guidance material to provide examples of the circumstances when a passenger would be an aerial work passenger.

Carriers liability insurance

CASA has asked the Department of Infrastructure, Transport, Regional Development and Communications to move amendments to the *Civil Aviation (Carriers Liability) Act 1959* to address the change in terminology from RPT and charter, to air transport. CASA will also ask the Department to consider the issue relating to whether the Act should apply to persons carried in aerial work operations. CASA had not understood the Act to have applied to aerial work passengers before the Supreme Court of Appeal's judgment in *Endeavour Energy v Precision Helicopters Pty Ltd [2015]* NSWCA 169, which appears to have been decided on the fact the operator also held a charter AOC.

Policy Proposal - Rotorcraft and aeroplane requirements for aerial work passengers and operations with significant third-party risks

The aim of this proposed policy is to appropriately mitigate risk of operations carrying aerial work passengers or with potentially significant consequences for third-party individuals.

Key feedback

The feedback on this proposal ranged from a change that is long overdue to a change that is not necessary to be contained in regulation.

Performance required for high-risk operations.

Requiring performance for certain high-risk operations was generally accepted.

Performance requirements

However, a common theme was that the performance requirements themselves were too prescriptive.

Night Vision Imaging Systems

A number of respondents noted the need to incorporate the NVIS standards into the CASRs.

Some examples of this feedback are extracted below:

> ANON-92FN-6VKE-U This aspect of change to high risk operations involving passengers is long overdue.

> ANON-92FN-6VKH-X To prescriptive -These requirements are already in the respective aircraft flight manuals and/or POH's and should be common knowledge to all pilots - it is not necessary at all to be regurgitated and meshed into a CASA regulation!...

> ANON-92FN-6V5M-D Generally OK but the requirements for NVIS and dual hydraulics for NVFR flights with up to two aerial work passengers is excessively

prescriptive. The current wording is adequate for this number of passengers and fits with a risk-based approach.

ANON-92FN-6VRV-K This table provided is a little confusing - we believe that the logic should be that for the riskier operations for which dual hyd, HUMS and dual fuel control have been specified the requirement should be to have EITHER: a multi-engined rotorcraft with dual hyd (necessity for HUMS / dual fuel control mitigated by having 2 engines) and the capacity to maintain level OEI at Vy OR Single engine with dual hyd, HUMS and dual fuel control.

BHLF-92FN-6VRB-Y Generally acceptable, some points: It is disappointing that the NVIS suite has not been included in this MOS already, given the regulations are due for commencement in late 2021. 9.03 is a good place to start. The table provided in this fact bank should be replicated in the MOS for ease of reference.

CASA response

CASA has removed the Part 138 MOS chapters that replicated the Part 91 MOS performance requirements. Additionally, the remaining Part 138 MOS performance related chapters have been amended as outlined below for rotorcraft and aeroplanes respectively.

The NVIS requirements will be migrated into the CASRs as part of Project OS 13/19. Current planning indicates that industry engagement, initially via a TWG, is likely in late Q4 this year or early Q1 next year.

Rotorcraft performance requirements

The aim of this proposed policy is to clearly state the rotorcraft performance requirements and prescribe rotorcraft performance requirements, appropriate to the risk of the aerial work operation (including third parties).

Key feedback

Generally, the feedback on the rotorcraft performance requirements was they should not be contained in regulation and the risks could be managed via a risk assessment and other risk controls.

Acceptable means of compliance rather than prescriptive requirements

Most respondents thought the requirements were too prescriptive and too complex to be applied for practical application in an aerial work context. Many were of the opinion that the performance requirements would be better placed in an acceptable means of compliance document.

Some examples of this feedback are extracted below:

ANON-92FN-6VSZ-R Again, this as well is already the part of every healthy personal Airmanship and we are convinced that it does not need to be separately stated as the additional rules of standards.

ANON-92FN-6VKK-1 A key failure of the CASA approach to mandating performance classes for certain operations is the refusal to accept that this addresses only one part of a possible failure scenario – while a Performance class complaint helicopter may have two engines, it will still only have one gearbox and one tailrotor which remain potential failure points. This is a fundamental failure of CASA logic in considering overall safety outcomes and risk. The overly complex and prescriptive approach to the use of mandated Performance classes should be abandoned completely and covered through a requirement for higher risk operations to conduct an appropriate risk management process to cover these issues among others. Explanation of performance classes and the associated concepts could then be included in an acceptable means of compliance with a higher level regulation (rewritten) that would require a risk assessment for certain higher risk operations. The methodology for conducting an appropriate risk management assessment of an operation is already included in the MOS and this approach should be used rather than prescription. This approach is more likely to future proof the regulations, reinforce the importance of risk management to aviation safety and allow for innovation.

ANON-92FN-6VRC-Z As stated in the previous question, the introduction of performance classes is detrimental to achieving a holistic risk based approach to operational safety. The performance class requirements are overly prescriptive and far too complex to be feasibly utilised out in the field when conducting many Part 138 operations. Much of the work we conduct is in an area we have never been to before, utilising landing sites we have never landed at and may never again visit. The detail and amount of pre-flight planning required simply is not possible to comply with as we do not have access to any of the information required until we arrive on-site. The information provided by clients prior to arriving onsite to conduct a task is often inaccurate and conditions experienced during a task may be widely variable. Conducting Part 138 operations under these circumstances relies on good training and checking and by providing flight crew and 'task specialists' solid policies and procedures to operate by and a sound understanding of risk management to allow the correct limitations and risk mitigating factors to be employed for the required task to be conducted in a safe manner. Stipulating complex, overly prescriptive limits on performance (which as mentioned previously really only consider the power plant as the single point of failure) does not add to safety whatsoever as the detailed calculations required simply are not possible on the go, in the field. Rules such as this encourage non-compliance through either misunderstanding due to the overly complex nature of the requirements or simple inability to comply due to real world operational limitations. The performance class requirements I believe should be removed, pared down, simplified and included as methods of achieving compliance in AMC documentation.

CASA response

CASA significantly simplified the Part 138 MOS rotorcraft performance requirements in response to this feedback. For the limited circumstances in which Part 138 of CASR requires performance accountability, an alternative to complying with the Part 133 performance code has been provided. Where engine inoperative accountability (see below) is not required the Part 91 MOS

requirements would apply. The chapters that re-stated the Part 133 MOS requirements have been removed. This new approach is summarised below:

- operating in performance class 2 with exposure (PC2WE) or greater in accordance with the Part 133 MOS;

  or
- operating in accordance with the Category A supplement in the rotorcraft flight manual with the ability to remain clear of obstacles and with en-route performance to fly to suitable OEI landing area at or above the minimum height for the flight and conduct an approach and landing into the area;

  or
- operating OEI with the ability to clear obstacles to reach a suitable forced landing area.
- operating in performance class 3 (PC3) in accordance with the Part 133 MOS;

  or
- operating by day in VMC with a suitable forced landing area;

  or
- operating by night in VMC with a suitable forced landing area and using NVIS.

Aeroplane performance requirements

Where appropriate, the aim of this proposed policy is to maintain commonality with existing rules and to prescribe aeroplane performance requirements appropriate to the risk of the aerial work operation (including third parties).

Key feedback

The feedback on the aeroplane performance requirements was that an operations manual should not be required to repeat information contained in the flight manual as there is the risk that the flight manual and operations manual requirements would diverge overtime.

Location of requirements

Several submissions stated that the requirements should not be duplicated between CASR Parts with the risk of the two rulesets diverging over time. Rather, Part 138 should simply refer to Part 91 of CASR for small aeroplane performance and the large aeroplane performance requirements should refer to the Part 121 of CASR requirements.

Some examples of this feedback are extracted below:

> ANON-92FN-6VSZ-R It is correct that are identical to those contained in Part 91, which in itself makes it an obsolete requirement to be stated or required as the another additional layer, inducing therefore more unnecessary confusion and time loss by stating repeatedly "as a rule" what is already the common industry and community knowledge…

> ANON-92FN-6VSR-G Requirement 20.05 (3) is overly prescriptive and unnecessary. Operator's Manuals are continuously getting larger and more complicated (bulked out

extraneous information) and repeating information that is contained in the AFM is not required. 20.05(2) specifically requires the pilot to use the AFM and the AFM procedures should be followed. CASA is now introducing a risk that the procedures specified in an Operators Manual diverge from those in the AFM creating the potential for the pilot to incorrectly calculate the takeoff performance for the flight.20.05 (3) must be removed as it is unnecessary and increases risk to operations.

ANON-92FN-6VKK-1 If the rules are the same as Part 91, then perhaps simply include a note at an appropriate point instead of replicating - with the inherent danger of the two rulesets drifting apart over time due to amendments. It is important to ensure that the problems previously encountered with CAO 20.7.1b are not recreated – specifically the engine out performance requirements that applied to single engine turbine aircraft in previous iterations of the order that required exemption and then amendment.

ANON-92FN-6VR1-E Chapter 19 will lead to complexity in compliance. With Part 121 operations, it is safe to assume that computer performance applications will be developed to support operations. It is likely that for AWK operations, the modifications for things like Take-off obstacle clearance limitations 90 meters times factored distance versus the draft 121 MOS of 45.7m, 76.2m or 90m (note that AWK seems to be more restrictive than 121 passenger carrying operations which is not logical. Further simplification can be achieved by modifying the applicable 121 performance requirements rather than repeating the whole lot. Chapter 20 for 'other' aircraft, leaves significant burden on the operator to demonstrate that the aircraft took off at a weight that was safe. This is more so the case with some smaller aircraft having very limited performance data and CAO 20.7.4 essentially only requiring 6% climb, 1% to 5000' for multi and 3.2% for missed approach. With new requirements, mentioned in the note, the considerations involve aspects which may be unable to be calculated nor relevant. E.g. takeoff climb gradient required for an unsurveyed Aeroplane Landing Area and could preclude operation without incurring unreasonable cost. The note… is very open to interpretation and will limit operations especially from ALA's. Even piston multi-engined aircraft currently only have a basic climb requirement under CAO 20.7.4 whereas 20.05 infers that enroute obstacles etc. all require consideration…

CASA response

CASA has significantly re-drafted the aeroplane performance requirements in the Part 138 MOS following the feedback.

The large aeroplane performance requirements previously contained in the Part 138 MOS now refer to the large aeroplane performance requirements contained in the Part 121 MOS.

The smaller aeroplane performance requirements contained in the Part 138 MOS now refer to the requirements in Part 91 MOS.

Additional operations that require a training and checking system

The aim of this proposed policy is to incorporate current requirements specifying that certain specialised aerial work operators must have a formalised training and checking system.

Key feedback

Feedback on this proposal was primarily directed at the merits of a training and checking system rather than the types of operation required to have a training and checking system. Some suggested that there were benefits in expanding the requirement into all aerial work operations.

Application to mixed fleet and activities

Questions were raised regarding operating a mix of aircraft types some of which require a training and checking system. Others had questions about performing a mix of activities, some of which required a training and checking system and how that would be managed.

Interaction with other training and checking systems

There was some confusion around how a training and checking system under Part 138 of CASR worked within the context of the other CASR Parts and the previous systems under CAR 217.

Some examples of this feedback are extracted below:

> ANON-92FN-6V5X-R I have nominated 'Yes' but with a proviso. Allowing for a more flexible check and training system under Part 138 has the ability to be expanded into more basic aerial work sectors as well as other complex aerial work operations to ultimately phase out the CAR 217. I am all for moving check and training for operational activities into the hands of the people who are regularly doing the activity. The attempt by the authors of Part 61 to move all training into a Part 141/142 flight training organisation is a mistake, as schools often do not have the expertise in operational activities and the companies that do, can't necessarily service the greater industry. A primary goal of any organisation should be the nurturing and development of personnel to achieve a continuous improvement in safety, standards and service delivery. Removing the ability to mentor (train) juniors by senior staff members was a very big error and Allowing for the development of Part 138 check and training to achieve these goals will be a very big step toward fixing this problem as long as it is not hindered by unnecessary hurdles. One example of an unnecessary hurdle, and I'm sure there are more, is the requirement of Part 138.100 (2)(b) for the head of check and training to be qualified to fly each kind of aerial work operation that the operator conducts. The head of check and training must be able to rely on type specialists for some activities which he/she is either not current or not especially experienced in. Sometimes mentor pilots are just senior people who have shown over time to be skilled and knowledgeable at a particular operational activity. Their ability to pass on information and help steer a junior away from various pitfalls is something the head of training and checking should be allowed to accommodate without being hindered by unnecessary restrictive regulation.

> ANON-92FN-6V5M-D Introducing requirements for a training and checking system for certain activities is a good idea which some operators will already have in place. This could reasonably be expanded to include other less complex aerial work functions.

> ANON-92FN-6VRS-G Too complicated, potential for confusion with existing CAR 217 requirements (what is happening with 217??) , and with the training provisions of

141/142. Why not just Training and Checking program to be appropriate to the operation?

ANON-92FN-6VR1-E Clarify that the same training and checking systems may be used across other certificates to avoid potential organisational duplication or move the training and checking system requirements to CASR Part 119. E.g. 3) a training and checking system established to support operations under another certificate satisfies the requirements in this regulation provided the system encompasses the competencies required under CASR Part 138.

ANON-92FN-6VRC-Z Firstly I would like to say that I wholeheartedly agree with the formalisation and standardisation of check and training. I believe that there are significant safety benefits in broadening the scope of the formal training that is conducted across the industry. I do, however, believe that the proposed requirements for check and training are overly burdensome. Much of this is due to the crossover between the requirements of this Part/MOS and Part 61. This issue needs attention…… The Part and the MOS are also completely unclear as to what must be included in the C&T system once the requirement is triggered. For example, you must have a C&T system if you operate multi engine, transport category helicopters over 3175kg. Does this mean the C&T system only has to cover ME over 3175kg operations only or does it then have to envelop ALL Part 138 operations conducted? Does an operator who has conducted SEH Part 138 operations for a long period with no C&T system required who then adds a rotorcraft, as above, have to implement a C&T system across their entire operation even though the existing FCM's newly included in the C&T system may have nothing to do with the ME over 3175kg ops? This creates a huge disparity in time, effort and cost across different operators conducting predominantly the same operations.

CASA response

Where an operator is only an aerial work operator, and uses multiple kinds / types of aircraft and conducts multiple aerial work activities, if any one of those aircraft or operations are specified in regulation 138.125 as being a trigger for the operator requiring a training and checking system, then the training and checking system must encompass all of the operator's aerial work operations. Requirements for training and checking systems under Part 119 and Part 138 are separate from the perspective that if an operator holds an Australian air transport AOC and an aerial work certificate, the requirement to have a training and checking system for the operator's Australian air transport operations does not mean that system must encompass the operator's aerial work operations.

Where an operator, after commencement on 2 December 2021, holds (or is deemed to hold by the transitional rules) both an Australian Air Transport AOC and an aerial work certificate only one training and checking system is required providing the system covers the requirements of both Parts 119 and 138 of CASR.

CAR 217, CAO 82.0 and CAO 82.1 will be repealed on commencement (2 December 2021) of the new regulations. Existing CAR 217 systems will generally meet the outcome-based requirements of the new regulation 138.130 but may require some modification to specific and

individual training and checking requirements to match the requirements within the Part 138 MOS.

The Head of Training and Checking is required to be qualified to fly 'each kind of aerial work operation'. The types of aerial work operation are defined very broadly as: dispensing, task specialist and external load operations.

Following consolidation of the Subpart 138.N aerial work training and checking regulations, CASA has further consolidated and simplified the training and checking requirements in the Part 138 MOS.

CASA notes the comments regarding the interactions between Part 138 of CASR and Parts 61, 141 and 142 of CASR. CASA has already engaged with industry through the flight crew training and licensing TWG on licensing issues and the proposition to reshape specialist training to be more operationally based.

Flight crew training and checking – with a training and checking system

The aim of this proposed policy is to provide operators who are required to have a formalised training and checking system with appropriate outcome-based flight crew training and checking requirements, including general competency and duration of competency checks.

Key feedback

Several respondents believed the requirements were too prescriptive while others commented that the policy should not be open to interpretation, stating a desire for a nationally consistent standard.

Interaction with other training and checking systems

There were questions about how a training and checking system under Part 138 of CASR worked within the context of the other CASR Parts and the previous systems under CAR 217 together with requirements under Civil Aviation Order (CAO) 82.0.

Some examples of this feedback are extracted below:

> ANON-92FN-6VKG-W - PART 61 discusses the types of training which must be conducted in a simulator and CAO 82.0 mandates the use of a simulator for particular aircraft. Where will that requirement now sit? To avoid confusion PART 138 should consider referencing where the simulator usage requirements will lie.

> ANON-92FN-6VSJ-8 - Nothing to do with GA Airwork operations way out of the context of what we do!!!! Again EMS & Marine Pilot Transfer should not be here!!
>
> Once again to prescriptive – the unsafe issues here are the crossovers between CAR217 and Part 61 (both of which needs to be completely pulled apart and fixed) too many grey areas here – especially for those core GA operations.

ANON-92FN-6VRV-K - The devil is in the detail with the proposed policy. The policy itself is good - the implementation will be everything. CAR 217 is just a paragraph that is currently very widely interpreted depending on the regulatory office. Very strong guidance material will be required to achieve Australia wide standardisation of the proposed flexible / scalable nature of the proposed legislation.

BHLF-92FN-6VRB-Y - 24.03 (1) (b) appears less flexible than the current 217 system.

24.03 It would be nice if CASA would put in here that conducting said Operator Proficiency Check under this regulation (Subject to OM and TCO approval) will satisfy the applicable Part 61 regulation for the flight review/proficiency check. A pilot that can in an OPC satisfy 24.02 (2) (a-c) for an operator surely meets the simpler Part 61 standards?

I see the individual check pilot is given the nod if they hold the requisite Part 61 qualification. So we are saying check pilots that do these OPCs really should be Flight Instructors and/or examiners? Therefore, a Check Pilot conducting OPC and does not hold the P61 approval for FR/PC is conducting OPCs that do not account for the piloting standard? Seems a bit disjointed.

This would likely be easily resolved if there was an option on the 61-2P for an OPC to be recorded and CLARC has access to the check pilot approval database

CASA response

See the details above regarding the interaction with the other CASR Parts and previous requirements under CAR 217 and CAO 82.0.

The comments regarding use of available simulator for training or checking are noted. CASR Part 91 has requirements in relation to multi-engine aeroplanes and the use of available flight simulators.

CASA notes the comments regarding the interactions between Part 138 and Parts 61, 141 and 142 of CASR. CASA has already engaged with industry through the flight crew training and licensing TWG on licensing issues and the proposition will also commence a project to examine and consult further with industry the potential to reshape move some specialist training to be more operationally based.

Flight crew training and checking – without a training and checking system

The aim of this proposed policy is to provide operators who are not required to have a formalised training and checking system with appropriate outcome-based requirements for flight crew training and checking, including general competency and the duration of competency checks.

Key feedback

Feedback on this proposal ranged from overly burdensome to all operators should require a formal training and checking system. Many noted that this was a formalisation of requirements that some operators already have in place.

Some examples of this feedback are extracted below:

> ANON-92FN-6VKC-S All companies should require a Training and checking system.
>
> ANON-92FN-6VSR-G Overly burdensome. Not clear on the qualifications required for the Head of Operations. Over reliance on Part 141 and Part 142 operators. Suggests that multiple checks will be required for each aerial work activity the operator undertakes. For us, this will require potentially 8 to 10 checks, depending on whether multiple aerial work activities are similar enough to be conducted at the same time.
>
> ANON-92FN-6V5X-R This section adds a basic level of requirement and provides enough flexibility to fit most organisations. The general principles of Paragraph 25.06 should allow the operator to choose a type/operations specialist to conduct training and checking of company personnel.
>
> ANON-92FN-6V5M-D This is a good idea, formalising something that many good operators already have in place.
>
> ANON-92FN-6VRS-G CAR 217?? OR - Shouldn't this be the approach across the board for 138 – outcome based commensurate with the operation why have "formal" C&T for some Ops and "outcome based C&T for others under 138?
>
> ANON-92FN-6VR1-E There is not a whole lot of difference between a 'formal' or 'other' training and checking system. Therefore for ease of management and to ensure consistent safety outcomes, a training and checking organisation would be far simpler. The training and checking organisation should be commensurate with the size and nature of the CASR 138 certificate holder.
>
> BHLF-92FN-6VRB-Y I think the annual component of this is a good step forward for AWK operators.

CASA response

CASA's response is outlined in an earlier section. The deletion of multiple regulations within Subpart 138.N has resulted in the training and checking content of the Part 138 MOS being significantly restructured and simplified.

Air crew member training and checking

The aim of this proposed policy is to provide operators that are required to have a formalised training and checking system with the appropriate outcome-based requirements for air crew member training and checking.

Key feedback

Respondents were generally of the view that the requirements were too prescriptive, and the related definitions lacked clarity

Interaction with other training and checking systems

There were questions as to how a training and checking system under Part 138 of CASR worked within the context of other CASR Parts and the previous systems under CAR 217.

Respondents also noted that where an operator conducted air transport operations and aerial work operations the training and checking system requirements should align and such operators should be able to use the same system

Some examples of this feedback are extracted below:

> ANON-92FN-6VKK-1 While it is accepted that aircrew training and checking for other than pilots must be captured somewhere to ensure there is an appropriate head of power for this function to occur, Ch 26 of the MOS has the same highly prescriptive approach that has already been rejected for other elements of training and checking…

> ANON-92FN-6VGB-M Really we already covered this in our ops manuals.

> ANON-92FN-6VR4-H This should be aligned with Part 133 because if an aircrewman is going to straddle both Parts their requirements must be identical. The MOS content itself is too prescriptive for AWK air crew training.

> ANON-92FN-6VR5-J Part 138.135 appears sound in it's intent. Some operators will find properly developing this a sizeable task.
>
> I do find the term "air crew member" confusing in where it sits with "flight crew", "safety-critical personnel", "task specialist" and "air work passenger". Based on the proposed definitions, a crew member or passenger could fall into one or more of these based on an individuals perception/point of view, therefore changing the requirements. For example can an air work passenger sit in a control seat equipped with dual controls but if that same individual sits in the same seat but as a "air crew member" they now need a cert IV in Aviation or equivalent?

CASA response

The prescriptive elements are those which frame the basic requirements for recurrent training timings and emergency proficiency training. Otherwise, the requirements are driven by the operator's procedures and they are to be tailored to the nature, size and complexity of the operation and the aircraft.

Air crew member and task specialist definitions are being clarified in the miscellaneous amendment package. These definitions will be further clarified and expanded on in guidance material. The proposed changes to the MOS chapters for the training and checking of these kinds of crew members are very similar in concept to the changes proposed for the flight crew

training and checking chapter. The Subpart 138.P regulations have been simplified in a similar manner as was done for Subpart 138.N.

Task specialist training and checking

The aim of this proposed policy is to provide operators with appropriate outcome-based requirements for 'task specialist' training and checking.

Key feedback

While many respondents acknowledged the need for training for these members of the crew, many felt that it was not clear how they differed from air crew members and, consequently, how the training requirements differed from other members of the crew.

While some respondents thought that the requirements were too prescriptive others thought that the requirements were open to interpretation and would result in inconsistent application.

Some examples of this feedback are extracted below:

> ANON-92FN-6VSR-G Overly burdensome. Not clear what the difference is between a task specialist and aircrew member. For us, this will require potentially 8 to 10 checks, depending on whether multiple aerial work activities are similar enough to be conducted at the same time. No demonstrated safety improvement over the current system.

> ANON-92FN-6VKK-1… While it is accepted that task specialist training and checking must be captured somewhere to ensure there is an appropriate head of power for this function to occur, Ch 27 of the MOS has the same highly prescriptive approach that has already been rejected for other elements of training and checking…

> ANON-92FN-6V5W-Q The basic premise of this is a good idea, but once again, how will it be implemented and by who, and how will CASA ensure consistency between FOI's etc who have to actually check this is going on in the field?

> ANON-92FN-6V5X-R The numbering of MOS Paragraph 27 is messed up making the references incorrect Task specialists can have a wide range of roles, some of which are very simple and do not impact on the safety of the flight.
>
> The aim to provide operators with appropriate outcome based requirements is only partially met, as Chapter 27 has specifically prescribed a competency check of task specialists and does not seem to allow an Aerial Work Certificate Holder to scale down the training for say a basic aerial photography job in an R22.
>
> According to Paragraph 27.02 there must be a competency check carried out on this person in the carrying out of normal, abnormal, and emergency procedures as are relevant to the nature, size and complexity of the operation and the aircraft. This person who just wanted to take a few photos of a new development will have to complete a training course and checked for competency.

The wording for task specialist training should be the same as in Chapter 27 Division 4 for Limited Aerial Work Operators where it states a pre-flight briefing is sufficient for the most simple of task specialists (i.e. photographer, spotter etc) and scaled up accordingly to account for the impact on safety and complexity of the activity of the participant.

ANON-92FN-6VR7-M Task specialists covers a vast area of operations. It can be simply Joe Bloggs off the street who wants to go and do some aerial photography out of a Bell47. I don't think we should require an extensive training and checking system in this type of scenario , where a thorough brief will suffice. Needs to be specific examples of what specialists this is aimed at Or operators will be unable to carry out many simple tasks.

ANON-92FN-6V5M-D This will work provided that the interpretation of MOS 27.02 (2) is left to the operator and not to an over-zealous inspector or auditor. The training required should indeed be “relevant to the nature, size and complexity of the operation and the aircraft”. Some functions, for example camera operators in aerial filming, are very simple and the emergency procedures are minimal. Some further provision in the wording should highlight this to preclude the possibility of onerous and/or inconsistent interpretations of the requirement.

BHLF-92FN-6VRB-Y Good to see the other members of the crew (Other than FCM and Aircrew) get recognition in this MOS.

ANON-92FN-6VRC-Z My comments on this section are the same as the previous section on Air Crew training. There is not enough clarity on what a task specialist actually is. The MOS definitions for task specialist operation refer you to CASR Part 138 section 138.010(4) which states it is carrying out a 'specialised activity' using an aircraft in flight...'.

How do we determine what is and what is not a 'specialised activity'.

This has no definition and leaves the requirements completely open to the interpretation of individuals both as operators and within CASA.

CASA response

CASA has simplified the standards with a focus on training rather than checking. The definitions are being clarified in the miscellaneous amendment package. These definitions will be further clarified and expanded on in guidance material.

Providing the limitations on their carriage can be complied with, it also should be noted that a person can be carried as an aerial work passenger. Aerial work passengers require only a briefing and do not require training.

Risk assessments

The aim of this proposed policy is to prescribe risk assessment requirements for an aerial work operator appropriate to the size and nature of the operation, to identify the hazards and risks unique to their operation and to ensure that the operation can be conducted with an acceptable level of risk.

Key feedback

Most of the feedback on risk assessments was that the requirements were too prescriptive and would be better placed in guidance material.

Standard procedures and Risk Register

The feedback also noted that an operator should be able to maintain a risk register for their various operations with standard procedures to address the identified risks. The identified risks should be revisited prior to commencing operations to confirm any assumptions made in the risk register remained valid and were able to be mitigated to an acceptable level using the operator's standard procedures.

Some examples of this feedback are extracted below:

> ANON-92FN-6VK9-F Use an AC to provide adequate guidance.

> ANON-92FN-6VKH-X These should not be written into regulation at all - far too prescriptive - GA operator's and contracted clients already have this in place when carrying out higher risk operations, and managed through their own set of procedures…

> ANON-92FN-6VKG-W 13.02 does not appreciate that for mature operators most aerial work functions are routine. 13.02 (2) should only be activated if the operator does not have an existing RMP for the activity. For operators with strong SOP and published RMP's the requirement would be for the pilot in command to be familiar with the RMP hazards and controls and if he/she considers it necessary they shall amend the RMP during the pre-flight/task brief. Also note that the pre-flight assessment may occur in flight and is in fact a pre-task assessment. Example: ESO's roll from one activity to the next as a task evolves - consider a police operation that commences as general patrol, leading to a search, and concluding with a winch. There may be little opportunity to shutdown and re-brief between sequences. Similarly police operations regularly commence as a day VFR activity and conclude as a night or IF activity with no opportunity to shutdown and re-brief in between.
>
> The relief offered at sub paragraph (8) is insufficient, '...if an ESO must be carried out so urgently that there is insufficient time...' is incredibly subjective and the answer to that will often not be known until after the fact, and even then the answer will be dependent on the outcome of the task. The requirement for a pre-flight risk assessment should be permanently waived in favour of strong SOP and RMP's.

ANON-92FN-6VSR-G Due to the nature of a number of aerial activities there may be limited opportunity for a formalised risk assessment process before flight that would be in anyway meaningful. CASA would be better requiring an operator to have formalised risk assessments conducted on each category or type of operation which includes the assumptions made during the risk assessment process (fully serviceable aircraft, well rested crew, day VMC conditions etc). The pilot in command can review the risk assessment and assumptions to ensure they are still valid. If they are not valid, the pilot in command can review the risks pertaining to the changes of assumptions and ensure that the mitigations are valid and whether additional mitigations are required. This could be captured on a simple form noting the hazard identifier and whether any change is required.

ANON-92FN-6VKK-1 Risk assessment is such a fundamental part of every aerial work mission that it should be included in the regulations proper - but in an outcome based regulation that allows appropriate flexibility and innovation…

ANON-92FN-6V5M-D Nobody doubts the need for, or the benefits of, risk assessment processes. On the contrary this is generally embraced. The MOS on this subject is incredibly (and unnecessarily) detailed and complex. My head was swimming after reading 13.04 (9) for example. This level of detail should be in a guidance document. Having each of these details listed as a specific legal requirement is highly onerous.

ANON-92FN-6VR5-J I very much agree with a sound sound and sensible risk-assessment process for all aerial work operations. There are some sound points here. It's good to see that the 138 MoS ch 13 provides some flexibility for the "nature, size and complexity" of the operation. it would save a considerable amount of confusion if the note after 13.02(6) "A written pre-flight risk assessment is only required for an aerial work operation that is over an AWZ" was more obvious. Many people will interpret the 138 MoS as over complex and onerous if a written risk assessment is required for every operation.

Part 138.370 is a little odd in that the title says "Operator must conduct risk assessments" however the sub paragraphs refer only to the fact that CASA might write something in the 138 MoS and don't actually specify that a risk assessment must be done

CASA response

CASA has amended the risk assessment and mitigation process requirements to be consistent with the following outcome-based policy that requires an aerial work operator, prior to commencing aerial work operations, to develop an operational risk assessment process that has published risk management plans and risk mitigating standard operating procedures.

The operational risk assessment process should be appropriate for the nature, size and complexity of the operation and would be able to satisfy the operator and the crew members that the operation:

- is within the capability of the aircraft, organisation and crew members for the flight or series of flights; and

- does not involve an unacceptable level of risk.

A written pre-flight risk assessment is only required for an aerial work operation that is over an AWZ (other than an ESO). For an ESO over an AWZ, the operator and aircraft crew would have to have a process in place to ensure that the operation is safe to continue without unacceptable risk to the crew, the aircraft or any other person or property.

These requirements would be supported by guidance material.

Rules for external load requirements

The aim of this proposed policy is to appropriately describe the different classes of external load and specify the common or specific rules for the different kinds of external load operations. The rules aim to ensure that the risks of each class of external load are mitigated appropriately.

Key feedback

A number of respondents were of the opinion that the proposed requirements could be complied with; however, requirements to comply with the aircraft flight manual and weight and balance limitations did not need to be restated.

Some respondents noted issues in the detail of the drafting including noting that hover exits were specifically referenced while hover entries were not.

There were also questions about the classes of external loads and where particular external loads fitted within the five classes.

Performance and external loads

Others thought that the performance requirements relating to external loads added an unnecessary complexity that could be managed via operators' standard procedures and risk assessment requirements.

Risk management plans

There was confusion around when a risk management plan needed to be in writing and when it required approval by CASA.

Some examples of this feedback are extracted below:

> ANON-92FN-6VRC-Z This chapter of the MOS in the main does not present a problem in conducting external load operations and the description of the types of external load are clear. The issue with this chapter is that much of the content is irrelevant. All aircraft must be operated according to the AFM or supplement and must be operated within weight and balance limitations so to stipulate this requirement in the MOS is unnecessary repetition. This chapter also refers back to chapter 13 Risk Assessments which as mentioned in that specific section is problematic.

> ANON-92FN-6VR5-J The majority of this proposal appears ok. Notes on this proposal include.138.395(3) how does this affect snorkels on belly tank fire-fighting helicopters? Many of these tanks extend below the landing gear. This regulation may make all

these tanks illegal .Most of 138M Mos Ch 15 is good. It is complex but the classes and descriptions largely make sense. However 15.06(7) is bit confusing in that the title "Class D external loads - hover exits" does not reference hover entries as well (the paragraph however does mention emplanning). It also appears to proclude persons such as flood victims who may be emplanning but would not have received exit/entry training in accordance with the operators operations manual.

ANON-92FN-6VR6-K These should not be written into regulation at all - far too prescriptive - GA operator's and contracted clients already have this in place when carrying out higher risk operations, and managed through their own set of procedures.

ANON-92FN-6VRE-2 Some sections are OK but I believe certain parts of this Chapter require a rewrite. See below…15.01 Classes of external loads – This is generally OK but I am a little unclear as to what might constitute a Class A external load. Maybe something carried on an open litter?. …15.06 Operational requirements if a person is picked-up or set-down – I have multiple problems with this subsection…Overly complex due to trying to restrict operations to PC2WE and then providing a poorly worded reason to not have to. The rule should just state that the minimum requirements at night are NVIS and the requirements of 9.04 (b), (c), (d) and (e) unless circumstances indicate a higher standard. Put a statement at the beginning of the regs “Risk Assess everything you do that has the potential for variables… Section 13.04 Paragraph (5) specifies you need to submit your RMP to CASA for an external load operation over a populous area unless subsection 10 applies (which pertains to retention of RMPs so not sure of the relevance), paragraph (6) then goes on to say you don’t need CASA approval if conducting the operation entirely within the AWZ which is totally under the operators control and then at this Section 15.09 Paragraph (1) it says you do need CASA approval???? Nothing clear and concise about this…

CASA response

As outlined earlier in this document, CASA has redrafted the performance requirements to utilise a concept of *one engine inoperative (OEI) accountability*. Under circumstances where there is risk to third parties, *OEI accountability* would be required as an alternative to requiring compliance with the Part 133 performance code.

In addition, the risk assessment requirements have been amended (as outlined earlier) and these requirements will be supported by guidance material and acceptable means of compliance including the requirements for an aerial work zone risk assessment (AWZ RA).

Chapter 15 of the MOS has also been reviewed and amended where appropriate to capture the specific issues identified in the consultation comments.

Requirements for carrying, possessing and discharging firearms

The aim of this proposed policy is to prescribe requirements for the carriage and discharge of firearms during task specialist operations to ensure the safety of the aircraft and its occupants.

Key feedback

Several respondents noted that the proposed standards were in line with the current requirements for discharging a firearm from an aircraft. Also, there were questions relating specifically to the carriage of a firearm rather than the discharge of a firearm during flight.

Proposed national standard compared to current individual permissions

Several respondents commented that the proposed standards included in the MOS was an improvement and a cost saving compared to the current situation, where there was a need to apply for and renew a separate instrument of approval. Other respondents preferred the current system and thought that the proposed requirements were too prescriptive.

Some examples of this feedback are extracted below:

> ANON-92FN-6VKZ-G Each GA operator must comply with the weapons act for each state they work in, this is the basic start of any shooting operations - CASA cannot come in and override these directions. We already have CAR133 & CAR 144 approvals, but these probably need some attention. Far too prescriptive and not workable, lets work and fix what we have as they can be easily read and understood unlike the new CASR.

> BHLF-92FN-6VRB-Y What about if all the operator wants to do is carry the firearm? The requirements sections appear solely aimed at the discharge of firearms.

> ANON-92FN-6VGC-N This Division 3 of Chapter 17 represents one of the most blatant and ridiculous overregulations of an activity within the Part. It is not clear what 'problem' CASA seeks to remedy with this detailed, complex and highly prescriptive approach that creates a number of new training requirements that are not directly relevant to the safe operation of the aircraft or the conduct of the operation. The current relatively simple system has not resulted in any upswing of accidents that would warrant such a draconian regulatory response. This is a clear case of regulatory overreach, prescription versus outcome and a lack of understanding of the operation and the context. The section should be removed and recast through simple, outcome based requirements and if necessary the publishing of an AMC.

> ANON-92FN-6VRC-Z I believe the inclusion of these requirements in the MOS is a fantastic improvement. There is nothing held in the MOS requirement in addition to current requirements but its inclusion will remove the need to periodically applying for an instrument allowing the operation and the inherent cost involved.

> ANON-92FN-6VRK-8 I believe that the proposed aim is achieved, however, is this the only legislation that pertains to this type of operation now. Is there anywhere else a pilot need to look to ensure they comply with these operations? Can this be done without an aerial work certificate.

> ANON-92FN-6VRQ-E Mostly seems reasonable.

CASA response

CASA is responsible for regulating the safe carriage and discharge of firearms from aircraft. Ensuring compliance with the firearms legislation in each State and Territory only partly satisfies this requirement. CASA has amended Chapter 17 of the MOS to distinguish carrying and possessing a firearm from discharging a firearm in flight, so that a firearm can be carried without the additional requirements that apply to discharging a firearm while in flight.

These requirements replace the existing individual permissions relating to the carriage and discharge of firearms. Therefore, operators will no longer need to apply for and renew existing permissions following commencement of Part 138 of CASR as they are now built into the MOS itself.

Limited aerial work operators - Aerial work operations not required to hold an aerial work certificate

The aim of this proposed policy for the Part 138 regulations is to continue the existing private operations alleviation that permits the conduct of certain kinds of aerial work without a need to hold a certificate.

CASA asked whether operators currently conducting ‘private’ aerial work be permitted under Part 138 to continue to conduct these operations without an aerial work certificate?

Key feedback

The response to this question was mixed. Some respondents were of the opinion that the requirements for all aerial work operators should be identical irrespective of how the operation was structured or renumerated. Others thought there was a place for uncertificated operations in more restricted circumstances compared to the current requirements and what is currently proposed in Part 138 of CASR.

Most of the feedback suggested that CASA needed to conduct additional surveillance of non-certificated operators which was not possible if CASA was not aware of the operation.

Some examples of this feedback are extracted below:

> ANON-92FN-6VGZ-C … In particular, it is important to maintain standards of safety regardless of whether an operation is commercial or private and it is difficult for CASA to play any role in this is they have no database of certificate holders who are undertaking the operations. Consequently, 'private' aerial work operations should be abolished and all aerial work operations placed on the same safety standing – albeit with the proviso that some aerial work operations currently under Part 138 as named above, could be removed from the part completely.

> ANON-92FN-6V57-Q Yes however these regs do not work or cover every eventuality. Under these rules the pilot has to work for free. This can never be the case. I don't see how many of the current private pilots flying aerial work will ever get certified by CASA or checked by CASA. This is one of the main reasons I changed from being a Mustering orientated company to conducting mustering only as a very minor part of my business. There are so many private pilots out there and stations with their own

machines and many of them are ex commercial operators who still conduct paying jobs for their neighbours or whoever will let them get away with it.

The other side is the brand new pilots who go from licence to mustering on the property that owns the aircraft, with no supervision or mentoring. This is where the accidents come from and there is no oversight from CASA to these pilots. They also conduct lots of 'paid' jobs (for hire or reward) with the neighbours usually.

In the interest of safety I would like the ability to fly with and mentor the new pilots even though they may only hold PPLs I know this is an unpopular view from the big operators however they are not going to go away. the helicopter has become affordable the bigger stations and is an invaluable tool.

ANON-92FN-6V5W-Q This is a current disaster and causing many accidents and deaths in the helicopter mustering industry. Part 138 is an opportunity to raise standards and increase safety and yet CASA is proposing to let the current situation continue which will undoubtedly kill more people. Forgetting the commercial "business" aspects of this, just focus on the safety.

If a person wants to be a mustering pilot and conduct mustering operations they should have to meet the same criteria regardless of whether they are a "private" (non certificate holder in 138) or commercial (certificate holder in 138)

Raise the standard to if a pilot wants to muster;

- must hold a commercial license, regardless of whether operating private or commercially, because it simply requires that level of skill as minimum

- must be trained supervised by an experienced commercial pilot until they have 100 hours mustering time (can be dual and solo or ICUS or whatever)(this has been industry standard for 30+ years for professional commercial operators anyway)

- must hold a 138 certificate (but make sure that is a simple and straightforward process that can be obtained within a month not like an AOC which take 2 years to get issued).

ANON-92FN-6V5D-4 NO - and AOC's should be continued for airwork and charter operator's, NOT certificates they do not have CASA oversight once issued, operators currently have spent considerable time and money gaining and AOC and going over to a certificate and allowing private operators to continue working without a certificate is a very unfair playing field!..

ANON-92FN-6VR1-E If a standard operations manual is being provided by CASA, the issuance of a Limited Aerial Work Certificate will tie this into requiring the existing private operation to comply with the CASA standard operations manual. The issuance of a Limited Aerial Work Certificate should not be onerous.

ANON-92FN-6VRG-4 There is a vast difference between a small private operator conducting aerial work operations over one small property and a large organisation with many aircraft and employees working over multiple large properties (as per some large mustering operations), with the large 'private' operators not subject to the same

> scrutiny and regulatory requirements as AOC holders. CASA should propose, and agreement be reached with industry, about the maximum size and scope of private operations so as not to overly penalise legitimate small private owners, but to also add a greater level of accountability to the larger ones. Any operations greater than that size or scope should be required to have equivalent systems in place and be subject to CASA surveillance in the same way as certificate holders.

CASA response

Noting the range of feedback on this issue, CASA proposes to commence a separate project to develop a policy proposal for further consultation in 2021.

Proposed Part 138 regulation amendments

The aim of amending certain Part 138 regulations is to:

- ensure approvals are legally effective
- increase flexibility for industry in relation to certain matters
- align with other CASR parts where appropriate
- ensure appropriate aviation safety outcomes for operations not required to hold an aerial work certificate.

Key feedback

Aerial work passenger and Night VFR limitations

There were a number of comments on the proposed amendment to regulation 138.310 regarding the carriage of aerial work passengers at night under VFR.

Definitions and consolidated dictionary

There was also a substantial amount of feedback on the definitions being in multiple places and the need for a consolidated dictionary.

Some examples of this feedback are extracted below:

> ANON-92FN-6V5T-M Reg 138.310 - Need to be able to carry more than two task specialist passengers by night under the VFR. It is a regular occurrence for my staff to carry four marine pilots at night by VFR rated pilots. This is common when the task specialist are under their own training and thus double the passenger carrying requirement. If this requirement was to remain then the additional cost of training 26 pilots to hold an instrument rating will be worn by our clients whom will not outlay this massive cost. 138.400 Need to include Marine Pilot winching by day and night. Currently excluded and one flight may be land on followed by a winch therefore operated as one task and cannot operate between part 133 and 138 on the same flight. This is a critical inclusion into Part 138. MOS 15.02, 15.05 allows task specialists to be carried as external loads.

> ANON-92FN-6V5M-D,I agree with most of the changes; those where I differ or wish to comment are as follows: Terminology and Definitions:

Can we PLEASE just have ONE dictionary which covers ALL definitions from ALL Parts.

If there's some legal reason why certain definitions absolutely must be in the relevant Part then put them in both the Reg and the Dictionary. While there, please put the dictionary at CASR 1.004 where it belongs (see CAR2 as an example).

Finally can we PLEASE stop using the term "…has the same meaning as in (sub)regulation….". Just repeat it verbatim and then reference the other location. This practice, whilst no doubt "good legal drafting" is infuriating and utterly counter-productive to engaging with regulation. It is a massive waste of time and energy and detracts from a clear understanding of the subject matter.

Applying additional regulations to aerial work operators without a certificate:

All good stuff but as I mention earlier, there needs to be some mechanism for private operations to be monitored to ensure they are legitimate.

Amendments to specific Part 138 Regulations:

Regulation 138.310

I disagree. This regulation should remain unchanged to allow up to 2 aerial work passengers to be carried under these circumstances At the very least a distinction should be made regarding "dark" NVFR conditions versus "populous are light loom", with the IF/ NVIS requirement applying to the former but not to the latter.

ANON-92FN-6VRV-K Terminology and definition changes: We would like to see the definition of ESO amended to include not only protection of the environment but also to include maintenance of essential services (ie gas pipes, water infrastructure and power infrastructure). Powerline fault spotting can for example pick up downed poles that can start fires. Lack of power infrastructure can lead to other issues (for hospitals etc).

BHLF-92FN-6VRB-Y If regulation 138.310 is amended it should still allow NVFR with AWK PAX (But with IFR aircraft and crew) so that NVIS can still be achieved in it's current format.

CASA response

Regarding regulation 138.310 of CASR and the comments about the carriage of aerial work passengers under the VFR by night, CASA has deleted this regulation as part of the consolidation of the MOS heads of power. The MOS now prescribes all the requirements for the carriage of aerial work passengers. The requirements regarding the carriage of 1 or 2 aerial work passengers at night are currently located in section 11.03 of the MOS.

The feedback on the definitions and the lack of a common dictionary are noted. CASA proposes to issue a non-legislative consolidated dictionary as a guidance document to address this concern.

General comments

Key feedback

The general feedback was that there were benefits to the policy requirements in Part 138 of CASR. However, these benefits were not readily apparent and were lost in a complex and prescriptive drafting style including referencing to multiple documents.

Some examples of this feedback are extracted below:

> ANON-92FN-6VKE-U These proposed regulation changes appear to be a pro- active step by regulators to "streamline" and adopt a "common sense" approach to antiquated regulation.

> ANON-92FN-6VGK-W The Part 138 suite and especially the MOS represents all that is wrong with CASA and the regulatory reform program. The MOS is characterised by complexity, length, poor language, regulatory overreach and prescription that is likely to detract from aviation safety rather than build it. This has been achieved over a decade of sham consulting with industry and is now being rushed through to an imagined deadline at the risk of causing long-term harm to industry through massively increased costs for no safety gain. Both the regs and the MOS should immediately be withdrawn. A joint CASA/industry peak body task force should be urgently constituted to review both the regulations and the MOS from first principles based on safety data and risk management principles and reintegrate any relevant sections from the MOS into the regulations proper with the aim of abolishing the MOS. The regulatory approach should be firmly based on outcome based regulations, with suitable advisory material supplied through Acceptable Means of Compliance or similar. In particular, a superior framework for the classification and management of aerial work functions must be developed and the current non-sensical four category approach overhauled. This consideration should also identify, from a risk assessment basis, aerial work operations that do not need to be captured in the regulatory suite because of the relatively simple nature of the work and existing risk controls in place through Part 91 and Part 61.

> ANON-92FN-6V5M-D Structure: I understand the concept of the separate Regulation/MOS. The unhappy by-product is a staggering amount of cross-referencing. This has the unfortunate consequence of leaving the audience frustrated, confused and ultimately numb. Also, it is sometimes difficult to know which one I'm reading- the Reg or the MOS- which has me asking, what's the point? Plain Language: I had always hoped that the regulatory reform process would lead to a suite of Parts which were easier to read, understand and to follow. I'm afraid here that Part 138 has failed dismally. Industry is generally out here willingly doing the right thing; making it excruciatingly difficult to understand what the right thing is, is hardly the way to engage the audience. Part 138 generally seems to be a more complex, confusing and over-regulated document than the group of documents it replaces. Definitions: Finally, as above, may we please just have the definitions in one place. All of them. For all parts of CASR, and CAR and whatever else is left. Preferably at the beginning of the CASR rather than the end, but all in one document.

ANON-92FN-6VRC-Z In general I support the intent of the proposed Part 138 and MOS, however I believe this intent has got completely lost in the translation to what has been presented to industry. The simplification of an aerial work approval to be only three categories requiring official assessment and approval is a positive move. To be able to add further operational capabilities to an operations manual and simply have that assessed without requiring a full assessment and issue of a new AOC is fantastic. Also the inclusion of such items as the use of harnesses and the carriage and discharge of firearms in the MOS removing the need to apply for renewal of approvals with the associated costs is excellent. The formalisation and standardisation of the requirements for check and training will provide significant safety benefit to the industry, but In general the document is overly prescriptive and complex. It requires significant simplification and the removal of irrelevant material. The definitions are too vague and too difficult to find…

Comments and proposed next steps

Regarding the calls to 'abolish' the MOS, CASA notes the independent Aviation Safety Regulation Review (ASRR) in its report recommended a three-tier legislative approach at recommendation 30. Recommendation 31 recommended that regulations not yet made be redrafted in accordance with this three-tier approach.

Implementation of the ASRR recommendations resulted in requirements being moved from regulations to the MOS. CASA acknowledges that as the MOS approaches completion an adjustment is required between the MOS and the regulations. Where multiple regulations provided the ability for the MOS to prescribe requirements in relation to similar topics, CASA has consolidated where possible these heads of power. Additionally, where specific requirements for a given topic were split across the regulations and the MOS, where possible CASA has amalgamated the requirements within the MOS. Twenty-six regulations have been deleted as part of the miscellaneous amendments instrument. The outcome has been a simplification of some areas within the Part 138 regulations and significantly simplifications across almost every chapter of the MOS. A number of regulations have been modified to ensure consistency of requirements between other CASR Parts.

CASA is developing plain English language guidance material together with acceptable means of compliance to assist in consolidating the requirements of the regulations and MOS into one place.

Future direction

The four themes found in the responses were:

- complexity in the regulations and MOS
- performance standards
- risk management standards
- Part 61 of CASR issues related to Part 138 of CASR.

CASA has amended the Part 138 regulations and MOS as described above and engaged with the TWG throughout this process. CASA will continue to engage with the TWG as development of the guidance material progresses.

CASA will commence another project to separately develop and consult with industry on the policy of conducting aerial work operations without a certificate.

CASA has already engaged with industry through the flight crew training and licensing TWG on licensing issues and will also commence a project to examine and consult further with industry the potential to reshape some specialist training to be more operationally based.