



**United Firefighters Union of Australia
Aviation Branch**

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30th June 2008

The Secretary
Senate Standing Committee on Rural & Regional Affairs & Transport
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Secretary

UFU Submission to the Senate enquiry into CASA

The UFU welcomes the Senate inquiry into the administration of CASA and other related matters and would welcome the opportunity to provide detailed submissions to the public hearings that will follow.

Our concerns relate directly to the effectiveness of CASA's governance and administrative structure - particularly in relation to the effect this has on the development, introduction and oversight of new Civil Aviation Safety Regulations (CASR) regulatory reforms relating to Aviation Fire Fighting and Rescue (ARFF) services in Australia (CASR139H).

Given our previous correspondence on these matters are somewhat voluminous, the issues that most directly relate to the Terms of Reference are listed below with brief explanatory notes in lay terms.

Our primary concern is that CASA continues to demonstrate that it does not have a willingness or capacity to enforce regulatory compliance to the minimum standards and practices required by CASR139H. Included below are just some examples of how CASA is failing in its safety oversight role and how ineffective governance is adversely affecting the safety of the travelling public.

Of serious concern is CASA blithely approving alterations to operational functions through exemptions that have resulted in, (a) reducing staffing to below minimum levels, (b) the dilution of qualifications and (c) the lessening of training requirements; all of which are contrary to the CASR 139H and associated MOS. Further, all of these aforementioned exemptions were issued without oversight by a qualified CASA ARFFS Safety Specialist.

The following examples demonstrate the nature of these exemptions and highlight that they can have dire consequences for Australian air travellers. They also raise serious questions about CASA's probity in its dealings with Airservices Australia.

CASA exemption granted to provide category 6 resources for the Category 7 / 737 800 series aircraft, which carries between 160 and 180 people – having the effect that previously category 7 manning was 2 officers and 5 firefighters – is now 1 officer and 4 firefighters at category 6.

To further exacerbate this situation the Fire Station Manager (FSM), who would normally act as an incident controller, is to now be placed on shift replacing a Fire Commander (FC), thereby compromising the number of responders available at an aircraft incident. This will have category 6 ARFF aerodromes responding to an aviation incident with 5 operational firefighters, as compared with the international benchmark (NFPA 403) of 9 firefighters.

The only international standard which calculates minimum personnel numbers is the American NFPA 403. They recommend a minimum 9 firefighters for Category 6 airports. Airservices Australia's ARFF - supported by CASA - recommends 5. CASA has also approved an Airservices Australia ARFF safety case to provide 6 firefighters for Category 7 airports; the NFPA recommends 12. Further, the following has also occurred:

CASA exemption granted not to hold ICS and resource evaluation modules when the FSM is not available as Incident Controller;

CASA exemption granted to allow inexperienced Sub Station Officers (SSO) with certificate 4 qualifications to act in place of Station Officers (SO) who are required by CASA to hold a Diploma in order to be in charge of a crew;

CASA exemption granted to reduce the frequency of foam application training. Firefighters can now only apply foam through a monitor every 180 days instead of the previous 90 days;

CASA exemption granted to alter the colour of aviation firefighting vehicles from red to yellowish green;

CASA exemption granted to respond to non aviation buildings off airport without a dedicated response vehicle (DVR) and crew, resulting in insufficient personnel to maintain the airports advertised category.

CASA is reluctant to investigate and act on the ARFF's continual failure to provide and maintain the advertised category at numerous aerodromes resulting from utilising part of an operational ARFF crew, (which are required to maintain category at an aerodrome), to respond off airport to domestic calls or performing non operational extraneous duties subsequent to reduced staffing availability, due to the lack of forward planning.

None of these exemptions are minor or machinery in nature. We are most concerned that all these changes are contrary to recognised international benchmarks and have not been subject to scrutiny by the Parliament. That is to say, our understanding is that any alteration of a disallowable instrument should first be approved by the Parliament prior to being implemented.

What is presently occurring is the ARFF proposes a change; CASA approves the change and then the ARFF puts it into practice. These are not urgent safety matters we speak of, but changes which allow Airservices Australia's ARFF to become more cost-effective at the expense of safety.

The direct result of these exemptions is that it lowers the capability of the ARFF to adequately perform its role with the consequences of that being so tragically demonstrated in Yogyakarta and other airports in less-developed countries.

Airservices Australia's ARFF have lobbied CASA to conduct a second Post Implementation Review (PIR) into 139H with a view to totally remove the Manual Of Standards 139H (MOS 139H) and any other regulations that may be an impediment to their business operations. CASA has agreed to begin the second PIR and will use the ARFF proposal as the template for the review. (Refer SCC forum 18/04/2007 Megan Barby CASA – see attached).

It is noted in that respect that CASA has now employed a new ARFF Safety Auditor who will oversee and chair the PIR. Of interest here is that this ARFF Safety Auditor is a recent ex Airservices Australia's ARFF Assistant Director of Operations.

Also of interest is that this will be the second PIR conducted on the CASR139H and we are advised this is the first time such a regulation has been subjected to retrospective amendments due to a new directive being issued in 2007; some four years after the regulation was introduced.

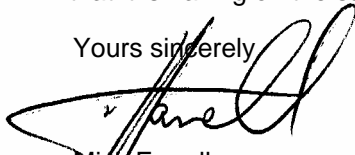
In our view, the latest CASA proposal is being driven by the ARFF because of their budgetary-focused business outcomes which, if successful, will see the lowering, or possible removal, of important prescribed safety standards. We now see ARFF, the 'provider', advising CASA, the purported 'regulator', of what changes they require to the regulations in order to meet their Workforce Plan, and CASA becoming complicit in meeting those demands.

CASA advised Airservices Australia's ARFF (refer 5/10/2005 CASA letter 97/12936-09 – see attached) - that they do not accept Airservices ARFF's non compliance with the 2005 requirement to remove the remission factor, yet Airservices Australia's ARFF continue even today to ignore those CASA directives and are providing ARFF services well below that of international benchmarks. Not surprisingly, CASA has taken no action to enforce compliance with their directive.

It is our view that these are not the actions of a respected and firm safety regulator. Rather, they are the actions of an organisation that call into serious question the unhealthy nexus between the provider (Airservices) and the regulator (CASA).

Whilst the Senate hearing considers the effectiveness of CASA's governance and administration we would also urge the Senate hearing to consider recommending a separate inquiry into the relationship between Airservices Australia and CASA and the detrimental impact that it is having on the safe and efficient operations of ARFF services throughout Australia.

Yours sincerely



Mick Farrell
Branch Secretary/
National President

Attachments: SSC forum notice (dated 18th April 2007)
CASA ARFFS Safety Specialist correspondence (dated 5th October 2005)

From: CASA discussion forums [mailto:sccforum@casa.infopop.cc]
Sent: Wednesday, 18 April 2007 7:55 AM
To: Joe Stenhouse (UFU)
Subject: New Topic by Megan Barby (CASA) - "Airservices review of 139H - ARFFS"

A new post from **CASA discussion forums > CASA discussion forums > Airspace Users Group!**

Author	Topic: Airservices review of 139H - ARFFS
Megan Barby (CASA)	<p data-bbox="427 483 863 510">Posted Wed April 18 2007 08:20 AM</p> <p data-bbox="427 544 884 571">Dear Airspace Users Group Members,</p> <p data-bbox="427 604 1362 757">Airservices Australia have undertaken a Directive 16 type review of Part 139H with the objective of removing excessive prescription and eliminating the MOS. They are willing and keen to undertake some directly interested party briefings and seek additional input prior to placing a change proposal before the Airspace Users Group for formal SCC consideration.</p> <p data-bbox="427 790 1294 880">As CASA does not currently have a subject matter expert within the organisation, this proposal will provide some impetus to the review and is supported by A&A.</p> <p data-bbox="427 913 1315 940">More details/information will be published on this subject in the near future.</p> <p data-bbox="427 974 600 1001">Kind Regards,</p> <p data-bbox="427 1066 979 1216">Megan Barby SCC Secretariat Regulatory Development Management Branch Ph: 02-6217 1548 Fax: 02-6217 1691 Email: megan.barby@casa.gov.au</p>



Australian Government
Civil Aviation Safety Authority

File: 97/12936 - 09

5th October 2005

Mr Mick Farrell
Branch Secretary
United Fire-fighters Union of Australia
PO Box 966
Sunbury Vic 3429

Dear Mick,

In reply to your correspondence of 28th September I offer the following advice in respect to the requirements of ARFFS providers under the Civil Aviation Safety Regulations (CASR's).

I will answer your enquiries in the same order as your original correspondence.

Staffing Levels: Category maintenance.

Each Airservices ARFFS facility with the exception of Maroochydore and Townsville which are still awaiting certification are licensed by CASA as a level one ARFFS facility, with a specified category identified within an attachment to that licence.

Part of this licence requirement is that the ARFFS provider advertises the hours of operation of the ARFFS in the Enroute Supplement Australian (ERSA).

Once licensed, there is a requirement for Airservices Australia to ensure that they meet the regulatory requirements in respect to service provision, in this case specifically **CASR 139.835**;

1) "During any period announced in ERSA as a period which ARFFS is available at an aerodrome, there must be enough trained personnel available at that aerodrome to operate the equipment and vehicles required to provide the service at full capacity i.e. The category advertised for the particular aerodrome .

2) Those personnel must be stationed at places that allow the ARFFS to respond to an emergency at least as quickly as required by the applicable standards and requirements.

The regulations, do allow flexibility for short term (temporary) reductions in ARFFS category where there is no impact on aircraft operations so long as industry has been notified of the service levels required. **Refer CASR 139.775**

Staff shortages are not seen as a legitimate reason for not maintaining the service levels without raising a NOTAM. The short term temporary reduction clause was designed to allow service providers a legitimate way of planning vehicle and or equipment maintenance between aircraft operations.

An ARFFS provider must ensure that the service is available during the period or periods published in ERSA as the periods of its availability.

As mentioned earlier short term (temporary) reductions in category are allowed, so long the service level provided is sufficient for the type of aircraft movements (all aircraft operations) planned during the temporary reduction does not exceed the reduced category. In these circumstances ARFFS is to advise ATC of the details of the temporary reduction by direct recorded telephone line. Refer to **MOS chapter 25.1.3.2**

Once again we must emphasis that the non replacement of staff is not seen as a legitimate reason to have a temporary reduction in ARFFS service provision without notification to industry. Refer to **CASR 139.835**.

Once the category of the aerodrome has been decided and a CASA licence has been issued Airservices can not reduce that category until approval has been granted by CASA. This process is identified in chapter **2.1.1.2 of the MOS**.

If there is a conflict in the requirements between the MOS and the regulations, Then the standards contained within the CASR apply. Refer to **CASR 139.712H**.

It would appear that in this circumstance, there is an interpretation difference in respect to the term "temporary" as this is in conflict with the requirements of the regulations, the requirements of the regulations will apply.

Category determination.

The determination of an ARFFS category for an aerodrome is determined by a combination of applying the requirements of the total contents of Annex 14 chapter 9 Standards and recommended practices, as described in CASR 139.755. (1) (a) (i)

At the moment I believe there is the possibility for some misunderstanding as to the requirements of the ARFFS Aerodrome Category calculation, because of all the misinformation being circulated.

However, in saying that Airservices Australia were notified in May of 2005 that the removal of the remission factor as per the contents of Annex 14 chapter 9.2.4 would apply to all ARFFS providers in Australia from that date.

In the case of Airservices Australia CASA has agreed to an implementation plan for a gradual upgrading of ARFFS station based on the arrival of MK 8 Fire vehicles in line with the replacement program.

In the meantime CASA has taken action to amend the MOS to reflect the total removal of the remission factor, and to remove the categorisation formula based on 700 aircraft movements in the busiest consecutive three months and replace it with ARFFS category based on the longest aircraft operating in line with the current ICAO proposals.

However, in saying that since January of 2000, ARFFS providers can not reduce their ARFFS category more than one level below that of the longest aircraft scheduled or normally operating into the aerodrome. This confusion will be overcome with the change in the regulations or completion of the Airservices Mk 8 implementation program.

ICAO Remission factor

As mentioned in the previous answer CASA has notified Airservices in writing of the removal of the remission plan and have advised them that we do not accept their non compliance with this requirement.

Our advice was based on a legal opinion that in part states "for the sake of completeness, CASA notes that whether a particular Recommended practice in Chapter 9 Of Annex 14 is a mandatory standard under CASA sub part 139.H is dependent upon the particular terms of the relevant regulation. CASA is of the view that, wherever the term **applicable standards and requirements** is used in subpart 139.h, those applicable standards and requirements include the relevant recommended practices from chapter 9 of annex 14 (if those recommended practices have not been overturned by express provisions of MOS subpart 139H).

CASR 139.755 expressly states that applicable standards and requirements are to be applied to categorisation of aerodromes and in particular mentions Chapter 9 of annex 14 in total, not individual standards or recommended practices but the total chapter.

In line with this legal advice and the latest changes proposed by ICAO CASA will be reinforcing our position with Airservices, and in the meantime we hope to get the appropriate changes to the Manual of Standards validated which in turn should close off this issue.

If I can be of any further assistance to you in this matter please do not hesitate to contact me on (07) 3632 4045.

Regards
Terry Wallis
Senior Air Safety Auditor ARFFS
Air Transport Group
Brisbane Field Office.