



Rule of Procedure for Rulemaking Groups	Doc #	WI.RPRO.00045-001
	Approval Date	19/11/2010

## Rule of Procedure for Rulemaking Groups

### **WI.RPRO.00045-001**

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**DOCUMENT CONTROL SHEET**

<b>Process Area</b>	Rules development
<b>Main Process</b>	Process a rulemaking task, Annual rulemaking programme
<b>Scenario</b>	All
<b>Process</b>	All
<b>Main Process Owner</b>	Eric SIVEL

**Reference documents****a) Procedures**

PR.RPRO.00001 - Process a rulemaking task

PR.RMP.00001 - Annual rulemaking programme

WI.RPRO.00044 - Determination of the memberships of Rulemaking groups

**b) Internal documents**

MB Decision 08/2007 of 13.06.2007 amending and replacing Decision 07/2003 concerning the Procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material ("Rulemaking Procedure") and in particular Article 4 and 7 thereof.

ED Decision 2005/01/ADM of 4 February 2005 on General implementing provisions adopting the procedure to be followed to reimburse persons invited by EASA as experts, members of the Management Board and members of other Committees.

**Date of validation Owner level 1**

AGNA: Advisory Group of National Authorities  
A-NPA: Advance-Notice of Proposed Amendment  
CdT: Centre de Traduction  
CRD: Comment Response Document  
DG-TREN: Directorate General Transport & Energy  
FRA: Foreign Regulatory Authority (i.e. FAA)  
GC: Group Composition  
JAALO: Joint Aviation Authorities Liaison Office  
MB: Management Board (Decision)  
MoM: Minutes of meeting  
MS: Member State of the EU  
NAA: National Aviation Authority  
NPA: Notice of Proposed Amendment  
NRT: Non Rulemaking Task  
R: Rulemaking Director  
R.6: Process Support  
RG: Review Group  
RIA: Regulatory Impact Assessment  
RP: Rulemaking Programme  
RUO: Rulemaking Officer  
SSCC: Safety Standards Consultative Committee  
ToR: Terms of Reference  
WI: Work Instruction



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<b>Log of issues</b>		
Issue	Issue date	Change description
001	19/11/2010	First issue



## **I. INTRODUCTION**

The Rulemaking Procedure foresees, inter alia, in its articles 4 and 7 the establishment as appropriate of groups to assist in the drafting of, and review of comments on, rules to be issued by the Agency. It then requires the Executive Director to establish, after having consulted the Safety Standards Consultative Committee and the Advisory Group of National Authorities, the necessary internal procedures for the implementation of the Rulemaking Procedure, in particular the provision of standard procedures for such groups.

The present document specifies the rules and procedures applicable to rulemaking groups. For the purpose of this document [and subject to point III.g below] subgroups, as defined in point II. f of the Procedure for determination of memberships of Rulemaking Groups (WI.RPRO.00044-001) shall be considered as rulemaking groups. The role of rulemaking groups is advisory by nature. As stated above they shall assist in the drafting of, and review of comments on, rules to be issued by the Agency, while the Agency shall make the final decision.

## **II. MEMBERSHIP**

Members of rulemaking groups are appointed by the Agency's Rulemaking Director in accordance with the provisions of the Rulemaking Procedure. Membership *shall be limited while taking into account* the need to include the necessary expertise to execute the tasks specified in the Terms of Reference. Membership may be changed in case members cannot fulfil their role or additional expertise is needed to execute the tasks of the group.

## **III. CHAIR**

A Chair shall be elected by the members of the group on the basis of his/her personal skills for this role, his/her availability and his/her experience of the EASA system and of the domain relevant to the Terms of Reference of the rulemaking group. Any difficulty in choosing the Chair of a rulemaking group must be reported to the Rulemaking Director.

The Chair is responsible for the efficiency of the group and the fulfilment of its Terms of Reference, as well as for the following tasks:

- a) Organising and scheduling of group meetings;
- b) Proposing the agendas of the group;
- c) Organising the discussions, and notably for ensuring that all representatives may express their opinions;
- d) Adopting the reports of the group's meetings;
- e) Establishing the synthesis of all the opinions expressed in the rulemaking group, using if necessary the principles of consensus;
- f) Reporting to the Rulemaking Director any difficulties met in the fulfilment of the tasks of the group and eventually proposing changes to the Terms of Reference and necessary changes in the composition of the group;
- g) Proposing the creation of subgroups according to point II. f of the Procedure for determination of memberships of Rulemaking Groups (WI.RPRO.00044-001); and
- h) As regards subgroups, the subgroup Chair reports to the Chair of the main rulemaking group.



#### **IV. SECRETARY**

The secretary of the group will be appointed by the Rulemaking Director, normally from Agency's staff or persons contracted by the Agency.

The secretary of a group shall be responsible for the practical organisation of the work, including:

- a) Preparing the reports of each meeting of the group;
- b) Distributing reports, minutes, agendas and any other relevant material to the group members; and
- c) File retention as necessary to maintain efficiency in the group's work.

#### **V. ROLE OF MEMBERS**

Participation is on the basis of technical expertise and experience, therefore members shall not seek to prejudge nor affect the consultation process by representing the interests of his or her organisation in the course of the work of the group. This however does not preclude members to liaise with, and seek the opinion of, affected parties so as to allow the group to fulfil its tasks in the best way possible.

Members should:

- attend all group meetings from beginning to end on a regular basis, in order to ensure harmony and efficiency;
- participate in discussion whenever relative views and/or information could be given and contribute proposals for the text of new/amended rules as appropriate;
- assist in efficient planning of the meeting, inform the Chair and secretary before the meeting of non-availability for a group meeting.

#### **VI. REPORTING**

The rulemaking groups report to the Rulemaking Director.

Soon after each meeting, the Chair/secretary should provide the Rulemaking Director with a progress report on the tasks of the group. Appendix 2 provides a model for this reporting.

For subgroups the provisions of point III.h) above apply.

#### **VII. WORKING METHODS**

Based on the timetable set for the task in hand, the group will determine a suitable meeting schedule, and forward this schedule to the Rulemaking Director.

The Agency will provide the necessary administrative and logistical support necessary for the fulfilment of its tasks. Meetings shall be held at the Agency's head office, except in exceptional circumstances, subject to agreement with the Rulemaking Director. The working language of all meetings shall be English, unless specific alternative arrangements are made for acting differently.

The group will perform its work by means of correspondence and/or meetings.



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The work of the group shall be in accordance with its Terms of Reference. Without prejudice to the provisions of the Rulemaking Procedure, such Terms of Reference may be amended as appropriate in the light of progress with the task.

Decisions in the group shall be taken by consensus, as defined in Appendix 1.

As regards decisions of the subgroup, these shall be subject to approval by the main group.

When drafting a Notice of Proposed Amendment (NPA) the group shall develop a draft of the Regulatory Impact Assessment (RIA), proposing alternatives, and present it to the Agency for possibly selecting one of the alternatives. The group will then proceed with the establishment of the detailed RIA to be included in the NPA. When reviewing comments, the group shall adapt the RIA accordingly.

If the group is not able to complete its tasks within the given timeframe, it may make suggestions on how to resolve the problem.

**VIII. DOCUMENTATION**

Each group will be provided with the appropriate reference documents, e.g. rulemaking procedures, internal documents and procedures relevant to the task in hand.

**Appendix 1****RESOLUTION OF CONFLICTS/ USE OF CONSENSUS**

1. Consensus is agreement by all that a specific course of action is acceptable. Consensus can be unanimous or near-unanimous. Consensus does not mean "majority rule":

- Full consensus means that agreement among members is unanimous. All members of the group agree fully in context and principle and all members fully support the specific course of action.
- General consensus means that, although there may be disagreement among the members of the group, the group has heard, recognised, acknowledged and reconciled the concerns or objections to the general acceptability of the group. Although not every member fully agrees in context and principle, all members support the overall position of the group and agree not to object to the proposed recommendation.

It is important to reach consensus in every phase of the joint regulatory process because disagreement in later phases of the process is counter productive to its objectives and extremely costly to it.

2. When consensus cannot be achieved, each member has the right and responsibility to have its objections considered. The following guidance is provided for those situations where consensus cannot be obtained:

- The dissenting member(s) must present written objections to the group in a format that can be understood clearly by all members. To ensure communication and understanding, the group's position, relative to the objections, must be documented with reasons why the group chose to retain its position. The documentation of objections and positions offers additional opportunity for meaningful communication among all group members in the hope of attaining consensus. By this means, disagreements can, through compromise, be resolved. If consensus still cannot be attained, the group has the documentation required to refer the disagreement to the Agency. In such case, the decision of the Agency shall be considered as providing a consensus for the continuation of work.
- Sometimes reaching a consensus is a matter of ensuring that all avenues of the problem have been explored and investigated. At times it is advantageous to bring in a group facilitator to help with the process.
- If all above attempts to reach consensus fail and major opposition to the group's position still exists, the proponents of the existing opposition must document their position, summarise their understanding of the group's position and state why they believe their opposing position is superior. The group must document its position, summarise the opposition's position and state why the group believes its position is superior and why the opposing position should not be accepted. This documentation must be part of the group's report.



**Appendix 2**

**CONTENTS OF A MODEL PROGRESS REPORT**

**1. Group:**

**2. Chairman:**

Tel.:

Fax:

Address:

**3. Meeting no: Date:**

**4. Next meeting: Date:**

**5. Status of Work:**

NPA no:

Status:

**6. Main points of discussion:**



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**RECORDS**

**Appendix A : Operational Documents**

Record	Step / Related to

**Appendix B : External Documents**

Record	Step / Related to