



Australian Government

Civil Aviation Safety Authority

Notice of Final Rule Making

**(Including Consolidated Summary of Responses and
Disposition of Comments to NPRM 0608OS)**

Extended Diversion Time Operations (EDTO)

Amendment of Civil Aviation Order (CAO) Part 82.0

Readers should note that this Notice of Final Rule Making (NFRM) contains the consolidated summary of responses, CASA's comments and disposition of comments to Notice of Proposed Rule Making (NPRM) 0608OS. The NFRM also outlines CASA's agreed policy and intended legislative changes and finalises the public consultation process in respect of the NPRM.

Only under extreme or unusual circumstances will CASA consider opinions or arguments opposing the views expressed in this NFRM.

Any member of the public having views or arguments to support an appeal against the decisions documented in this NFRM may ask/request CASA to consider such an appeal.

Issued as part of the process of public consultation
by CASA's Regulatory Development Management Branch

Document NFRM 0608OS – July 2007

Foreword

On 19 September 2006, CASA published Notice of Proposed Rule Making (NPRM) 0608OS – “Extended Diversion Time Operations – Proposed Subpart 121.W of the Civil Aviation Safety Regulations 1998 (CASRs) and Consequential Amendments”. The period for public comment on the proposals contained in this NPRM closed on 13 November 2006.

The NPRM introduced, and invited public comments, on a proposed regulatory framework and supporting advisory material for Extended Diversion Time Operations (EDTO) by large air transport aeroplanes. The key proposed changes included:

- threshold time to be lifted from 60 minutes to 90 minutes, when certain conditions are met;
- introduction of new extended diversion time approval steps (beyond 180 minute and beyond 240 minutes);
- previous EDTO experience requirements harmonised with the new approval steps and other regulatory authorities;
- introduction of 180 minute threshold time for all turbine aeroplanes with more than two engines, except where they operated prior to the commencement of the new EDTO rule set;
- all EDTO operators to implement a passenger recovery plan in the absence of appropriate facilities, to ensure the care and safety of the full complement of passengers and crew;
- specified EDTO alternate aerodromes must have operable RFFS available (outside Australia and with 30 minutes notice);
- introduction of an advisory circular giving comprehensive guidance for obtaining approval to conduct EDTO.

CASA received 143 comments from twelve respondents. A number of the submissions were substantive and comprehensive. The key proposed changes in NPRM 0608OS were well accepted. However, there were a couple of respondents indicating only qualified acceptance of the proposed changes. It should be noted that the bulk of the comments were of a detailed technical nature, suggesting technical improvement to the draft rules.

Consequently, with one exception, all the key proposed changes published in NPRM 0608OS will be legislated. The EDTO project team has reviewed all comments received in conjunction with the relevant CASA Policy Sponsor.



In this Notice of Final Rule Making (NFRM), CASA:

- provides a background of the consultation undertaken;
- provides the objectives and options proposed;
- discusses the submissions made in response to NPRM 0608OS;
- provides an analysis of the responses, gives a CASA response and disposition;
- discusses the impact and gives an explanation of the changes; and
- provides the final rules and associated supporting materials.

Finally, I would like to thank everyone who has taken the time to respond to the NPRM.

Patrick Murray
Group General Manager
Air Transport Operations Group

10 July 2007

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Final Rule Making

1. Background

1.1 On 24 April 2002, CASA released for public comment a Notice of Proposed Rule Making (NPRM) to consult on the creation of a Part 121A in the Civil Aviation Safety Regulations (CASRs). Regulations were proposed in 121A.0245 and 121A.0246, along with Advisory Circular guidance material, that would govern Extended Twin-engine Aeroplane Operations (ETOPS).

1.2 In response to some stakeholder concerns regarding the ETOPS provisions proposed in the NPRM, CASA subsequently gave an undertaking that ETOPS would be reviewed independently of Part 121 and in consultation with affected stakeholders. Also, international developments concerning the regulation of these operations no longer harmonised with Joint Aviation Requirements Operations (JAR OPS)-1 on which the NPRM was originally based.

1.3 Despite the development of CASR Part 121 being well advanced, ETOPS provisions in the proposed Part have been reserved. CASA continues to be committed to developing and making a suite of rules covering extended range operations, and has given undertakings to stakeholders and to the New Zealand Civil Aviation Authority (NZCAA) to that effect.

1.4 CASA's commitment has been demonstrated through participation in the International Civil Aviation Organization (ICAO) Operations Panel (OPSP) over the past four years. CASA has had substantial input to the development of proposals for amendment to ICAO Annex 6, Part I Standards and Recommended Practices (SARPs) and guidance material in respect of ETOPS, including extension of the requirements to include aeroplanes with more than two turbine engines.

1.5 The NZCAA has also been reviewing ETOPS requirements since 2001. In 2003, the US Federal Aviation Administration (FAA) issued an NPRM proposing significant changes to ETOPS requirements. The European Joint Aviation Authorities (JAA) have also been reviewing ETOPS requirements.

1.6 In February 2005, CASA participated in a meeting in Auckland convened by Air New Zealand and NZCAA to discuss ETOPS issues relating to the introduction of the Boeing B777. At that meeting, a suggestion was made for CASA and NZCAA to jointly form a project team to develop rules for Extended Diversion Time Operations (EDTO, the new ICAO term for ETOPS that extends applicability to aeroplanes with more than two turbine engines) that would apply on both sides of the Tasman. The suggestion was formally implemented by a letter from the Director of Civil Aviation NZCAA to CASA's CEO on 5 April 2005. This was supported by CASA's Chief Executive Officer (CEO), and a CASA team subsequently met with NZCAA team members in Wellington in July 2005 to form a project team and commence the work.



1.7 The CASA/NZCAA EDTO project team decided to use, as a starting point, a draft NPRM that was prepared by NZCAA in 2001 but which was never issued. Each proposed rule in the draft NPRM has been compared with the FAA NPRM proposals, the ICAO OPSP proposals, and the current requirements of Australia, New Zealand and the Joint Aviation Authorities (JAA), including the JAA amendment proposals. From that suite of international rules a composite draft rule set was developed that specifically deals with Australian and New Zealand requirements and is, therefore, highly relevant to Trans-Tasman stakeholders.

1.8 A succession of working group meetings then followed including a meeting attended by the CASA and CAANZ project team and key stakeholders from the Australian and New Zealand aviation industry. Participants included representatives from Qantas, Jetstar and Virgin Blue, as well as Air New Zealand and other NZ airlines. The project team sought technical input from the airline representatives to ensure that the proposed rule suite was robust and underpinned the desired safety outcomes. That input was incorporated into the draft, and it was then considered by the project team that it was sufficiently mature to prepare an NPRM.

1.9 The NPRM included a number of proposed options, a technical draft of the proposed rules, and a draft Advisory Circular that expanded on the EDTO rules. It was CASA's intent that the rule suite be incorporated into Subpart 121.W of the Civil Aviation Safety Regulations 1998. However, it became apparent that this would mean incurring a significant delay due to the backlog of legislation being drafted by the Attorney General's Office of Legislative Drafting and Publishing. Therefore, to ensure an expeditious outcome, the EDTO suite of rules will now be entirely incorporated in CAO 82.0.

2. Purpose

2.1 The purpose of this document is to provide a consolidation of all comments received as part of the consultative process, as well as providing CASA's response to each of those comments and a final disposition in respect of each comment. This document also provides an overview of the expected impact of the final regulations, along with the final regulations and a comparison of the new legislation against the existing legislation.

3. Analysis of Comments

3.1 As previously stated in the foreword to this NFRM, CASA received a total of 143 comments, all of which have been considered. See Annex A to this NFRM for the consolidated summary of comments received to NPRM 0608OS, including the CASA responses to these comments and the final disposition of the comments. Only those comments that draw attention to typographical errors have not been included in CASA's responses, although those have been taken into account in the final version of the regulatory material published in Annex A to this NFRM.

3.2 The list of respondents who consented to the publishing of their name follows:

Organisations

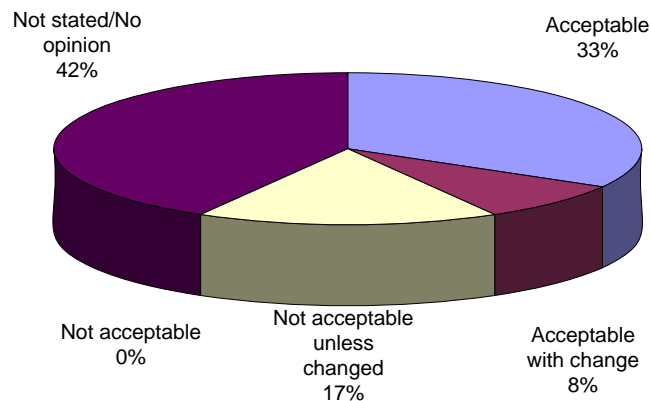
- Katie Clydesdale – representing Department of Transport and Regional Services
- Paul Cousins – representing Australian Licensed Aircraft Engineer’s Association
- Captain Ian Woods – representing Australian and International Pilot’s Association
- Gareth Davey – representing Australian Aircraft Rentals Pty Limited
- Eric Lesage – representing Airbus
- Keith Mallestrom – representing Qantas
- Elizabeth Pasztor – representing Boeing Commercial Airplanes
- Michael Weitenberg – representing Australian Licensed Aircraft Engineer’s Association
- Hugh Faris – representing New Zealand Air Line Pilot’s Association
- Mark Ayrey – representing Australian Airlines
- Murray Warfield – representing Qantas

Individuals

Ron Stacey

3.3 The disposition of individual comments against the seven key proposed changes follows and the percentage is shown for these in figures 1 to 7 below.

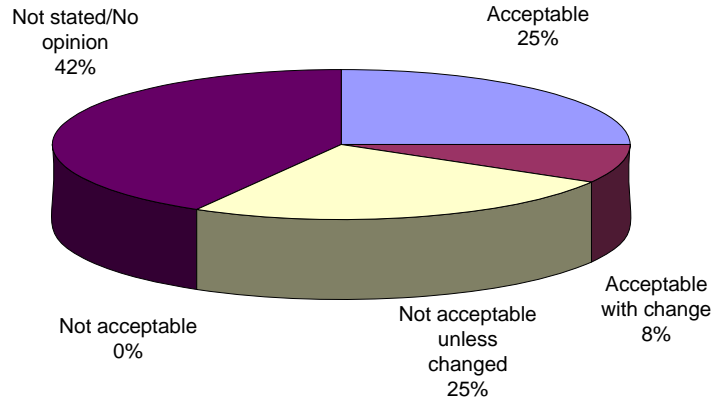
Key Proposed Change 1: *Lifting the threshold time for extended diversion time operations from 60 minutes to 90 minutes, when certain conditions are met*



Disposition of Responses	No. of Responses
Acceptable without change	4
Acceptable but would be improved if changed	1
Not acceptable but would be acceptable if changed	2
Not acceptable under any circumstances	0
No opinion	2
Not stated	3
Total	12

Figure 1

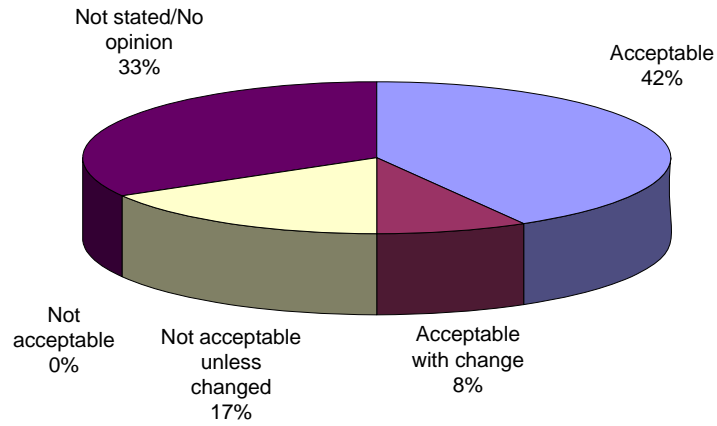
Key Proposed Change 2: Introducing new extended diversion time approval steps (beyond 180 minute and beyond 240 minutes)



Disposition of Responses	No. of Responses
Acceptable without change	3
Acceptable but would be improved if changed	1
Not acceptable but would be acceptable if changed	3
Not acceptable under any circumstances	0
No opinion	2
Not stated	3
	Total = 12

Figure 2

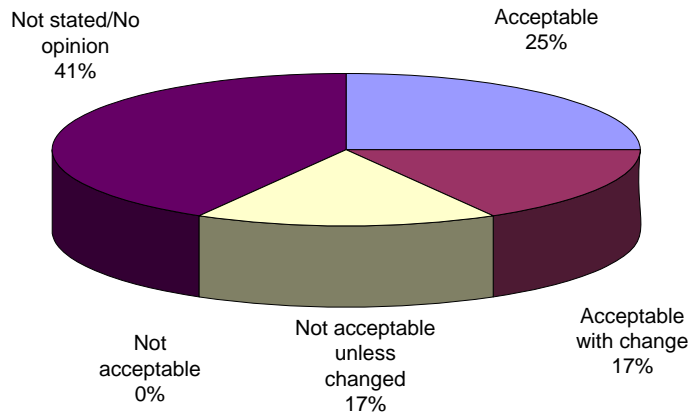
Key Proposed Change 3: Amending previous extended diversion operations experience requirements to harmonise with the new approval steps



Disposition of Responses	No. of Responses
Acceptable without change	5
Acceptable but would be improved if changed	1
Not acceptable but would be acceptable if changed	2
Not acceptable under any circumstances	0
No opinion	1
Not stated	3
	Total = 12

Figure 3

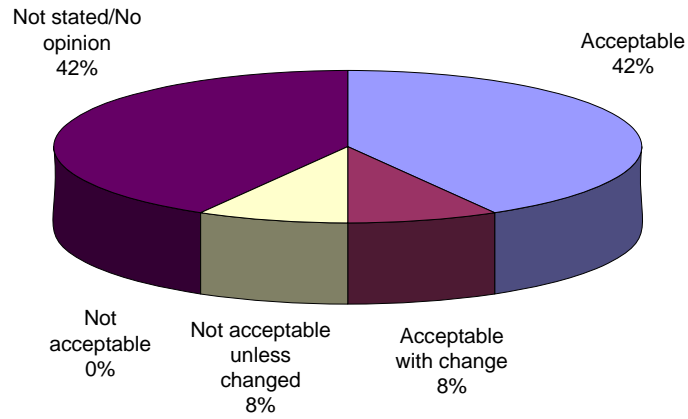
Key Proposed Change 4: *Introducing 180 minute threshold time for all turbine aeroplanes with more than two engines, except where they operated prior to the commencement of the new EDTO rule set*



Disposition of Responses	No. of Responses
Acceptable without change	3
Acceptable but would be improved if changed	2
Not acceptable but would be acceptable if changed	2
Not acceptable under any circumstances	0
No opinion	2
Not stated	3
	Total = 12

Figure 4

Key Proposed Change 5: All EDTO operators to implement a passenger recovery plan in the absence of appropriate facilities to ensure the care and safety of the full complement of passengers and crew

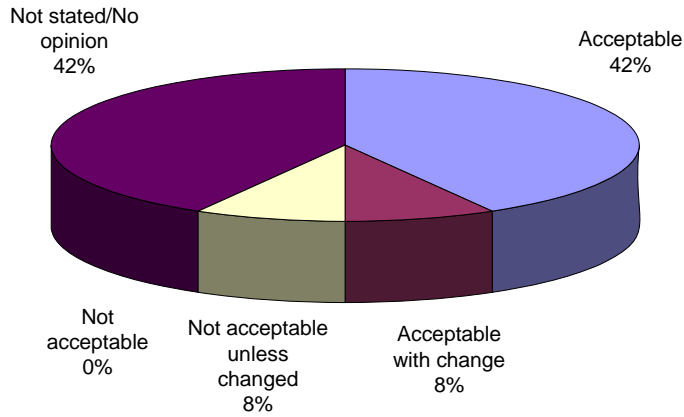


Disposition of Responses	No. of Responses
Acceptable without change	5
Acceptable but would be improved if changed	1
Not acceptable but would be acceptable if changed	1
Not acceptable under any circumstances	0
No opinion	2
Not stated	3
	Total = 12

Figure 5



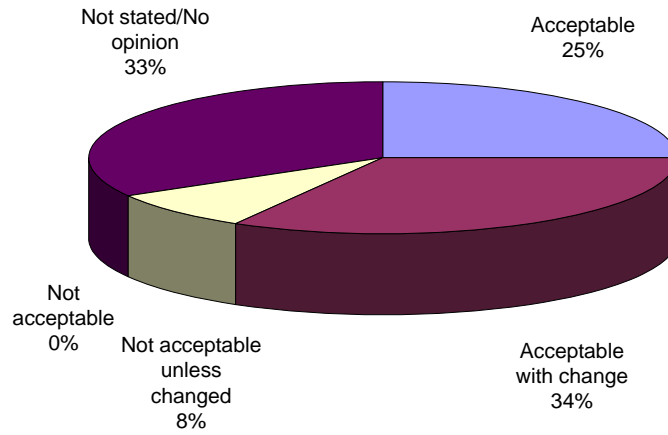
Key Proposed Change 6: Specified EDTO alternate aerodrome must have operable Reserve and Fire Fighting Services (RFFS) available



Disposition of Responses	No. of Responses
Acceptable without change	5
Acceptable but would be improved if changed	1
Not acceptable but would be acceptable if changed	1
Not acceptable under any circumstances	0
No opinion	2
Not stated	3
	Total = 12

Figure 6

Key Proposed Change 7: Introducing an advisory circular to provide comprehensive guidance for obtaining operational approval to conduct EDTO



Disposition of Responses	No. of Responses
Acceptable without change	3
Acceptable but would be improved if changed	4
Not acceptable but would be acceptable if changed	1
Not acceptable under any circumstances	0
No opinion	1
Not stated	3
	Total = 12

Figure 7

4. Conclusion and Impact of Changes

4.1 All of the comments received to NPRM 0608OS have been evaluated by CASA. A consolidation of all comments received, CASA's response and the disposition actions are at **Annex A** to this NFRM. The final *Civil Aviation Orders (CAO) Part 82.0* is at **Annex B** to this NFRM.

4.2 The amendments to CAO Part 82.0 seek to implement and legislate internationally harmonised standards applicable to Australian and New Zealand operators when conducting extended diversion time operations. The key proposed changes and most significant rule enhancements from a safety perspective include:

- extended diversion operations threshold time will be lifted from 60 minutes to 90 minutes, when certain conditions are met;
- introduction of new extended diversion time approval steps (beyond 180 minutes and beyond 240 minutes) and previous extended diversion operations experience requirements lifted to harmonise with the new approval steps;
- Introduction of 180 minute threshold time for all turbine aeroplanes with more than two engines to apply 8 years from the making of the rules;
- all EDTO operators to implement a passenger recovery plan in the absence of appropriate facilities to ensure the care and safety of the full complement of passengers and crew;
- specified EDTO alternate aerodromes must have operable RFFS available;
- introduction of an advisory circular stating comprehensive guidance for obtaining approval to conduct EDTO.

4.3 The provisions in the EDTO suite of rules will underpin safe operations for large aeroplanes conducting extended diversion time operations. It will also provide significant harmonisation with ICAO Standards and Recommended Practices (SARPs) and other major contracting states. Additionally it will provide a uniform set of standards for Australian and New Zealand operators.

5. Implementation and Review

5.1 In accordance with the CASA Regulatory Reform Programme, the amended CAO Part 82.0 is expected to be made by CASA in the second quarter of 2007. It will apply to new applicants immediately and existing ETOPS operators will be given a transition period of one year.

5.2 As part of the regulatory transitional review process, consideration is taken of those regulations and responsibilities which CASA wishes to retain when the new legislation is introduced. These are referred to as “savings” provisions. This ensures that those aspects CASA feels are critical for the continuance of air safety in Australia are maintained.

5.3 The monitoring and review of the new rules will be conducted on an ongoing basis during the implementation/transition phase. Thereafter, following the commencement of the EDTO rule suite, monitoring and review will be conducted on an as-required basis and (within 5 years) as required by the Government.



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Extended Diversion Time Operations (EDTO)

Amendment of Civil Aviation Order (CAO) Part 82.0

Document NFRM 0608OS

Copies of this Notice of Final Rule Making 0608OS can be obtained by one of the following means from:

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