TERMS OF REFERENCE

Task Nr: OPS.055 (a) & (b)

Issue: 1

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Regulatory reference:

- Regulation (EC) No 1899/2006 of the European Parliament and of the Council of 12 December 2006 amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation: Article 1 (1)-(2) and (10)-(11);
- Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (Annex III - hereafter referred to as EU OPS)
- Regulation (EC) No. 216/2008 of the European Parliament and of the Council of 20 February 2008 (hereafter referred to as the Basic Regulation) on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) 1592/2002 and Directive 2004/36/EC:
  - Article 22(2)
  - Article 14
  - Annex IV, § 7.a.(iii) / 7.f. / 7.g./ 8.b. / 8.f.

Reference documents:

- EU-OPS Subpart Q - Flight and Duty Time limitations and Rest requirements
- Recent publicly available studies/research work relating to FTL, including the Scientific and medical evaluation of Subpart Q
- NPA 2009-02
  - 02b – Part-OPS Air Operations - Section I (IRs/ AMCs/GM);
  - 02c – Part OR Organisation requirements - Subpart OPS - Section VIII (IRs / CS FTL.1 / AMC/GM);
  - 02d– Part AR Authority requirements - Subpart OPS - Section III (IRs / AMC/GM).
- ICAO Annex 6:
  - Part I – International Commercial Air Transport - Aeroplanes
    - Chapter 4 - Flight operations, § 4.2.11.2
    - Chapter 9 - Flight crew, § 9.6

  - Chapter 12 - Cabin crew, § 12.5;
  - Attachment A - Flight time and flight duty period limitations.
- ICAO latest amendments on Flight Time Limitations and rest requirements (FTL) and related guidance material (Amendment No. 33 to Annex 6 Part I).

1. Subject:

Updating of Flight and Duty Time Limitations and rest requirements for commercial air transport (CAT) with aeroplanes taking into account recent scientific and technical evidence

2. Problem / Statement of issue and justification; reason for regulatory evolution (regulatory tasks):

The FTL requirements laid down in Subpart Q of EU-OPS, and applicable to commercial air transport with aeroplanes, are the result of long lasting negotiations based on operational experience. Therefore, the European Parliament and the Council when adopting Regulation (EC) No. 1899/2006 specifically requested EASA to conduct a scientific and medical evaluation of Subpart Q [ref. Regulation (EC) No 3922/91 new Article 8(a)] and assist the Commission on the preparation of regulatory proposals, if required:

'By 16 January 2009, the European Aviation Safety Agency shall conclude a scientific and medical evaluation of the provisions of Subpart Q and, where relevant, of Subpart O of Annex III.

Without prejudice to Article 7 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, the European Aviation Safety Agency shall assist the Commission in the preparation of proposals for the modification of the applicable technical provisions of Subpart O and Subpart Q of Annex III.'

To complete this task, the Agency established an FTL Advisory group representing the affected stakeholders, to provide recommendations on how the said evaluation should be completed. Taking into account that a number of key elements of Subpart Q were widely accepted and some elements needed more attention than others, the FTL Advisory Group identified 18 elements to be addressed, including the points within Subpart Q still subject to national provisions.

The scientific FTL experts who completed the said evaluation reached a consensus on the said 18 key elements. The related report included various conclusions that could broadly be described as 'recommendations, precautions, advice, guidance, questions and need for further scrutiny or dedicated research'. This report triggered discussions from different interest groups with contradicting views about its conclusions.

This report was forwarded to the Commission and published by EASA but, due to time constraints and the need for a full assessment including any relevant aspects in addition to those relating to flight safety, the elements resulting from the above mentioned report could not be included into the proposals laid down in the NPA 2009-02 on operations, which was published by the Agency on 30 January 2009.

Considering the follow-up of the Moebus report, the Commission tasked the Agency to complete the necessary rulemaking activity taking into account recent scientific evidence and to consider it as a priority task.

3. Objective:

To fulfil the task as required by the legislator taking into consideration all relevant recent publicly available studies/evaluations and operational experience:

- by reviewing the flight and duty time limitations and rest requirements specified in Subpart Q,
- by addressing those areas/points in EU-OPS Subpart Q currently subject to national provisions in accordance with Article 8.4 of Regulation 3922/91 (e.g. extended FDPs with augmented flight crew, split-duty, time-zone crossing, reduced rest and standby), and
- by submitting regulatory proposals (IR, CS, AMC, GM) based on the preferred option retained after completion of a regulatory impact assessment. These proposals shall also include:
    - reviewing and clarifying accordingly the proposed Authority (NPA 2009-02d) and Organisation (NPA 2009-02c) requirements regarding:
        - the development and modification of individual schemes and the process for their approval, and
        - the use and role of Fatigue Risk Management System (FRMS) in relation to the operator's safety management system (SMS) and to the use of individual schemes.

4. Specific tasks and interface issues (Deliverables):

- To carefully evaluate the impact of the regulatory solutions envisaged and to provide a comprehensive Regulatory Impact Assessment encompassing flight safety as well as other relevant aspects, such as economic and social.
- To take account of all relevant recent and publicly available scientific and/or medical studies/evaluations and operational experience, as well as the conclusions drawn from the discussions on Subpart Q by the Air Safety Committee, relevant comments to NPA 2009-02, experience gained in requests for derogations to Subpart Q, any amended ICAO SARPS, and international developments. In particular, the outcome of the ICAO Fatigue Risk Management System Task Force shall be considered
- To develop an opinion for flight and duty time limitations and rest requirements for CAT operations with aeroplanes.
- To develop an Executive Director decision for the issuing of the relevant CS/AMC/GM material.

5. Working Methods (in addition to the applicable Agency procedures)**:**

The work shall be carried out by a rulemaking group.

Scientific or medical experts shall be associated to this rulemaking activity when deemed necessary.

Meetings shall be held at EASA premises in Cologne.

6. Time scale, milestones:

NPA to be published third quarter of 2010 (2010/Q3) and Opinion to be delivered third quarter 2011 (2011/Q3) in order to allow the inclusion of the proposals into the initial implementing rules to be adopted by April 2012.

Executive Director Decision including the associated CS/AMC/GM to be issued by April 2012.