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**By Electronic Transmission**

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Our Ref: T40-0008

Dear Michael,

**Re: NPRM 1203OS Extended Diversion Time Operations – Proposed Amendments to CAO82.0**

The Australian and International Pilots' Association (AIPA) is grateful for the opportunity to comment on CASA's *Notice of Proposed Rule Making 1203OS Extended Diversion Time Operations – Proposed Amendments to CAO82.0* and the accompanying draft *Civil Aviation Advisory Publication (CAAP) 82-1(1)*.

AIPA takes an active stake in the Australian aviation industry, participating in inquiries in the Australian Aviation sector and contributing members to various industry forums. AIPA is also an active member of the global pilot body, the International Federation of Airline Pilots' Association (IFALPA), which represents over 100,000 airline pilots internationally.

AIPA has reviewed the draft document and would like to put forward the following comments for your consideration.

**Proposed Amendment to CAO 82.0**

The main amendment to CAO 82.0 in relation to EDTO is to reduce the threshold time (i.e. the point at which EDTO commences) from "beyond 90 minutes" to "beyond 60 minutes". The stated purpose of this NPRM is to propose amendments to CAO 82.0 in relation to EDTO threshold times and approvals, to implement ICAO SARPs for EDTO and align with international practice.

AIPA is ambivalent about the proposed changes.

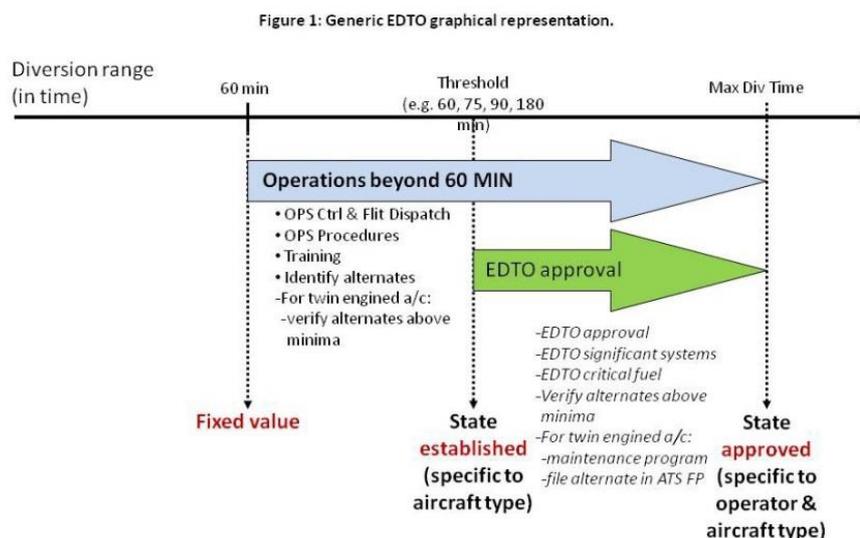
Rather than providing a balanced cost-benefit analysis of the EDTO regulatory framework, the NPRM provides little more than a history lesson. Accordingly, we find it difficult to recognise a clear identifiable benefit over the existing rules for our members or the travelling public. Furthermore, we are far from convinced that the proposal actually satisfies the broader policy perspectives of more closely meeting ICAO SARPs or harmonising our rules with accepted international practice.

AIPA believes that ICAO, the FAA and the EU are not consistent and certainly are not aligned in the regulatory upgrade cycle. The latest ICAO position is set out in Amendment 36 to Annex 6 Part 1 which was applied from 15 November 2012. The FAA policy position is set out in AC 120-42B dated 13 June 2008. The EU position is set out in AMC 20-6 Rev 2 dated 23 December 2010 and alignment with Amendment 36 (Task no. RMT.0578) is not scheduled to begin until 2015 for completion in 2019. In short, neither the FAA nor EASA take into account Amendment 36, although both organisations would have strongly influenced ICAO.

While AIPA is disappointed that ICAO did not set a modern, evidence-based threshold beyond the anachronistic 60 minutes, which AC 120-42B tells us was established in 1953, they did provide a mechanism for Australia to maintain its current arrangements. Para 2.1.3 of Attachment D to Annex 6 Part 1 says:

“2.1.3 Aeroplanes with turbine engines operating beyond 60 minutes to an en-route alternate aerodrome are not required to have specific additional approval by the State of the Operator except if they engage in extended diversion time operations.”

That mechanism as shown in ICAO’s pictorial presentation, clearly does **not** require the EDTO threshold to be set at 60 minutes:



In short, Australia could have established twin-engine 75 minute EDTO thresholds for pistons and 90 minutes for jets and met the ICAO SARPs. However, CASA has chosen to go back to straight 60 minutes for everything with two engines. By way of contrast, the FAA does not require type design EDTO approval for less than 75 minutes, while EASA does not require type design EDTO approval for less than 90 minutes.

It would therefore appear that ICAO compliance did not drive the EDTO threshold issue and that ‘harmonisation’ with the FAA and EASA is reverting to the past rather than preparing for the future. Further, it appears that CASA has assessed that improvements in propulsion and other systems reliability have got us nowhere since 1953 and, accordingly, these rule changes lack any reflection of safety gains since then. There is certainly no safety case presented by CASA that really justifies the reversion of rules.

AIPA had no objections to the 2007 rule changes and has not had any concerns since. We are unaware of any reduction in safety outcomes that have arisen as a consequence of those previous changes. While AIPA members operate EDTO in situations unaffected by the proposed changes and we recognise that there is no safety detriment in tightening the rules, our wider interest in enhancing the safety, efficiency and viability of the Australian aviation industry prompts us to query the safety or other benefits of changing the current thresholds.

## **Draft Civil Aviation Advisory Publication (CAAP) 82-1(1) on EDTO**

### **General Comment**

The CAAP covers all types of EDT operations, including polar operations. It appears to be a simplified version of the FAA AC 120-42B. As such, however, it leaves out important details compared with the Appendix D to ICAO Annex 6 Part 1, the EU AMC 20-6 Rev 2 and the source FAA AC120-42B. In our view, the result is the worst of the likely outcomes. It needs to be expanded to cover the topics in adequate detail thus requiring minimum reference to other documents, e.g. CAO Part 82.

Appendix D to ICAO Annex 6 Part 1 identifies those sections which apply generally i.e. to all aeroplanes irrespective of the number of engines and, those that are specific to twin engine aircraft and those with more than two engines. This seems a much more logical approach.

AIPA's strong position is that the CAAP should be the most thorough document available on the subject, reflecting the most comprehensive policy on the topic. It should reflect the best of the FAA and EASA advice as well as carefully considering the regional implications for the 60-90 minute area, which are somewhat different from those pertaining to North America or Europe.

Notwithstanding the lack of transparency in the true scope and depth of CASA's EDTO policy, we offer the following comments on the CAAP material:

### **Section 2**

The CAAP would benefit from inclusion of certain definitions (some of which are in the CAO 82), including, but not limited to:

- a. Approved One Engine Inoperative speed is not defined.
- b. Significant systems.
- c. Threshold time and Maximum Diversion Time
- d. Diversion decision.

These may be better presented in an appendix.

### **Section 4**

Subsection 4.4 *Continuing Airworthiness* makes reference to Airworthiness Directives and also to Configuration Maintenance and Procedures (CMPs), but does not mention Service Bulletins, which are also used to instigate changes to CMPs.

### **Section 5**

Subsection 5.1 discusses *Maximum Diversion Time* in a way that suggests that there is a continuous range of diversion times available within those three blocks of 60-180 minutes, 180-240 minutes and more than 240 minutes. This does not seem to reflect current practices. For example, within the first block, approvals are typically discrete limits of 75, 90, 120, 138 and 180 minutes. Importantly, the CAAP certainly should reflect the approach taken by the FAA whereby its guidance material, AC 120-42B,

details the specific requirements for each available Maximum Diversion Time approval.

Typically, a NAA will approve an operator for a maximum diversion time based on its actual needs (“preclusion of arbitrary use of diversion authority beyond that necessary to complete the operation safely and efficiently”-FAA AC 120-42B) and experience. For example, if a new operator requested 180 minutes, it may only be granted 120 (138) until such time as it had gained sufficient experience and demonstrated its proficiency in EDT operations. Furthermore, there are additional requirements in Europe to operate to 180 minutes compared with 120 (138) minutes.

In addition, the CAAP does not cover accelerated ETOPS for a mature “non-ETOPS” operator and/ or Early ETOPS for a new airframe/engine combination.

### **Section 6**

The dot point *Alternate Aerodromes* states that the weather requirements for an alternate airport only cover the period from first possible arrival to last possible arrival. Whilst this in line with the FAA requirements, the EU (EASA) requires a 1 hour margin i.e. latest ETA + 1 hour to cover delays (AMC 20-6 Rev 2 Appendix 5). AIPA wonders if this CAAP guidance is the consequence of a policy decision after due consideration of the alternatives or merely a consequence of modifying FAA AC 120-42B?

On the other hand, ‘Lower than STD EDTO Alternate Aerodrome Planning Minima’ are not mentioned at all in the CAAP nor does the amended CAO 82 make reference to GPS/RNAV/RNP approaches, which are covered in the FAA AC 120-42B.

### **Section 7**

The training requirements for flight crew are not written in a logical manner. There are requirements that relate only to initial training and those that relate to refresher training or to both.

No definition of ETOPS dispatch is given nor guidance on courses of action, e.g., if a system/component fail between ETOPS dispatch and take-off.

### **Section 8**

Parts of this section seem to confuse operational limitations with approval. These need to be clearly separated.

The “guidance” in subsection 8.2 requires that Company policy state that a pilot shall divert to the nearest aerodrome “in terms of time” following an in-flight shutdown. This is not necessarily best practice as a diversion to an aerodrome which may be further in terms of time may have better weather, facilities etc. The decision should be based on the aeroplane’s condition following the failure and the assessment of the suitability of the aerodrome at that time. The latter may be the intent of this paragraph, but at present the wording is ambiguous. [*Note: CAAS uses the word “normally”*].

The note to paragraph 8.3.1 mentions the inclusion of special EDTO requirements in Part 121. While this is consistent with the FAA model (FAR 121.161), AIPA hopes that the Australian version will be greatly expanded in comparison.

### **Concluding Remarks**

AIPA is ambivalent about the proposed changes because, while there will be no reduction in safety, we do not believe that the changes have been adequately justified.

Notwithstanding the lack of transparency in the true scope and depth of CASA's EDTO policy, the associated guidance material should be the most thorough document available on the subject, reflecting the most comprehensive policy on the topic.

Should you have any queries or comments, please do not hesitate to contact our office.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Woodward', with a stylized flourish at the end.

**Captain Richard Woodward  
Vice President**

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