

Note to JAAC about the JAA 2007/2008 rulemaking programme

When deciding that the European Aviation Safety Agency would take over central JAA tasks related to rulemaking JAA members had in mind that such transfer would facilitate the transitioning from JARs to EC Implementing Rules. It was feared indeed that unnecessary work is being done in either context that would duplicate that being done in the other one; there was also a willingness to avoid that JAA and EASA set standards that would not be identical and thus affect the Pan-European system achieved so far by the JAA. Last but not least, EU Member States are Treaty bound to abstain taking action individually or collectively that would affect the independence of decision of the Community in domains where Community competence is, or is being, established; this covers the development of future Implementing Rules of the extended Regulation 1592/2002 as it is now clear that it will be adopted soon by the Community legislator; amendments of current national rules (and ipso facto JARs) should only be considered if absolutely necessary and sufficiently consensual to avoid that they are rejected thereafter at Community level .

It is in this context that the present note has been established to indicate the Agency's opinion as regards the execution of rulemaking tasks included in the JAA Business Plan.

As a matter of principle, the Agency considers appropriate:

- To expedite the finalisation of tasks that have a chance to be adopted for integration at the same time in JARs (JAR-FCL, JAR-OPS 3 and JAR-STD) and the draft Implementing Rules¹ before the related EASA NPA are published for consultation; in view of the current legislative process, this would mean that The JAA process should be finalised by October 2007. These tasks are called hereunder "Cat 1 tasks".
- To progress work under the JAA system (without finalising it) for tasks that can deliver an input to the draft Implementing Rules before the related EASA NPA are published; as said above this means that a deliverable blessed at least by the OST or LST, with sufficient technical consensus, shall be available by October 2007. These tasks are called hereunder "Cat 2 tasks".
- To stop activities under the JAA system for tasks, which do not meet the above conditions, and transfer them to the EASA 2008 or 2009 Advance Planning Programme² so that they can be progressed under the EASA system, even if the work could be done using the existing teams. These tasks are called hereunder "Cat 3 tasks".
- To consider new tasks only if urgent and absolutely necessary for reasons of safety or of compliance with an ICAO Standard.

The above principles imply that amendments to JARs would stop by the end of the year, except in exceptional urgent cases. The other amendments would be processed either as part of the adoption of the EASA Implementing Rules (and enter into force probably on 1st January 2009) or as part of the amendment of these rules, depending on priorities.

¹ Except for JAR 26 for the reasons explained hereunder.

² This programme includes the tasks that the Agency will undertake in a given year (in this case 2008 or 2009) for deliverable in 2009 or 2010 or later.

It is on the basis of these criteria that the JAA Business Plan is analysed hereunder. The attached table also clarifies the working methods that will be used to execute the work. It must be agreed however that the Agency cannot take responsibility for files, which are not physically transferred. Where such transfer has not yet taken place, the related tasks are drafted in italics.

It would be beneficial to review this Rulemaking Programme (RMP) by the end of 2007.

JAR-OPS 1

In this domain things are now clear following the decision taken in the Community Aviation Safety Committee on 27 February 2007. Only the tasks that can be technically finalised by summer 2007 will be progressed for finalisation in parallel in the EC and JAA contexts. The other tasks will be considered by the EASA Rulemaking Groups OPS.001 and FCL.001 for inclusion in the EASA NPAs or postponed to the EASA Advance Planning Programmes 2008 or 2009.

JAR-OPS 3

The only Cat 1 task is NPA-OPS 38.

All other tasks meet Cat 2 conditions. The existing deliverables endorsed by OST and the draft to be produced by the HSST by September 2007 will be transferred to the related EASA NPA.

JAR 26

The way JAR 26 issues will be addressed in the EASA system is still not completely decided. A rulemaking task is on-going to examine how such requirements could be introduced into the type-certificates so as to link the requirements to the aircraft and make them binding by other means than standard setting. Appropriate transition periods will therefore have to be put in the related implementing rule so as to allow for the transition. Such transition will extend beyond 1 January 2009 and it is wise to continue the JAR26 process at least until that date. All JAR 26 tasks will therefore be continued under the JAA system until further notice.

JAR-STD

NPA-STD 11 and 12 (which were inadvertently forgotten in the Business Plan) are Cat 1 tasks.

JAR FCL 1 and JAR-FCL 2

Most FCL tasks are Cat 2 tasks. NPA-FCL 37 and NPA-FCL 38 consist mainly of editorial improvements to the text of JAR-FCL. NPA-FCL 34 (which was not in the

Business Plan) also aims at improving the quality of the texts already approved and published by the JAA in 2006, it and has already been approved by the LST as a long term exemption. It is considered that to avoid a duplication of resources the best way to deal with these tasks is to transfer them as soon as possible to the EASA rulemaking group FCL.001.

NPA-FCL 36 about instructor competencies is also a Cat 2 task; it is undergoing LST review through written procedure until the end of May 2007 and the result will also be provided to the EASA FCL.001 for introduction in the Implementing Rules.

JAR-FCL 3

NPA-FCL 33, which is about drafting and editorial improvements, is a Cat 2 task.

JAR-FCL 4

NPA-FCL 39, related to FCL 4, which will not be transposed into Community law, will be continued as a pure JAA task.

Table of rulemaking tasks to be continued under EASA management in accordance with the agreed “JAA Rulemaking Process during JAA to EASA Transition”³

Action	State of play	Working method	deliverable	Comments
JAR-OPS 1				
NPA-OPS 39B1: HF	Endorsed at OST 06-5 in Nov 06	Cat 1 To be reviewed by RST in Jun 07 (2 nd review)	EU-OPS and JAR-OPS 1 Amendment in September	
NPA-OPS 39B2: TAWS B	Reviewed by OST 06-5 in Nov06 some comments to be included.	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.
NPA-OPS 39B3: Pitot	Reviewed by OST 06-5 in Nov06 some comments to be included.	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.

³ Procedure agreed by the JAAC on 2 May 2007

Action	State of play	Working method	deliverable	Comments
NPA-OPS 39C FDRs & Fuel Codes Type IA	NPA reviewed at OST 06-1 Jan06. Text evolution is pending on ICAO FLIREP development (Review the standards)	Cat 3		The results of ICAO developments and the draft available will be taken into account in future IRs' amendments as appropriate.
D-NPA-OPS 40A ETOPS	NPA is available to OST members, for review at OST 07-2.	Cat 1	1 st Review at OST 07-2 in May07. EU-OPS and JAR-OPS 1 Amendment in September.	Parallel changes will be introduced in the airworthiness and continuing airworthiness rules by EASA.
<u>NPA-OPS 41</u> Subpart E AWO	Endorsed at RST 07-1 March 07	Cat 1	EU-OPS and JAR-OPS 1 Amendment in September	
<u>NPA-OPS 45</u> Required. Cabin Crew on Ground	Endorsed at RST 07-1 March 07	Cat 1	EU-OPS and JAR-OPS 1 Amendment in September	
<u>NPA-OPS 49</u> Use of Headset	Adopted by JAAC Nov 06 JAR-OPS 1 amt 13 printed in May 07	Cat 1	EU-OPS Amendment in September	EASA will adapt text to EU-OPS wording.

Action	State of play	Working method	deliverable	Comments
<u>NPA-OPS 51</u> FAK/EMK	CRD prepared by EQSG. Endorsed by OST through written procedures in Sept07.	Cat 2		EASA will examine the compliance of this proposal with Essential Requirements of EASA Basic Regulation. If taken on board is moved to Cat 3
<u>NPA-OPS 52</u> Cabin Crew Training Icing Conditions	Endorsed at RST 07-1 March 07	Cat 1	EU-OPS and JAR- OPS 1 Amendment in September	
<u>NPA-OPS 53</u> Noise Abatement	Endorsed at RST 07-1 March 07	Cat 1	EU-OPS and JAR- OPS 1 Amendment in September	
<u>NPA-OPS 54</u> Cabin Crew Medical Aspects and First Aid Training	Adopted by JAAC Nov 06 JAR-OPS 1 amt 13 printed in May 07	Cat 1	EU-OPS Amendment in September	

Action	State of play	Working method	deliverable	Comments
<u>NPA-OPS 57A</u> Electronic Navigation DataBase Management	NPA is available to OST members.	Cat 1	2 nd review at OST in May07 EU-OPS and JAR-OPS 1 Amendment in September	
<u>NPA-OPS 58</u> Terminology & Fuel	Adopted by JAAC Nov 06 JAR-OPS 1 amt 13 printed in May 07	Cat 1	EU-OPS Amendment in September	
<u>D-NPA-OPS 59</u> Aerodromes (RFFS)	Draft endorsed at OST 07-1 in March07 with minor changes to be made.	Cat 2		EASA will examine the compliance of this proposal with Essential Requirements of EASA Basic Regulation. If taken on board is moved to Cat 3
<u>D-NPA-OPS 62</u> Senior Cabin Crew Member Incapacitation	Reviewed at RST in 2006	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.

Action	State of play	Working method	deliverable	Comments
<u>D-NPA-OPS 65</u> Subpart N ICAO Amt 29 Alignment	Not endorsed at OST 07-1.	Cat 3		EASA Inventory
<u>D-NPA-OPS 66</u> SMS	Reviewed at OST 06-5	Cat 2		Draft is available to EASA RM group OPS.001.
<u>D-NPA-OPS XX</u> De/Anti-icing Proposals	Draft by JAA de/anti-icing SG	Cat 3		Draft material available for EASA RM MDM.040 De-Anti-Icing
<u>D-NPA-OPS XX</u> A-ELTs;	No work done in JAA so far	Cat 3		ICAO has issue State Letter AN 11/1.3.20-07/14. EASA is reviewing the SL and will either integrate in the future IR or amend the IR as appropriated.
<u>RTF (Lang Proficiency)</u> NPA-OPS & Manual	No work done in JAA so far	Cat 3		EASA Inventory

Action	State of play	Working method	deliverable	Comments
<u>D-NPA-OPS 43</u> Circuit Protection Devices	Updated draft after public consultation not endorsed by RST	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.
<u>NPA-OPS 48A</u> Data Link Recording Forward Fit	NPA reviewed at OST 06-5 Nov06. Text evolution is pending on ICAO FLIREP development (Review the standards)	Cat 3		The results of ICAO developments and the draft available will be taken into account in future IRs' amendments as appropriate.
<u>D-NPA-OPS 57B</u> RVSM	Draft endorsed by OST 06-3 but not by RST 06-2.	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.
<u>D-NPA-OPS 61</u> Selection of Aerodromes and In Flight Fuel Management	Draft endorsed at OST 06-5 Nov 06.	Cat 2		Draft is available to EASA RM group OPS.001. If not taken on board

Action	State of play	Working method	deliverable	Comments
<u>D-NPA-OPS 63</u> Cabin Baggage Weight	Draft endorsed by OST through written procedure. Not endorsed by RST.	Cat 2		task is moved to Cat 3. Draft is available to EASA RM group OPS.001. If not taken on board task is moved to Cat 3.
<u>NPA-OPS 29</u> SE-IMC	Not adopted by JAAC	Cat 3		Proposal is available to future EASA RM group. EASA Inventory
<u>D-NPA-OPS 32</u> Oxygen	<i>Not endorsed by OST</i>	<i>Cat 3</i>		<i>EASA Inventory</i>
<u>A-NPA-OPS 40B</u> LROPS	Not endorsed by OST	Cat 3		EASA Inventory
<u>D-NPA-OPS 47</u> OPS 1 Performance JAR-	Not endorsed by OST	Cat 3		EASA Inventory
<u>A-NPA-OPS 48B</u> Data Link Recording Retrofit	Not endorsed by OST	Cat 3		EASA Inventory

Action	State of play	Working method	deliverable	Comments
<u>Loss of Control Procedures</u> Flight Crew	No work done in JAA so far	Cat 3		EASA Inventory
<u>Loss of Control</u> FSTD	No work done in JAA so far	Cat 3		EASA Inventory
<u>Loss of Control Loading Errors</u> Cargo	No work done in JAA so far	Cat 3		EASA Inventory
<u>D-NPA-OPS XX Incursions</u> Runway	Draft presented at OST 07-1	Cat 3		EASA Inventory
<u>Weights Survey</u> Adequacy of Specified Weights Survey, then NPA-OPS	The principal of conducting a survey and a basic plan was endorsed at OST 06-5.	Cat 3		EASA Inventory JAA is assessing the ways and means to conduct the study
<u>A-NPA-OPS X</u> Consideration for Power Controlled A/C Concept (total loss of primary controls)	No work done in JAA so far	Cat 3		EASA Inventory

Action.	State of play	Working method	deliverable	Comments
Associated Administrative & Guidance Material				
<u>TGL 42 (New)</u> EVS/HUD	Reviewed at OST 07-1 in March 07. Comments to be addressed.	JIPs JAA EVS/HUD Ad Hoc WG	Updated material to be endorsed by OST through written procedure	
<u>TGL 26</u> MEL Policy Amendments	Revision 8 adopted at OST 07-1 March 07	JIPs JAA MMEL/MEL SG		This is an on-going RM task and future revisions of TGL 26 to be endorsed by OST may be expected.
<u>TGL XX (New)</u> DG Training	Based on DGELG Training Guidelines	Cat 3		EASA Inventory
<u>TGL XX (New)</u> AWO Training	<i>No work done in JAA so far</i>	<i>Cat 3</i>		<i>EASA Inventory</i>
JAR-OPS 3				
<u>NPA-OPS 38</u> Helicopter Performance	Adopted by JAAC 06-4 Nov 06	Cat 1 Published by JAA-LO	Publication of JAR-OPS 3 Amendment 5 in July 2007	
<u>D-NPA-OPS 50</u> Helicopter	NPA reviewed by RST 06-2	Cat 3	OST to review draft	EASA Inventory.

Action.	State of play	Working method	deliverable	Comments
Limited icing conditions	Public Consultation Jun07	HSST to review the comments	in Nov 07	
<u>D-NPA-OPS XX</u> JAR- OPS 3 VHM	NPA reviewed by RST 06-2	Cat 3		EASA Inventory. Draft will be available to EASA future RM task.
<u>D-NPA-OPS 67</u> JAR- OPS 3 Type IVA FDRs	NPA endorsed at OST 07-1	Cat 2	RST to review draft in June 07	Draft will be taken care of in IRs after RST.
<u>D-NPA-OPS 68</u> JAR- OPS 3 Use of Headsets	NPA endorsed at OST 07-1	Cat 2	RST to review draft in June 07	Draft will be taken care of in IRs after RST.
<u>D-NPA-OPS 69</u> JAR- OPS 3 Hoist Operations	NPA endorsed at OST 07-1	Cat 2	RST to review draft in June 07	Draft will be taken care of in IRs after RST.
<u>D-NPA-OPS 70</u> JAR- OPS 3 Dangerous Goods	NPA endorsed at OST 07-1	Cat 2	RST to review draft in June 07	Draft will be taken care of in IRs after RST
<u>D-NPA-OPS XX</u> JAR- OPS 3 Recurrent Training/Checking	<i>Draft under preparation by HSST</i>	Cat 3		EASA Inventory. Draft will be available to EASA future RM task.

Action.	State of play	Working method	deliverable	Comments
JAR-26				
<u>NPA-26 2</u> Type III Exits (access & ease of operation)	Draft under preparation.	Handled by joint EASA-JAA group.	OST Jan 2008 JAAC 2 nd Q 09	Finalization of the task subject to JAR-26 future in the EASA system.
<u>NPA-26 3</u> Emergency exit access (access through bulkheads)	Related EASA Rulemaking task has been stopped after evaluation of the RIA. ⁴			There is no reason to execute this task.
<u>NPA-26 15</u> Commercial Air Transport (Aeroplanes) fire protection (Class 'D' & 'C' cargo compartments)	Draft under preparation.	Handled by CSSG	OST Jan 2008 JAAC 2 nd Q 09	Finalization of the task subject to JAR-26 future in the EASA system.
<u>NPA-26 17</u> Thermal/Acoustic Insulation Material	Draft under preparation.	Handled by CSSG	OST Jan 2008 JAAC 2 nd Q 09	Finalization of the task subject to JAR-26 future in the EASA system.
<u>NPA-26 18</u> Reinforced Cockpit Doors to Enhance	Not adopted by JAAC 05-4 in 2005	Handled by CSSG	CSSG to address JAAC comments.	Finalization of the task subject to JAR-

⁴ As it was endorsed by OST at OST 05-3 (Refer to OST 05-3 notes V2) in WP-35-05, this task was due to be handled by EASA drafting group 25.045. As stated in the WP a RIA was envisaged prior to start the RM task. After EASA RM drafting group 25.045 have completed the Regulatory Impact Assessment, it has been decided to drop the proposal down for amending CS-25. JAR-OPS 26 should not be amended, in consequence.

Action.	State of play	Working method	deliverable	Comments
Aeroplane Security - Double Pilot Incapacitation			OST Jan 2008	26 future in the EASA system.
<u>NPA-26 XX</u> Class B/C cargo Compartments (acceptable level of safety for aeroplanes equipped with class B cargo compartments)	Draft under preparation.	Handled by joint EASA-JAA group.	OST Jan 2008 JAAC 2 nd Q 09	Finalization of the task subject to JAR-26 future in the EASA system
JAR-STD				
NPA-STD 11 & 12	Adopted by JAAC 06-4 Nov 06	Cat 1	Publication of JAR-FSTD (A) & (H) Sep 2007	not in business plan
<u>TGL XX (New)</u> Upgrades and updates of FSTDs	TGL 10 to be published on JAA web site June 2007 No further JAA activity			This task is completed.
<u>TGL XX (New)</u> Footprint Test	Draft under preparation	JIPs FSTD SG	Material to be endorsed by OST through written procedure	
JAR-FCL 1 & 2				
<i>NPA-FCL 34</i>	<i>Approved by LST for Long Term Exemption in 2006</i>	<i>Cat 2</i>	<i>Revised draft transmitted to EASA</i>	<i>not in business plan</i>

Action.	State of play	Working method	deliverable	Comments
<i>Revision of the theoretical knowledge instruction and examination, plus miscellaneous changes</i>	<i>1st RST review March 2007</i>	<i>Work to be finalised by internal means in co-operation by EASA and JAA-LO colleagues</i>	<i>RM group FCL.001 by end May 2007</i>	
<p><i>JAR-FCL 1: Transposition of the ICAO FCLTP recommendations in subjects other than the MPL, including:</i></p> <ul style="list-style-type: none"> • <i>Powered Lift</i> • <i>Airships</i> • <i>Miscellaneous detailed changes including extension of competency based training to all licences and ratings; and extension of TEM principle to all licences and ratings</i> 	<p><i>No work done in JAA</i> <i>No work done in JAA</i> <i>Work partially developed regarding Instructor ratings (see NPA-FCL 36 Instructor competencies)</i></p>	<i>Work to be discontinued at JAA level.</i>	<i>Any existing material to be transferred to EASA group FCL.001</i>	<i>Work covered by activity of EASA RM FCL.001</i>
Publication of JAR-FCL 1 amendment incorporating NPA FCL-31 (MPL)	Published in JAR-FCL 1 amendment 7, Dec 2006		Completed	No further action
<i>JAR-FCL 1: 'omnibus' NPA</i>	<i>Editorial improvements being made at initiative of JAA-LO</i>	<i>Cat 2</i>	<i>Draft to be transmitted to EASA</i>	

Action.	State of play	Working method	deliverable	Comments
<i>renamed NPA-FCL 37 (collection of small or minor changes to JAR-FCL 1 resulting from implementation experience of stakeholders)</i>		<i>Work to be finalised by internal means in co-operation by EASA and JAA-LO colleagues</i>	<i>RM task FCL.001 by end of July 2007</i>	
<i>JAR-FCL 2: 'omnibus' NPA. Collection of small or minor changes. (based on the implementation experience of NPA-FCL 25)</i>	<i>Editorial improvements being made by JAA-LO initiative</i>	CAT 2 <i>Work to be finalised by internal means between EASA & JAA-LO</i>	<i>Draft to be transmitted to EASA RM task FCL 001 by end of July 2007</i>	
<i>NPA-FCL 36 Instructors competencies</i>	<i>Draft prepared by Instructors WG</i>	Cat 2	<i>LST review end of May 2007</i>	<i>Taken into account by EASA RM task FCL.001.</i>
JAR-FCL 3				
<i>JAR-FCL 3: 'omnibus' NPA – renamed NPA-FCL 33 (collection of small or minor changes to JAR-FCL 3 resulting from implementation experience of stakeholders)</i>	<i>Draft prepared by LSST(M) WG</i>	Cat 2 <i>LSST(M) review in June 2007</i>	<i>LST review in September 2007</i>	<i>Largely editorial improvements. To be taken into account by EASA FCL 001 group</i>
JAR-FCL 4				
	<i>Draft is being prepared by JAA</i>	JAR 11	<i>LST review in</i>	<i>Pure JAA task</i>

Action.	State of play	Working method	deliverable	Comments
<i>Update of JAR-FCL 4 (NPA-FCL 39) to maintain consistency with JAR-FCL 1 and 2 amendments</i>	<i>LO staff.</i>	<i>Work to be finalised by internal means in co-operation by EASA and JAA-LO colleagues</i>	<i>September 2007 JAAC 3rd Q 2008</i>	<i>Will not be transposed into Community law</i>
Others				
<i>Detailed specification of applicable FSTDs to be used for training and testing as currently indicated in JAR-FCL 1 and 2 (co-ordination with FSTD International Working Group)</i>	<i>No work done in JAA, no draft available.</i>	<i>Cat 3</i>		<i>EASA inventory</i>
Miscellaneous				
<u>UAVs</u>	No work has been done so far under the JAA			This task will be taken over by EASA as a follow-up of the results of the A-NPA