

November 8, 2007

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
West Building Ground Floor  
Room W12-140  
Washington, DC 20590

**RE: PROPOSED ADVISORY CIRCULAR NO. 135-42, EXTENDED OPERATIONS (ETOPS) AND OPERATIONS IN THE NORTH POLAR AREA**

The National Air Transportation Association (NATA), the voice of aviation business, is the public policy group representing the interests of aviation businesses before Congress, federal agencies and state governments. NATA's 2,000 member companies own, operate, and service aircraft. These companies provide for the needs of the traveling public by offering services and products to aircraft operators and others such as fuel sales, aircraft maintenance, parts sales, storage, rental, airline servicing, flight training, Part 135 on-demand air transportation, fractional aircraft program management and scheduled commuter operations in smaller aircraft. NATA members are a vital link in the aviation industry providing services to the general public, airlines, general aviation, and the military.

NATA appreciates the opportunity to provide comments on this Advisory Circular (AC) on behalf of our members that operate aircraft that may be impacted by the Extended Operations (ETOPS) requirements.

**General**

NATA has reviewed AC 135-42, *Extended Operations (ETOPS) and Operations in the North Polar Area*, and has specific concerns with the content of the AC; but more importantly, the association is disappointed that the Federal Aviation Administration (FAA) has did not avail itself of an opportunity to address the fundamental issue of applicability – which is that it remains unclear how to determine whether ETOPS requirements apply.

Unfortunately, it is difficult for most Part 135 operators to know if they should be preparing to obtain ETOPS approval because the FAA has not provided a step-by-step process for operators to use in evaluating their aircraft and areas of operation. Many operators remain unaware that their operations could actually be required to comply with ETOPS requirements. The AC presumes that an operator intends to pursue ETOPS authorization and then provides information on how to obtain FAA approval. Absent is any objective discussion on the process to determine that ETOPS authorization is in fact necessary.

By skipping such a fundamental step, the FAA does a great disservice to the industry. This should be corrected immediately. NATA asks that the FAA amend the AC to include the thought process and steps an operator would follow to

determine the appropriate speeds. Determining whether a specific operation is an ETOPS flight requires an operator to use an “approved one-engine inoperative cruise speed under standard conditions in still air” that is “chosen” by the operator. Existing one-engine inoperative speeds are not based on meeting ETOPS objectives, and no elaboration on what speeds would be appropriate for an operator to choose from is offered. Also not addressed is the commitment accepted by airframe manufacturers to provide ETOPS one-engine inoperative data for the aircraft most likely to be affected by these regulations.

When the FAA published the ETOPS final rule, it agreed with comments from NATA and others that the airplane manufacturers must determine the airspeeds needed by industry. The FAA responded that the manufacturers had agreed to provide this data and that it would be available prior to the effective date of the rules.

It would appear that this data has not been provided by all manufacturers for all potentially affected airplanes.

By failing to provide any guidance whatsoever regarding how an operator “chooses” a one-engine inoperative cruise speed or how an operator can evaluate their operations to determine if ETOPS applies, this AC falls far short of its intended goal. Without this key information, the AC is not useful to the industry.

The AC states that an operator will request an ETOPS area of operation based upon an analysis of proposed routing. This implies that the FAA believes an operator will have specific departure and arrival destinations in mind prior to obtaining FAA ETOPS authority. However the converse is true. An operator needs the FAA to help it determine when ETOPS authority is necessary based upon an “area” rather than a specific operation.

### **Recommendations**

NATA recommends that the FAA establish a working group comprising representatives from the FAA and operators to develop guidance on these two key principles so a clear and consistent understanding of ETOPS applicability exists throughout the industry.

Furthermore, we believe that the incomplete guidance and unavailable airspeeds necessitate an extension to the compliance date for these regulations. The FAA noted in the preamble to the Final Rule that it was necessary to provide an extended compliance period due to pending delivery of this operational data from airframe manufacturers. The condition that necessitated the original delay in compliance still exists and, therefore, the compliance date should be further extended.

NATA proposes that the final rule should not take effect until six months following either the publication of a final AC or the provision of all necessary data from manufacturers, whichever occurs later.

In addition to these two primary areas of concern, applicability and airspeed data, NATA offers the following specific comments with regard to the AC.

**Previous Policy**

Chapter 1 section 103, “*Canceled ACs and Policy Letters*,” states that because ETOPS is new for Part 135 no ACs or Policy Letters are being canceled. Later in the document, language in Chapter 2, section 203 explains that the FAA has had, since 1998, policy limiting Part 135 operations to 180 minutes from an airport. These two statements are contradictory. Whether the FAA has ever actually had such a policy for Part 135 was a controversial issue in the ETOPS rulemaking. Ultimately in the Final Rule, the FAA acknowledged that there was no such existing limitation for Part 135. NATA requests that any reference to a pre-existing policy be removed from the AC to ensure accuracy.

**Confusion Over “Routes”**

At numerous times throughout the AC, reference is made to “routes.” There seems to be a preconceived notion that Part 135 operators will routinely fly between the same two long-range points. Such is not the case for a Part 135 operator that will use different departure and arrival locations even within the same area of operations.

It is imperative for the FAA to understand that Part 135 operators are able to fly to and from airports worldwide without obtaining specific prior FAA approval for the route and destination. This is purposeful. Airlines pick an airport to serve and then routinely conduct operations between the same two airports. In contrast, a Part 135 operator may use an airport once, and then not return for an extended period or not all. Every Part 135 flight, including international and/or long-range flights is unique.

The FAA has missed an opportunity to craft guidance materials that recognize the uniqueness of Part 135 operations and by attempting to make this guidance fit into the Part 121 airline mold.

**ETOPS Systems and Grandfathered Aircraft**

In Chapter 2, paragraph 206b states that a review of the operator’s ETOPS programs will be accomplished once it is determined that the airframe systems and propulsion systems meet the ETOPS standards defined in Part 25. This paragraph fails to note that many, if not all, airplanes currently in the Part 135 fleet that could be subject to the ETOPS requirements do

not meet the Part 25 ETOPS requirements. These aircraft are eligible for ETOPS operational approval under the grandfathering clauses of the regulations. NATA recommends that for clarity this paragraph is amended to explain that the review of ETOPS programs will be accomplished once it is determined that the Part 25 ETOPS standards are met or the airframe and propulsion systems qualify under the grandfathering provisions.

#### **Forecast vs. En route Weather**

Chapter 2, paragraph 208c requires that the forecast weather for a designated alternate airport must remain at or above minimums while en route. NATA believes this requirement is inconsistent with the regulations and subjects the operation to a standard higher than that established in the regulation. Appendix G to Part 135 requires that the weather conditions at an alternate be at or above minimums prior to crossing the ETOPS entry point (*see G135.2.5a*). The language in the AC implies that the flight crew must ensure weather conditions are at or above minimums at all times by using the phrase “en route.” NATA proposes the FAA revise the AC language so it reflects that the requirement applies prior to continuing the flight beyond the ETOPS entry point.

#### **Pre-departure Service Checks (PDSC)**

The standard established in the AC for completion of the PDSC will, in our view, preclude any operator from obtaining Part 135 ETOPS authority if left unchanged. The AC explains that the PDSC must be completed by an A&P mechanic. This requirement assumes an operational model similar to Part 121 exists in Part 135. In the 121 environment, aircraft land and depart from airports where the airline employs individuals who live and work at that location. Such is not the case for Part 135 operators. Because there are no based personnel at the ETOPS destination airport, the only way for a Part 135 operator to meet this standard is to carry a qualified maintenance technician on each flight. This is an impractical and excessively costly requirement.

NATA recommends that the FAA permit the flight crewmembers to complete the PDSC. The ARAC recommendation for Part 135 did not include a requirement for the PDSC. The FAA included the check in the ETOPS NPRM. In the proposal, the FAA explained that the PDSC must be completed by an ETOPS qualified maintenance person. The FAA went on to define an ETOPS qualified maintenance person as one that “completed the certificate holder’s ETOPS training program and who have satisfactorily performed extended range tasks under the direct supervision of an FAA certificated maintenance person who has had previous experience with maintaining the particular make and model aircraft being utilized under the certificate holder’s maintenance program.” (68 FR 64765) It was not proposed or indicated that a flight crewmember could not be qualified to conduct the PDSC. The FAA,

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however, changed its position in the Final Rule to state that the PDSC be accomplished only by an A&P.

NATA implores the FAA to reconsider this position. Should the FAA insist that the PDSC can only be accomplished by an A&P, it will render the ETOPS program virtually useless. Discussions with operators reveal that of those who would have considered obtaining ETOPS authority none of them will now do so primarily due to the PDSC issue.

NATA appreciates the FAA's acceptance of comments on these issues and would welcome any opportunity to help resolve these concerns so that the ETOPS rule can become an effective addition to Part 135 operations.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline E. Rosser". The signature is written in a cursive style with a large initial "J" and "R".

Jacqueline E. Rosser  
Director, Regulatory Affairs