

APPENDIX R

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATIONAL AIR TRAFFIC CONTROLLERS ASSOCIATION
AND
THE FEDERAL AVIATION ADMINISTRATION**

This Memorandum of Understanding (MOU) is entered into by and between the National Air Traffic Controllers Association, hereinafter referred to as the "Union", and the Federal Aviation Administration, hereinafter referred to as the "Agency", and collectively referred to as the "Parties". This Agreement represents the complete understanding between the Parties at the national level addressing the Article 55 workgroup recommendations developed in accordance with Article 55 of the Parties 2009 Collective Bargaining Agreement (CBA).

Section 1. In order to ensure continuity and the effectiveness of ongoing fatigue mitigation efforts, the Parties will form a post Article 55 workgroup until the formal Fatigue Risk Mitigation System (FRMS) is established.

Section 2. The Parties recognize that air traffic controllers should have break periods away from their assigned duties during their shifts, based on staffing and workload, to recuperate. These break periods offer employees opportunities to attend to personal needs, rejuvenate their mental acuity, et cetera.

To support the purpose and utility of break periods the following change to FAA Order 7210.3, section 2-6-6, Relief Periods will be implemented:

paragraph c: Personnel performing watch supervision duties shall not condone or permit individuals to sleep during any period duties are assigned. Any such instance shall be handled in accordance with applicable Agency Policy and the CBA.

Section 3. The Parties recognize the need for watch schedules that meet operational needs and mitigate system risks due to fatigue. In response to the scientific data supplied by the Article 55 workgroup, the Parties agree that employees are required to have a minimum of nine (9) consecutive hours off-duty preceding the start of a day shift. For purposes of this document only, a day shift is generally defined as a schedule where the majority of hours fall between 7:00 a.m. and 4:00 p.m. This requirement applies to all shift changes, swaps and overtime to include scheduled, call-in and holdover assignments.

Effective with the signing of this agreement, only the provisions contained within FAA Order 7210.3, this document, the 2009 CBA and any subsequent determinations made by the post Article 55 workgroup regarding time between shift requirements are applicable.

Section 4. The post Article 55 workgroup will develop new watch schedule principles that incorporate the science and modeling identified by the Article 55 workgroup for implementation generally with watch schedules beginning in 2012. Within twenty (20) days of the signing of this agreement, the post Article 55 workgroup will meet to jointly

develop guidance to assist locals with scheduling implementation. The Parties at the national level will use their best efforts to develop a watch schedule modification that mitigates fatigue in the transition from the day shift to the mid shift and implement any modification on an interim basis no later than September 1, 2012.

Section 5. The Agency will develop policies and procedures that encourage self-initiated identification and the seeking of a diagnosis and treatment if required for sleep apnea (SA). The Office of Aerospace Medicine (AAM) will work with the employee and their physician to develop a plan that will minimize the impact of a diagnosis. The post Article 55 workgroup will jointly develop recommendations to reduce disincentives associated with an SA diagnosis and in consideration of other health issues that result in medical disqualification.

Section 6. The Office of Aerospace Medicine will provide educational material to the ATO workforce to raise awareness of SA. The education will include information regarding resources that may be available for support such as SA respiratory coaching.

Section 7. The Office of Aerospace Medicine will maintain an up-to-date awareness of sleep medications; utilize American Academy of Sleep Medicine and accepted medical standards and practices for SA risk factor identification, diagnosis and treatment; document the process for medical qualification for individuals at risk for sleep apnea; develop educational material on SA; and, ensure FAA Aviation Medical Examiners are educated regarding SA.

Section 8. All operational personnel are obligated by their significant safety duties and professional responsibilities to prepare for duty with consideration for being well-rested and mentally alert. It is the employees' responsibility to recognize and report to their supervisor when they are unable to perform operational duties due to fatigue. Upon request, employees that self-declare as unable to perform operational duties due to fatigue will be granted leave in accordance with the leave provisions contained within the 2009 CBA. Additionally, at his/her request, an employee that self-declares as fatigued, shall be assigned other facility duties, to the extent such duties are available. If no such duties are available, the employee will be granted leave as described above.

The post Article 55 work group will explore options and make recommendations to address situations in which fatigue is a repetitive factor in shift availability and develop education for the workforce regarding fitness-for-duty responsibilities.

Section 9. The Agency will implement a Fatigue Risk Management System (FRMS) in the ATO for air traffic operations that includes the Union, to analyze, identify and recommend mitigation strategies for fatigue risks. The FRMS will be implemented no later than January 2012.

Section 10. The Agency's Fatigue Risk Management Program Office (FRMPO), in collaboration with the Union, shall oversee the development and implementation of comprehensive fatigue awareness training that reflects current science regarding fatigue risks. The FRMPO will provide the training to the work force. The training will include information on both organizational and personal mitigation strategies and options.

Section 11. The Parties agree that between the hours of 10:00 PM and 6:00 AM radios and appropriate printed reading material will be permitted in operational areas, as traffic permits.

The Parties agree this MOU completes the work of the Article 55 workgroup regarding their recommendations. However, the Parties agree to continue to collaborate to mitigate fatigue in the workplace. The Agreement is effective throughout the 2009 CBA.