



Summary of Public Submissions Received on NPRM 23-01— Assorted Issues 2023

January 2025

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General

The purpose of the Assorted Issues 2023 Notice of Proposed Rule Making (NPRM) 23-01 (NPRM 23-01) was to make amendments to various rules that are considered not significant enough in magnitude to warrant their own rule proposal. Traditionally, there have been two categories of rule changes: Omnibus, for minor editorial and drafting changes; and standard for all others. In 2016, a third category was developed, Small Issues, to package together a suite of distinct rule changes that are not Omnibus changes but are equally not sufficiently broad in scope to justify their own stand-alone rules project. These changes are not likely, on an individual basis, to be prioritised high enough for proceeding with rule development, so for reasons of efficiency such multiple issues are combined into a single package. The name was changed to Assorted Issues as the types of issues to be included are not necessarily small in size or importance.

NPRM 23-01 proposed a broad range of minor amendments to Civil Aviation Rules Parts 1, 61, 91, 121, 129, 145 and 172. There are 10 distinct policy items in this NPRM as set out below:

- a) **Part 61 Night Vision Imaging Systems (NVIS):** Amend Part 61 Pilot Licences and Ratings to include requirements for the training in and use of NVIS.
- b) **Part 91 Performance-Based Communication and Surveillance (PBCS):** Amend Part 91 General Operating and Flight Rules to align with Standards and Recommended Practices (SARPs) set by the International Civil Aviation Organization (ICAO) and provide an appropriate regulatory system for aircraft operators and Air Traffic Control (ATC) providers wanting to operate using PBCS.
- c) **Part 91 Aircraft Call Signs:** Amend Part 91 General Operating and Flight Rules to enable the use of unique call signs and replace a general exemption.
- d) **Part 145 Maintenance Organisation Rating Requirements:** Amend Part 145 Aircraft Maintenance Organisations Certification to formalise an organisations' document management and limit future risks associated with voluntary compliance.
- e) **Part 129 Foreign Aircraft Operations:** Amend Part 129 Foreign Air Transport Operator Certification to provide further clarity for operators on how many take-offs or landings they may complete within New Zealand before they require a Foreign Air Operator Certificate (FAOC).
- f) **Part 121 Flight Attendant and Cabin Crew Ground Instructor Training Requirements:** Amend Part 121 Air Operations Large Aeroplanes to include Flight Attendant and Cabin Crew Ground Instructors in Human Factors and Crew Resource Management training requirements.
- g) **Part 91 Helicopter Hover Entry/Exits:** Amend Part 91 General Operating and Flight Rules to enable helicopter operators to conduct hover entry/exits in line with requirements to be specified in the Rules, replacing a general exemption.
- h) **Part 91 Definition of Introductory Flight:** Amend Part 1 Definitions and Abbreviations to shift from the undefined 'trial flight' to a new definition of 'introductory flight'.
- i) **Part 91 Definition of a Crew Member Revision:** Amend Part 1 Definitions and Abbreviations to recognise a new type of crew member on board an aircraft conducting a commercial transport or hire or reward operation.

- j) **Part 91 Definition of Cost-Sharing Flights:** Amend Part 1 Definitions and Abbreviations to more clearly define what constitutes a cost-sharing flight.

NPRM 23-01 was originally issued for public consultation on 13 February 2024, with a submission close-off date of 25 March 2024.

A copy of the NPRM was sent to:

- The Ministry of Transport
- The Aviation Community Advisory Group (ACAG)
- Internal CAA stakeholders

The NPRM was originally published on the CAA website and notified to the industry by automatic email alerts.

On reviewing the submissions received on the original publication of NPRM 23-01, it was found that the preamble of the NPRM contained an administrative error relating to the criteria for an issue to be included in the Assorted Issues proposal. This resulted in a second round of public consultation for NPRM 23-01. Draft rules regarding introductory flight, cost sharing flight, NVIS and helicopter hover entry and exit were revised after taking into account feedback received on the first round of consultation. The updated NPRM 23-01 Revision 1 was published on the CAA web site on 1 July 2024 with a close-off date of 9th August 2024. A period of 40 days was allowed for comment on the proposal.

Soon after the updated NPRM Revision 1 was published, a submitter brought to the CAA's attention that there appeared to be an error in the draft rule regarding a cost sharing flight. The error was that the draft rule still required a person conducting a cost sharing flight to hold at least a class 2 medical certificate issued under the Act, whilst the explanatory note for the draft rule clearly stated that the class 2 medical standard was to be removed. This was an oversight at the time of revising the draft rule. The proposed minimum requirement for a class 2 medical standard was strongly rejected by most of the submitters for being excessive and an irrelevant safety consideration. To ensure that the policy intent of the draft rules was clear to submitter, NPRM Revision 1 was replaced with NPRM Revision 1.1 which corrected the error. There were a few other minor editorial amendments made to also clarify intent and for better readability of the draft rules.

NPRM 23-01 Revision 1 and NPRM Revision 1.1 were considered as one document given that the latter simply clarified the policy intent contained in NPRM 23-01 Revision 1. The 9 August close off date remained unchanged.

The amendments to the 7 Rule Parts noted above have been incorporated into the realignment of the existing suite of civil aviation rules (the rules) for the Civil Aviation Act 2023. The rules have been made in accordance with the transitional provisions of the Civil Aviation Act 2023. As part of this transitional process, the Minister must certify that the rules have been drafted in accordance with the requirements of Schedule 1, Clause 8; the draft rules certified under this clause may include new rules if the Minister is satisfied that the requirements of section 34(1) of the 1990 Act have been complied with, which the Assorted Issues has done through the publication of the NPRM and consultation. The Assorted Issues rules are also consistent with the requirements of section 33 of the 1990 Act.

In addition, the Minister is also satisfied that the procedures for making rules under section 61(2) the Civil Aviation Act 2023 have been complied with and the Minister has considered the criteria specified in section 72. The main criteria being the main and additional purposes of the Act. The main purpose of the Act is a safe and secure civil aviation system. The additional purposes of the 2023 Act are:

(a) to maintain, enhance, and promote a transport system that contributes to environmental sustainability, economic prosperity, inclusive access, healthy and safe people, and resilience and security:

(b) to promote innovation, effectiveness, and efficiency in civil aviation:

(c) to ensure that New Zealand's obligations under international civil aviation conventions, agreements, and understandings are implemented:

(d) to preserve New Zealand's national security and national interests:

(e) to take into account the adverse effects of civil aviation on the interests of people, property, and the environment.

Summary of Submissions:

Original publication of NPRM 23-01

96 written submissions were received on the NPRM. The majority of the submissions found the proposal not acceptable unless amendments suggested by them were made. Several submitters found the proposal not acceptable at all.

A high-level summary of the submissions is provided under the headings below:

Definition of a crew member:

Submission:

There were 4 submissions relating to the definition of a crew member. Most submissions either questioned the lack of detail around what was considered a 'specific or safety task necessary for the purpose of an operation that is specified by the Director in a notice or questioned why our proposed definition was not aligned with overseas regulators (e.g. the FAA, CASA or EASA).

CAA Response:

The CAA is making use of different regulatory tools to provide long-term flexibility in defining crew member roles for the purposes of determining the type of operation. The proposed rule allows for a person to act as a crew member if the person carries out a specific or safety task necessary for the purpose of an operation that is specified by the Director in a notice. The CAA considered it not appropriate to provide the prescriptive details in the rule. The details (specific or safety tasks and the circumstances for carrying out such tasks) of the notice will be determined in due course. The draft notice will be published for public consultation which gives industry the opportunity to provide their feedback.

Based on the feedback, the CAA advised that the enabling rule was tweaked to better align with overseas regulators as well as clarify and simplify sections that submitters found confusing.

Submission:

Submitters agreed that the definition of **crew member** has been a longstanding issue. By default, the issue also implicates the definition of who is a passenger. It has involved two court cases, at least two high-level legal opinions, a Legal Information Bulletin, and significant dialogue bordering on disagreement for approaching 20 years. With this history, the submitters contended that the current proposal is likely to be seen as controversial and therefore doesn't fit within the Assorted Rules remit.

Given the linkage between the definition of crew member and passenger, a potential outcome of changing the definition is that some operations will fall into the category of Air Transport Operations, with corresponding certification and compliance costs. In this regard, the submitters contended that the current proposal has the potential to introduce significant compliance costs and therefore doesn't fit within the Assorted Rules remit.

Submitters recommended that this definition, and any empowering provisions associated with it, be shifted aside from the current NPRM process and further developed with potentially affected parties. Submitters would be able to assist with identifying such parties and given this is a Part 1 definition, submitters are aware of impacts across the spectrum of the existing operational rule suite.

CAA response:

The CAA reviewed the criteria for the Assorted Issues which stated:

An issue is considered to have met the criteria for the Assorted Issues Rule if— the proposal is minor, does not include a policy change, or Cabinet approval has been obtained for that change; the proposal addresses minor technical matters or updates; compliance costs are insignificant or no safety risk will result from the proposal; the proposal is not likely to be controversial; and the proposal has little or no regulatory impact.

The CAA acknowledged that it made an administrative error in the wording of the criteria. The given criteria are appropriate for omnibus type rule amendments, but the scope of an assorted issues rule amendment can extend to substantive changes. The majority of the issues being addressed in the proposal will result in substantial changes and some will incur quite significant costs. Based on the submission, the CAA agreed to update the criteria and re-consult on the Assorted Issues proposal.

The CAA disagreed with the suggestion to remove the definition of crew member from the Assorted Issues proposal so that it is dealt with in a standalone project. Although there are a few substantive matters to be determined regarding the definition, the issue itself was not big enough to justify placing it in a standalone rule project. The CAA believed that placing the crew member definition in this proposal together with other individual issues was appropriate and a more efficient way of addressing the issue.

Submitters should note that the specific details of who can be a crew member, doing what specific or safety tasks and under what conditions will be determined by the Director in a CAA notice. Once developed, the draft notice will be published for public consultation in due course. This allows industry another opportunity to provide valuable feedback on the details regarding the new category of crew member before the notice is finalised for the Director's approval.

Introductory flights:**Submission:**

Some questioned the change that states introductory flights are required to be "A to A" flights (i.e. flights that start and finish at the same location) only. Flights can currently be done as an "A to B" flight (i.e. a flight that finishes at a different location to where it starts from).

CAA Response:

The intent of clarifying the introductory flight rule is to reduce the scope creep that can be associated with introductory flights in their current state (such as the use of introductory flight provisions to carry out an operation that would more accurately be considered a charter flight). The intent of an introductory flight is to give a person a taste of flying behind the controls and to gauge whether becoming a pilot is something that the person wishes to pursue.

The CAA advised that there is no change to the A to A flight draft rule to reduce the risk of any scope creep.

Submission:

Some questioned why introductory flights would be limited to 2 in a lifetime per person.

CAA response:

Upon further review, the CAA agreed that the maximum of 2 flights per person restriction was not relevant to improving regulatory safety and would likely impose additional regulatory burden on operators who would be required to find out if people had exceeded their limits. The restriction was removed from the draft rules.

Submission:

Some questioned the change in wording from trial flight to introductory flight.

CAA response:

The CAA held the view that 'introductory' best explains the concept – these flights are meant to be an entry level flight that introduces someone to flying. The term remains unchanged.

Submission:

Some submitters questioned the inability to perform an aerobatic manoeuvre as part of an introductory flight.

CAA response:

The intent of this restriction was to remove any scope creep that may exist, such as using an introductory flight to disguise an aerobatic experience (which would need to be done under a Part 115 adventure aviation certificate). However, on further review, the CAA agreed it is acceptable for an aerobatic manoeuvre to be performed (with the intent of introducing someone to aerobatics) so long as it is not the basis of the introductory flight. The intent behind the draft rule was that a maximum of 2 aerobatic manoeuvres can be performed as part of an introductory flight but must be done by a qualified instructor. The CAA will develop guidance to further clarify this.

Submission:

Some submitters noted that there were limitations on who could perform an introductory flight.

CAA response:

Initial draft rules excluded those who held documents under Part 149 and was limited to those holding documents under Part 61. This exclusion was unintended. The draft rules were amended to be clear that these operations are applicable to anyone holding an instructor rating under Part 61 or under the authority of an aviation recreation organisation certificate issued under the Act and Part 149.

Submission:

Some submitters questioned the fact that introductory flights are limited to being conducted in a single engine aircraft.

CAA response:

Current draft rule wording was intended to stop a multi-engine operation to mitigate additional risks arising from inherently more complex multi-engine operations. However, this also has ramifications on gliding operations (where there is no engine at all).

The draft rule was amended to specify that these operations must take place in aircraft that have no more than 1 engine.

Submission:

Some submitters noted that there is ambiguity in the draft rules around what is considered a basic level of manipulation.

CAA response:

The CAA agreed that there needs to be clarity on what ‘a basic level of manipulation’ means but noted that putting it in the rules would be too prescriptive. The CAA intended to address the issue through guidance material and the guide for flight instructors.

Submission:

Submitters questioned the limitations around the types of aircraft introductory flights can be conducted in (currently 4 pax max, single engine or less).

CAA response:

The intent of this rule was to limit any risk exposure to an unnecessary number of passengers and to ensure that the types of aircraft being used are appropriate for the nature and purpose of an introductory flight. This provision remains unchanged.

Cost sharing flights**Submission:**

The majority of the submitters rejected the exclusion of pilots holding a Land Transport medical certificate (DL9) from being able to perform a cost-sharing flight.

CAA response:

On further review, the CAA agreed that the proposed exclusion of DL9 medical certificate holders was not consistent with the policy intent and existing privileges. For instance, a pilot who holds a DL9 medical certificate is entitled to carry a maximum of 5 passengers (see rule 61.155(bb)). The draft rule was amended to remove the requirement to have a ‘class 2 medical certificate issued under the Act’. However, for consistency with the current restrictions in place, a person may carry out a cost sharing flight subject to the restrictions that apply to a person who holds a DL9 medical certificate. The restrictions include the pilot-in-command of a cost sharing flight must not operate an aircraft with a MCTOW exceeding 2, 730 kg, or any pressurised aircraft exceeding 25,000 feet AMSL, operate under IFR or carry more than 5 passengers.

Submission:

Submitters expressed their disappointment that cost-sharing flights are unable to be performed in a turbojet or turbofan aircraft, or a pressurised aircraft.

CAA response:

The CAA generally agreed that the restriction to perform a cost sharing flight in a turbojet or turbofan aircraft, or a pressurised aircraft is not a relevant consideration for the safety issue that is being addressed. The draft rules were amended to remove the restrictions on turbojet/turbofan and pressurised aircraft. However, as mentioned earlier, a PPL holder with a DL9 medical certificate must not operate a pressurised aircraft exceeding 25,000 feet AMSL.

Submission:

Submitters have questioned the need to place passenger restrictions on a cost-sharing flight.

CAA response:

The draft rules were aligned with CASA regulations to reduce risk exposure to unnecessary passengers. The carrying of more passengers would need to be done under an aviation document. The CAA advised that there was no change to the draft rules. Pilots will only be able to conduct these operations in an aircraft that has a maximum certificated passenger seating capacity of 6 or fewer seats.

Submission:

Submitters asked for clarity on requirements to split costs equally.

CAA response:

The intent is that the pilot is to pay at a minimum, no less than an equal share of the costs. The draft rule was amended to better reflect this intent.

Submission:

Submitters have asked for clarity on what is considered a 'direct cost'.

CAA response:

Upon review, the proposed definition of **direct cost** was amended to include air navigation charges. Guidance material will be provided in due course to help affected parties better understand what direct cost covers.

Submission:

Submitters have questioned what is meant by 'advertising to the public', and the restrictions on advertising on social media.

CAA response:

The intent of this provision was to ensure that industry is not advertising to the public something that resembles a commercial flight in nature or purpose. The CAA is unable to control the channel in which the advertising is delivered, so the approach taken is to focus more on the intent. The draft rule was amended to remove the reference to advertising on social media for being too limiting, and to align better with the intent of a cost-share flight - *'the flight is not advertised to the public and limited to family members, friends or associates'*.

Submission:

Submitters have questioned the inability to conduct cost-sharing flights on a microlight certificate under Part 149.

CAA response:

On further review, the CAA agreed that this restriction against a Part 149 certificate holder is not relevant to the issues being addressed. The draft rule was amended to include Part 149 certificate holders to conduct cost-sharing flights.

Night Vision Imaging Systems (NVIS):

Submission:

Some submitters questioned why the draft rules allow Private Pilot Licence (PPL) holders to undertake NVIS operations given the complexity around NVIS use which requires a greater level of experience than a PPL holder would necessarily have.

CAA response:

To mitigate any safety risks, PPL holders will need to undergo suitable training and get the initial prerequisites which should assist PPL holders to safely use NVIS. PPL holders will need to have appropriate night flight using NVIS experience as specified in a CAA notice. PPL holders will also need to meet the currency requirements (*see new draft rule 61.945*).

Training requirements, the prerequisites and appropriate night flight experience will be specified in a CAA notice in due course. The draft notice will be published for public consultation to give industry the opportunity to provide their feedback. Necessary amendments will be made to reflect the feedback received before the notice is submitted for the Director's approval.

Submission:

A couple of submitters proposed that the rating should be called a night vision imaging systems rating instead of an aid to night vision rating.

CAA response:

The CAA agreed as it would align with usage in Radio Technical Commission for Aeronautics (RTCA) documents. As a result of the submission, references in the draft rules to "an aid to night vision rating" are removed and replaced with "NVIS rating".

Submission:

A couple of submitters raised that category A instructors who do not already hold an NVIS instructor rating as a category B instructor should not automatically exercise privilege of giving NVIS flight instructions.

CAA response:

The CAA agreed and amended the draft rules to reflect the submission made. See amended draft rule 61.305(q)(1a).

Submission:

Submitters expressed that the NVIS proposal should extend to night flights under Instrument Flight Rules (IFR).

CAA response:

On further review, the CAA agreed and amended the rules to reflect the submission made. Note that the draft rules are being kept at a high level whilst the detailed requirements for both night flying under VFR and IFR will be specified in a CAA notice. References in the draft rules which refer to "night flying under VFR using NVIS" (or along similar lines) are amended to read "night flying using NVIS". The details of the notice will be determined in due course. The draft notice will go through the usual public consultation process before being finalised for the Director's approval.

Submission:

A submitter noted that the rule changes notified in the NPRM appear to be limited to a rather narrow scope of NVIS matters. More specifically, they relate to NVIS ratings rather than a thorough review of the NVIS Rule Part itself.

CAA response:

The CAA is taking a performance-based approach to the NVIS proposal where the rules provide the high-level general requirements whilst the detailed requirements will be specified in a CAA notice. See draft rule 91.273 for the matters to be specified in a notice. Note that much of the contents of AC91.13 will be transferred to the notice which will be developed in due course. The draft notice will go through the usual public consultation process before being finalised for the Director's approval.

Submission:

A submitter raised that a 5-year refresher course is considered inadequate. The submitter recommended that an annual demonstration of competency is required in much the same way as for aerobatic and agricultural ratings.

CAA response:

Upon review, the CAA agreed and draft rule 61.945 was amended to reflect the submission made.

Performance Based Communications and Surveillance (PBCS)**Submission:**

A submitter supported the draft PBCS rules which implement a formal regulatory approval process for operators to use PBCS in New Zealand airspace. The submitter expected that it will become easier to get airlines to meet PBCS performance criteria, as this was difficult to achieve without having a standard set out in the Rules.

For a new operator applying for PBCS approval, the submitter anticipated that performance criteria could be measured, and any initial issues identified, during the approval phase (e.g. during route proving) rather than during the in-service phase of operation.

The submitter observed that there will be requirements on Part 129 operators to declare State of Registry or State of Operator approval for foreign aircraft, as well as for New Zealand registered operators.

CAA response:

The CAA agreed with the points raised in the submission and advised that the operational requirements, amongst other matters, will be specified in a CAA notice in due course. The draft notice will be published for public consultation to give industry the opportunity to provide feedback before being finalised for the Director's approval.

No change was made to draft rule 91.265.

Helicopter hover entry and exit

Submission:

A submitter suggested that consideration should be given to other relevant regulations such as WorkSafe with regards to fall heights without restraints. The submitter suggested adding extra prescriptive requirements to the draft rule, for clarity.

CAA response:

The CAA accepted that other relevant regulations would generally apply wherever applicable. However, the intent is that the specific safety measures set out in the draft rule are to apply when performing a helicopter hover entry or exit operation. These specific safety measures are adopted from current exemption 19/EXE/1. Helicopter operators have been implementing these measures since 2018. Current exemption 19/EXE/1 will be removed once the new rule is in place.

Reference to ADS-B notice:

Submission:

Submitters disagreed with the proposed approach to refer to the existing procedures for ADS-B notices, when making CAA notices for the new category of crew member, PBCS and NVIS. They referred to this approach as 'lazy' regulations-making.

CAA response:

It is a common drafting practice to specify that a set of procedural rules which apply to a particular situation, may also apply to a different situation. Especially if the same procedures are to be followed in the same manner, as it is the case for the proposed crew member, NVIS and PBCS notices. This drafting practice ensures that the same procedures are applied in a consistent manner and avoids having multiple sets of similar procedural rules.

NPRM 2023 Revision 1

29 written submissions were received on the second round of public consultation. The majority did not find the proposal acceptable unless suggested changes by them were made. The matters raised in the submissions are set out under the headings below.

Definition of crew member

Submission:

A submitter expressed the view that although CAA notices provide an ability to implement performance-based rulemaking, they are primarily aimed at situations where complex and evolving technical specifications are best introduced and maintained in a timely fashion. The submitter contended that the proposed use of a CAA notice in respect of crew member functions and circumstances does not align with these criteria and is in fact a step away from being an enabling provision towards a scenario where the Director will be determining what sorts of operations can occur and who can be involved in them. Recent events in the likes of PBN and UAV have shown that the development of new roles and methodologies are very much the domain of the industry which the Director cannot be expected to "crystal ball" what new activities operators are contemplating.

By placing limitations on who can crew such operations sets the scene for hinderance rather than enablement of growth. Enshrining such a concept in the Rules at a time when the sector needs to be able to respond quickly to remain internationally competitive, and at a time when the regulator is unable to deliver on even its basic functions in a timely manner makes no sense.

CAA response:

The CAA carefully considered the matter and reached the conclusion that using the CAA notice as the means for the Director to determine who can be a crew member, performing what functions and under what circumstances is appropriate and falls within the ambit of the enabling section 28(5) of the Civil Aviation Act 1990.

The CAA agreed with the submission that the use of a CAA notice is ideal for evolving technical specifications. However, the CAA is of the view that the broad enabling section 28(5) does not limit the Director to place only technical matters in a CAA notice.

It should be noted that the Director does not unilaterally determine the matters to be specified in a CAA notice. Similar to a rule proposal, a draft CAA notice is published for public consultation inviting valuable feedback from experts in the aviation industry. Once consultation is closed, the CAA reviews all the feedback received and makes the necessary amendments. The amended final draft notice is then submitted to the Director for approval.

In recent years, the CAA has demonstrated its ability to quickly respond to evolving technological developments. For instance, the ADS-B notice which was first issued in 2018 has been amended twice – in 2020 and 2022.

Submission:

A submitter pointed out that the NPRM correctly identified that the definition of crew member has been a longstanding issue. By default, this matter also implicates the definition of who is a passenger. It has involved two court cases, at least two high-level legal opinions, a Legal Information Bulletin, and significant dialogue bordering on disagreement approaching 20 years. With this history, the submitter contended that the current proposal is likely to be seen as controversial and therefore doesn't fit within the Assorted Rules remit.

Given the linkage between the definition of crew member and passenger, a potential outcome of changing the definition is that some operations will fall into the category of air transport operations, with corresponding certification and compliance costs. In this regard, it is submitted that the current proposal has the potential to introduce significant compliance costs and therefore doesn't fit within the Assorted Rules remit.

CAA response:

Although the details have yet to be teased out, draft rule 91.227D clearly sets out the parameters of who can be a crew member – a person carrying out a specified function necessary for the purpose of an operation, without an air operator certificate. Note that the specified function is one determined by the Director and specified in a CAA notice, and the circumstances under which the specified function is carried out are also determined by the Director and specified in a CAA notice.

The CAA is committed to working closely with industry (via the draft CAA notice consultation process in due course) to ascertain who can be a crew member, performing what specified functions and under what circumstances.

As mentioned earlier, the CAA is of the view that the inclusion of the crew member proposal in the Assorted Issues is appropriate and an efficient way of dealing with the matter.

Submission:

A submitter suggested that the solution resides in paragraph (1)(ii) of the existing crew member definition, and that every effort should be made to achieve a meeting of the minds in this subject area before advancing the current proposal. The current proposal will bring with it unintended negative consequences, and these must be avoided.

CAA response:

The current para (1)(ii) of the crew member definition provides – “**crew member** means a person carried by an aircraft who is to perform a duty associated with the operation of the flight during flight time”.

The CAA is of the view that the current paragraph (1)(ii) has a limited scope. The duty that a crew member is to perform is associated with the operation of the aircraft itself whilst the new crew member proposal is broader as it is linked to ‘the purpose of the operation’.

The CAA maintained its earlier view that it is appropriate to proceed with the crew member proposal in the Assorted Issues.

Submission:

Submitters proposed that the Legal Information Bulletin 4 should be removed once the crew member rules are in place.

CAA response:

The CAA agreed with the submission. Industry will be notified of the removal via a notice on the CAA website.

Introductory flights**Submission:**

Remove proposal from this project, develop separately with affected parties

Whilst undefined, the concept of a trial flight has existed in the Civil Aviation Rules for a reasonable period. As identified in the NPRM, it has allowed various entities and individuals to introduce interested members of the public to aviation. Aviation activities are wide and varied so trial flights can and have taken on various shapes and forms. Our primary concern is that the specificity of the proposed definition, and restrictions of the nature proposed in the NPRM, risk imposing constraints on an activity that has fostered aviation over many years.

Feedback received indicated that the proposed changes have particular implications for the flight training and recreational aviation groups, within these communities the potential increased compliance costs are seen as significant and the likely curtailment of activities as somewhat controversial.

It is the submitter’s recommendation that this definition, and any restrictions associated with it, be shifted aside from the currently NPRM process and further developed with potentially affected parties. The submitter would be able to assist with identifying a number of such parties and expect the NPRM responses will likely identify more.

CAA response

The CAA disagreed with removing the introductory flight issue from the Assorted Issues proposal to be dealt with in a standalone project. Similar to the definition of a crew member issue, the introductory flight issue is not big enough by itself to justify dealing with it in a standalone project. The CAA believed that including the introductory flight in the Assorted Issues proposal is appropriate and a more efficient way of dealing with the issue. In addition, the introductory flight issue was publicly consulted on twice, over a period of 80 days. This is double the consultation time for any standard rule proposal. The CAA considered it inappropriate to remove the introductory flight issue for further consultation with affected parties.

Submission:

A submitter expressed that it would be unsafe not to brief trial flights about the manoeuvres they are about to complete (for those who wish to conduct aerobatic manoeuvres). The person who is to conduct the manoeuvre can be startled or feel uncomfortable without an in-depth discussion about what the aeroplane will do and what they will experience during the flight.

CAA response

The CAA took onboard the concern raised and reviewed the draft rule. The draft rule was tweaked to read *“ensure that each person carried on the aircraft receives the flight briefing which consists of a basic initial training lesson”*. In addition, to mitigate any safety risks to third parties, the draft rule was further tweaked to add the restriction that if aerobatic manoeuvres are to be performed, the pilot-in-command must ensure that no other person is carried except the person receiving flight instruction.

Submission:

A submitter raised his concern that the restriction of a maximum of 2 aerobatic manoeuvres is excessive. The submitter advised that a person who received flight instruction and performed an aerobatic introductory flight is allowed to do the following manoeuvres:

- Condensed preflight;
- Taxi demonstration;
- Take-off;
- Climb (including climbing turns);
- Level off;
- Turns (during HASELL check, etc); and
- Descent (including descending turns).

All of these manoeuvres performed under the supervision of the flight instructor show that aerobatic introductory flights already comply with the intent of the rule. As a proportion of the flight time, these are the main tasks performed during the introductory flight. The student is already manipulating the controls in a way similar to an ab initio PPL student.

The only tasks performed by the instructor are the landing and the aerobatic sequence. During these sequences, the student is encouraged to follow the flight instructor through to get a feel of what the flight instructor is doing with the controls.

CAA response

The CAA's initial view for imposing the maximum of 2 aerobatic manoeuvres was to safeguard against any potential abuse of using an introductory flight to perform operations which should be carried out under a Part 115 adventure air operator certificate. However, on review, the draft rule

was amended to remove the maximum of 2 manoeuvres as it seemed too restrictive and to provide some flexibility for operators. The CAA considered that the restriction imposed on the pilot-in-command to ensure that the manoeuvres are not the primary purpose of the introductory flight provides some safeguard against any potential abuse.

NVIS:**Submission:**

Submitters contended that there is no reason for a PPL holder to be conducting NVIS operations. In their view, this will decrease the level of safety because there is no supervision system around the person operating an aircraft and using NVIS and could encourage rule-breaking behaviour. They suggested that a PPL holder should operate under IFR at night without using NVIS.

CAA response:

The CAA disagreed with the submission. This matter was already addressed at the commencement of aircraft operations using NVIS in New Zealand. The internal legal advice at the time was that it was incorrect to prevent PPL holders from operating an aircraft using NVIS. Further mitigating restrictions were put in place (albeit via AC91-13) so that a PPL holder would have the same experience as a CPL holder operating an aircraft using NVIS.

To mitigate against the inherent safety risks associated with aircraft operations using NVIS, it is proposed that a person must not perform such operations unless the aircraft and NVIS meet the airworthiness and performance requirements, the person is suitably trained and qualified and the person complies with the operational procedures and any limitations regarding the use of NVIS. In addition, the person must have appropriate night flight using NVIS experience and meet the currency requirements.

It is intended that the requirements regarding airworthiness and performance, training, flight experience, currency and competency specified in AC91-13 will be transferred to the NVIS notice in due course. Industry will be given the opportunity to provide feedback on the draft notice before it is finalised for the Director's approval.

Submission:

A submitter pointed out that the privileges for a Category A flight instructor hasn't clarified the previous proposal to restrict A Category instructors from giving NVIS instruction, until they meet the B Category eligibility and qualification requirements. In the submitter's view, the re-amended 61.305(q)(1a) seems to imply that an A Category instructor can give NVIS instruction without restriction, unless the phrase "an appropriate current Category A..." allows the necessary requirements to be specified. The submitter asked for an assurance that this is the case, or an amendment to the wording of 61.305(q) and 61.303(e).

CAA response:

To better clarify intent and address the submitter's concern, a new paragraph (4a) has been inserted in draft rule 61.303(e). The new paragraph requires a holder of a category A flight instructor rating to have appropriate night flight experience using NVIS as specified in a CAA notice if the person seeks to instruct at night using NVIS. This is consistent with a similar amendment to the categories D and B flight instructor rating.

Submission:

Submitters disagreed with the instrument requirements proposed in draft rule 61.945 Currency Requirements for the following reasons:

- The instrument approaches in paragraph (a)(1) is more restrictive than the currency requirement to fly IFR. An IFR pilot can remain current every 90 days flying commercial operations. This proposal incurs an enormous cost to operators having to demonstrate instrument competency to an instructor every 90 days, something that cannot be accomplished as a "line Check".
- There is a real risk of over prescribing IFR and IIMC1 training. As a VFR operation the focus is on keeping pilots out of IIMC. A basic level of instrument proficiency is needed for IIMC only.
- It is not practical for a VFR NVIS pilot to have to demonstrate instrument competency every 90 days to an 'appropriately qualified' flight instructor (presumably this means an IFR helicopter instructor of which there are very few in the country).
- The proposed requirement of demonstrating 3 instrument approaches and holding procedures is beyond what should be expected of a VFR pilot.
- The proposed requirement of demonstrating 3 instrument approaches and holding procedures is beyond the capabilities of some NVIS helicopters.
- Many NVIS pilots are not instrument-rated. An instrument rating should be required for completing an instrument approach & recovery.
- Having to complete three instrument approaches in the previous 90 days is not appropriate for a night VFR rating. Conducting IIMC recovery training appropriate to the operation is either in the helicopter or an appropriate simulator.
- The supposed increase in safety is not supported by the significant increase in cost for a VFR operator. An approach takes a minimum of 10 minutes, plus a missed approach. This requirement will add a minimum of 3 hours per pilot per year to the operation (not including other training requirements. In many cases, it will have to be flown under VFR, and if the approach is required to be completed to the standard of an instrument flight test, it will result in more approaches or a reduction in instrument approach standards. Therefore, a VFR pilot will likely require even more flight time.

Submitters agreed that some sort of instrument currency is important, but it needs to be practical and feasible. It is suggested that draft rule 61.945(a)(1) should be replaced with a basic level of instrument proficiency to be maintained for IIMC. 6 months of IIMC training should be left to the

¹ This presumably means inadvertent instrument meteorological conditions

operator to implement. Another submitter suggested that a minimum of 15 minutes of simulated instrument time (conducted by day or night, in a helicopter or in an approved simulator), in the preceding 90 days with either a company D, B or A Category instructor or an external flight examiner (with no requirement for the instructor/examiner to be Helicopter IFR rated). This would include NVIS failure, U/A's recovery and rate one turns etc.

CAA response:

There seems to be some confusion around the instrument competency requirements. It is the CAA view that pilots operating aircraft under VFR using NVIS need to have competent instrument flight skills. This has nothing to do with being instrument rated.

This view is expressed in current AC91.13 which states *“Note: the emphasis is for a pilot flying night VFR utilising NVIS to obtain, and maintain, proficiency in instrument flying skills. It is recommended, but not essential for the pilot to hold an instrument rating. The holder of an instrument rating will be better placed to cope with the night VFR/NVIS environment.”*

However, based on the submissions received, the CAA agreed to remove the requirement to demonstrate instrument competency in draft rule 61.945(a)(1) as it seemed too prescriptive to be placed in the rules. The CAA considered it appropriate to place any specific requirements regarding instrument competency in a CAA notice. As work on the notice will start soon, this will be another opportunity for the CAA and industry to work together to find a solution that is fit for purpose.

After another review of the draft rule, the CAA considered it appropriate to place the requirement for recording of any flight time in the pilot's logbook in a separate paragraph (b). Draft paragraph (c) which provides that a pilot who holds a current instrument rating is not required to demonstrate instrument competency has been removed, for being redundant.

Note that the final draft rule 61.945 is revised along the following lines –

61.945 Currency Requirements

- (a) Except as provided in paragraph (b), a pilot who holds a NVIS rating must not exercise the privileges of the rating unless the pilot —
 - (1) successfully completed an annual NVIS competency check with an appropriately qualified flight instructor;
 - (2) successfully completed recurrent NVIS training in the preceding 12 months covering areas specified in a notice under rule 91.273; and
 - (3) successfully completed any other appropriate training or NVG aircraft operations as specified in a notice under rule 91.273.
- (b) A record specifying that the pilot completed the recurrent NVIS training and any other appropriate training or NVG aircraft operations must be entered in the pilot's logbook as required by rule 61.29.

- (c) A pilot who holds a NVIS rating and has not operated an aircraft at night using NVIS for 12 months or more must not carry out such an operation unless the pilot has successfully completed a requalification training course as specified in a notice under rule 91.273.

Submission:

Draft rules 61.945(a)(1)(iii) and 91.273 appear to be too vague and require further refining or clarification. For example, 61.945 Currency Requirements refers to demonstrating 'manoeuvres' as specified in 91.273 however 91.273 doesn't appear to specify exactly what 'manoeuvres' are appropriate or acceptable?

CAA response:

The 'manoeuvres' referred to are to be specified in a CAA notice made under new rule 91.273, in due course. Once the draft notice is developed, it will be published for public consultation. Industry will be given the opportunity to provide feedback on it before it is finalised for the Director's approval.

Submission:

Submitters found the Part 61 NVIS unclear on what training would need to be conducted regarding IFR training every 90 days. Submitters would like this to be defined more in relation to GA NVIS currency. It is their view that a combination of NVIS Failure i.e. aided to unaided NVR, U/A Recovery techniques, Rate one Turns, Compass/DI turns would be sufficiently conducted by an authorised company check and training captain/pilot. Alternatively, an A/B/C Cat flight instructor would be sufficient and also more than what is required by unaided NVFR pilots at this time. Introducing NVIS capability to the GA community would further increase safety with all the night work that is carried out. This should be made easier than putting roadblocks to make this happen.

CAA response:

The CAA acknowledges that the proposed approach to have all the training requirements to be specified in a CAA notice leave matters uncertain, especially as the notice has yet to be developed. Once the draft notice is completed, it will be published for public consultation. Industry will be given the opportunity to provide feedback on it before it is finalised for the Director's approval.

At this stage, it is envisaged that most (if not all) of the training requirements in current AC91.13 will be transferred to the NVIS notice.

It should be noted that the proposed requirement to demonstrate instrument competency every 90 days that was in the NPRM was removed in the draft final rule. See the final draft rule 61.945 in CAA response above.

Submission:

Draft rule 135.607(3a) is not supported.

This is not required because the NVIS portion will be under visual conditions. Therefore, draft rule 135.607(2a) will be sufficient. The addition of paragraph (3a) will require a six-monthly IFR check to be flown at night, increasing the compliance burden, especially during daylight saving hours.

If you were going to persist with paragraph (3a), then suggest amending to:

“(3a) in addition to paragraph (3), each pilot operating an aircraft at night under IFR using NVIS has, within the immediately preceding [12] months, successfully passed a competency assessment conducted by an appropriately qualified flight instructor or flight examiner that covers procedures of the pilot's flying skills for the safe use of NVIS [under IFR at night], in an aircraft type normally used by the pilot in the operation; and”.

CAA response:

The CAA agreed to retain paragraph (3a) with the suggested change. Final draft rule 135.607(2a) is amended by replacing “preceding 6 months” with “preceding 12 months”.

Helicopter hover entry and exit:

Submitters expressed their support for draft rules 91.207(da), (dc) and (dd). However, they did not support draft rule 91.207(db). In their view, they considered that draft rule 91.207(db) is redundant due to the HSWA 2015 superseding the Rules and adds to the verbosity of the rules. However, they do support the overall intent of draft rule 91.207(db).

CAA response:

The CAA is of the view that all the relevant laws specific to the operation of an aircraft hover entry or exit should be put in one place, as much as practicable. This would be a more practical and user-friendly approach for affected operators. The CAA is mindful of any possible misunderstanding that can arise from removing draft rule 91.207(db), especially since it was included in the 2 rounds of public consultation. Removing the draft rule may give the wrong impression to affected operators that they do not need to have any operating procedures, passenger briefing procedures, training procedures and competency assessment procedures for ensuring the risk of injury to any person entering or exiting the aircraft in the hover and any person onboard the aircraft is reduced to as low as reasonably practicable.

There is no change to the helicopter hover entry and exit final rule.

Introductory flight:**Submission:**

Submitters opposed the proposal to rename trial flights to introductory flights. They support a basic definition being provided for trial flights; a trial flight familiarizes a person with flight in, and the operation of, a light aircraft and the training process to become a pilot, which may or may not result in encouraging the participant to become a pilot.

CAA response:

The CAA maintained its earlier view that ‘introductory’ best explains the concept – these flights are meant to be an entry level flight that introduces someone to flying. The term remained unchanged.

Submission:

Submitters contended that restricting students from manipulating the controls in critical flight phases was too restrictive. Letting a prospective student take off during a critical phase of flight on a nice day while shadowing their control inputs is a safe practice. If the aircraft is so high

performance or difficult to control, or the conditions are so unsuitable that a student can't be pattered to take off, then the purpose of the flight is clearly not an introductory flight. In this case, a performance restriction might be more appropriate.

The "critical phase of flight" restriction contradicts the spirit of introductory flights being geared towards "basic manoeuvres" instead of towards the aerobatic component of the flight. Taking off is one of the first things a PPL student learns to do unassisted.

CAA Response:

The CAA agreed with the submission. As a result of the submission, final draft rule 91.227H was amended to read – "The pilot-in-command of an aircraft performing an introductory flight must ensure that a person receiving flight instruction is allowed a basic level of manipulation of the controls" (*new paragraph (b)(2)*). The phrase "during a non-critical phase of the flight" was removed.

Submission:

Submitters opposed retaining A to A flights only. Such flights would prohibit instructors on aero club trips or ferry flights from allowing new members to manipulate the controls. This is not the intention of the rule change, but as drafted would seriously curtail opportunities for people to enter the aviation system where many such opportunities are A to B flights with an instructor which have no undue risk and therefore should be allowed.

CAA response:

The CAA is well aware of the many benefits to be gained from allowing A to B flights as expressed in the submission. However, the CAA maintained its earlier view that A to A flights should be retained to avoid any scope creep.

No change to A to A flights in the final draft rule.

Submission:

A submitter raised that the phrase 'swap over a person in the passenger seat' seemed clumsy. Perhaps it would be better to rephrase to 'change the individual'.

CAA response:

Upon review, the final draft rule is amended to read – "The pilot-in-command of an aircraft performing an introductory flight must ensure that it is an A to A flight where the aircraft only lands to change the person who is to receive flight instruction;" (*new paragraph (b)(3)*).

Submission:

Submitters opposed the use of the term 'passenger' in draft rule 91.227H(a)(3). In their view, a person participating in a trial flight is undergoing flight instruction and is therefore a crew member not a passenger.

CAA response:

On review of the draft rule, the CAA agreed with the submission.

Final draft rule 91.227H is revised to read - "The pilot-in-command of an aircraft performing an introductory flight must ensure that a person receiving flight instruction is allowed a basic level of manipulation of the controls;" (*new paragraph (b)(2)*).

Submission:

A submitter raised that no other person should be carried on an introductory flight except the person receiving flight instruction if aerobatic manoeuvres are to be performed during the flight.

CAA response:

The CAA agreed and amended final draft rule 91.227H to read – “The pilot-in-command of an aircraft performing an introductory flight must if aerobatic manoeuvres are to be performed during the introductory flight, ensure that no other person is carried except the person receiving flight instruction;” (*new paragraph (b)(6)(ii)*).

Submission:

A submitter noted that the definition of introductory flight in the second round of consultation has removed the reference to “an organisation promoting recreational aviation” which was in the original NPRM. The submitter was of the view that the definition should revert to that published in the original NPRM – “**Introductory flight** means a flight of short duration offered by a flight training organisation or an organisation promoting recreational aviation to a prospective trainee or member where the dominant purpose of the flight is to encourage a new trainee or member”.

CAA response:

The CAA reassessed what the main focus of an introductory flight is, which is the giving and receiving of flight instruction rather than the promotion of recreational activities. The removal of “an organisation promoting recreational aviation” in the second round of consultation is a deliberate decision.

The definition of ‘introductory flight’ as contained in the second round of consultation remained unchanged in the final draft rule – “an **Introductory flight** means a flight of short duration offered by a flight training organisation to a prospective trainee where the dominant purpose of the flight is to encourage the trainee to become a pilot”.

Although not raised in the submissions, the CAA considered it appropriate to define a ‘flight training organisation’, for clarity in meaning. In this regard, the term is defined as - “a **flight training organisation** in relation to performing an introductory flight, means an organisation that is certificated under the rules or a non-certificated organisation that provides flight instruction as part of its business;” (*paragraph (c)(1) is inserted in final draft rule 91.227H*).

Cost sharing flights**Submission:**

Submitters disagreed with draft rule 91.227B (a) (4) the aircraft that is being operated has a maximum certificated seating capacity of 6 or fewer seats, on the basis of this being inconsistent with the regulatory authorities intended to align with, is inconsistent with the commentary within NPRM 23-01 and NPRM 23-01 Revision 1 to introduce this rule provision and it remains unclear how this rule will reduce risk.

91.227B(a) (4) limits a relatively small number of private aircraft in the 6 or more seat category, for example the DHC-2 Beaver operated in syndicate (for 40 years), with its typical 7 seat configuration (8 seats listed in the Type Certificate Data Sheet (TCDS)).

It is unclear what difference the certificated capacity makes, versus permitting a certain number of passengers irrespective of the aircraft's certificated seating capacity. That lack of clarity exists given neither NPRM 23-01 or NPRM 23-01 Revision 1 substantiates the need for such a rule provision concerning certificated seating capacity.

For context, the privileges allowed on a 61.35(a) (1) (a) medical certificate issued in accordance with section 44(1) of the Land Transport (Driver Licensing) Rule 1999 allows for the use of what are considered more "complex" aircraft than 91.227B a) 4) allows for in a cost sharing context, for example multi-engine aircraft, maximum take-off weight (MTOW) <2730kg, pressurised aircraft up to 25,000ft and/or retractable undercarriage, with up to 6 persons including the pilot (who can cost share), with no limit on certificated seating capacity unless NPRM 23-01 was applied where that flight could occur (when then aircraft had more than 6 certificated seats) but not be cost shared.

Another submitter raised that the proposed restriction is more of an aircraft restriction rather than passenger carriage restriction.

A couple of submitters suggested that a higher seating capacity (such as 9 or 10 seats) should be allowed.

CAA response:

The CAA took onboard the concerns raised and agreed to remove the maximum certificated seating capacity of 6 or fewer seats. However, the maximum persons to be carried including the pilot-in-command remains at 6. This will enable aircraft with a seating capacity of more than 6 to be used for cost-sharing flights.

Note that the final draft rule 91.227B(a)(4) was amended to read – "the aircraft that is being operated carries no more than 6 persons including the pilot-in-command;"

Submission:

A submitter raised that the current drafting doesn't achieve the intent of the revised proposed rule in some places.

For instance, in draft rule 91.227B(a), 'share' should read 'shares' in the phrase "each person carried by the aircraft (i) share equally in the direct costs of the flight;". Given that 'each' is singular.

The submitter contended that it is not possible for the PIC to pay more than an equal share of the cost if each person carried on the flight (which includes the PIC) must "share equally in the direct costs of the flight". Paragraphs (i) and (ii) of rule 91.227B(a) are contradictory. This should be clarified.

CAA response:

Upon review, the CAA agreed with the submission. Note that final draft rule 91.227B(a) is amended to read –

"(a) A **cost sharing flight** is one where –

- (1) each person, including the pilot-in-command, carried by the aircraft shares equally in the direct costs of the flight;"

Note that paragraph (ii) as cited in the submission above was removed. However, a new paragraph (b) was inserted in the final rule stages to allow for the pilot-in-command to pay more than an equal share of the direct costs of the flight, as set out below -

“(b) Despite paragraph (a)(1), the pilot-in-command may pay more than an equal share of the direct costs of the flight upon prior agreement between the pilot-in-command and the passengers.”.

Submission:

On draft rule 91.227B(a)(6) - “the flight is not advertised to the public and limited to family members, friends or associates”.

A submitter pointed out that "is" is missing before “limited to family...” because as this reads the flight must NOT be limited to family members etc. It would be better drafted as "the flight is not advertised to the public and is limited to family members, friends or associates".

CAA response:

The CAA agreed with the submission and made the correction.

Submission:

A submitter is concerned that there is still not sufficient clarity regarding “direct costs”. The submitter requested that rule 91.227B(d) be amended to overtly include the provision of depreciation and maintenance costs regardless of the ownership of the aircraft.

CAA response:

The CAA disagreed with the submission. Including depreciation and maintenance costs seem too remote to be considered as direct costs of a cost sharing flight.

The definition of direct costs of the flight remained unchanged in the final draft rule as – “**direct costs of the flight** include the costs of any form of energy or material consumed during the flight, airport expenditure or rental fees and air navigation charges.”

Other rule amendments not raised in the submissions

Based on the Ministry of Transport’s review and internal CAA final review, the following substantive amendments were made to tidy up the draft rules and to better clarify intent:

- Rule 91.131 is amended to allow for NVIS training at night within a low flying zone if a person is giving or receiving flight instruction on the use of NVIS (*new paragraph (aa) inserted*);
- Rule 91.227B is amended –
 - (1) to specify that the aircraft that is being operated carries no more than 6 persons including the pilot-in-command;
 - (2) to allow for the pilot-in-command to pay more than an equal share of the direct costs of the flight upon prior agreement between the pilot-in-command and the passengers (*new paragraph (b) inserted*);

- (3) to remove the restrictions that apply to a PPL holder with a Land Transport medical certificate (DL9)² from applying to a cost sharing flight, for being redundant and is likely to cause confusion;
- Rule 91.227H is amended –
 - (1) to clarify that the person performing an introductory flight is either a flight instructor who holds a current A, B or C flight instructor rating issued under the Act and Part 61 or who holds a Part 149 current instructor certificate;
 - (2) to clarify that the person performing an introductory flight is authorised by an aviation training organisation;
 - (3) to clarify that each person carried on the aircraft receives the flight briefing which consists of a basic initial training lesson;
 - (4) to provide a definition for a **flight training organisation**;
 - Part 61 is amended –
 - (1) in rule 61.205(b)(1) by removing the inserted phrase “or the required night flight using NVIS training if applicable”;
 - (2) in rule 61.205 by restricting a CPL holder from acting as pilot-in-command or as co-pilot of an aircraft using NVIS unless an appropriately qualified flight instructor has certified in the holder’s logbook that the person has satisfactorily completed the specified training (*new paragraph (c) inserted*);
 - (3) in rule 61.305(q)(1a) and (2a) by replacing the phrase “if applicable” with “if the holder meets the applicable requirements” for clearer meaning;
 - Part 1 is amended –
 - (1) in the definition of **air transport operation** by adding “a cost sharing flight under rule 91.227B” as an exception to an air transport operation (*new paragraph (6) inserted*);
 - (2) by removing the definition of **cost sharing flight** as it only appears in Part 91;
 - (3) in the definition of **crew member** by removing the term ‘certain’ before ‘circumstances’, for being vague (*draft paragraph (3a) is renumbered as paragraph (5)*).

Editorial amendments

Although not raised in the submissions, some editorial amendments were made to better clarify intent, which included-

² Refer to paragraph (b) of draft rule 91.227B in NPRM 23-01 which states – “Paragraph (a) is subject to the restrictions specified in rule 61.155(bb)”.

- amending draft rule 91.233(a)(3a) by replacing the reference '91.273' with '91.273(a)(1)';
- amending draft rule 91.265 by removing paragraph '(a)', as there are no paragraphs (b), (c), etc, and removing the phrase "all of the following requirements" after 'unless', as they seem redundant;
- amending draft rule 91.271 by replacing the reference '91.273' with '91.273(a)(2)';
- amending the heading of draft rule 91.273 by inserting 'NVIS' before "airworthiness requirements" to distinguish from other CAA notices.

Parts 19, 121, 129, 145 and 172 – no change

No changes were made to final draft rules in Rule Parts 19, 121, 129, 145 and 172.