

IV. The Process.

A. **Pre-ATSRAC.** Because of the nature of certain issues or situations, it is appropriate to obtain input from industry and consumer representatives before agency consideration is given to initiating an advisory committee task. ATSRAC provides that mechanism to obtain the needed input in a manner which benefits the FAA, the industry, and the customer. The following internal FAA functions must take place to initiate an ATSRAC project.

(1) **Decision to Task ATSRAC.** An internal FAA office that has established an ATSRAC technical subject matter area may determine that it needs ATSRAC's assistance to solve a specific problem. FAA offices that do not have an issue established in ATSRAC and desire ATSRAC's assistance may either establish a new ATSRAC issue for its particular subject matter, or work within an established issue if it can be accommodated.

(2) **Preparation of Background Paper to Task ATSRAC.** The OPI must prepare a brief background paper defining the task, explaining why the task is needed, and identifying any commitment to a schedule. In preparing the task, the FAA should review the history behind the task, advisory material, and policy statements. The reason(s) the task is necessary should be stated, and appropriate background material should be gathered for ATSRAC consideration. The background paper should include:

a. A tasking statement. This statement should describe what the FAA would like ATSRAC to do, the scope of the task (i.e., references to specific FAR sections, advisory circulars, etc.), and what the final recommendation should include. The reference to specific sections should be phrased in such a way as to allow ATSRAC to go beyond those sections to include others that might be impacted.

b. Background of the task. This should describe what problem the FAA is intending ATSRAC to solve; the origin of the request (e.g., an NTSB recommendation); the history that led to the problem; and related activities taking place internally in the FAA, in ATSRAC, or in organization such as the Radio Technical commission for Aeronautics (RTCA), and the Society of Automotive Engineers (SAE). To minimize the possibility of duplicating or overlapping assignments, all other activities that could impact the task should be identified.

c. Schedule for completion. Each new task statement must contain a date by when the task must be completed. If circumstances allow, ATSRAC will be permitted to negotiate that completion date with the FAA.

(3) **Coordination of Background Paper Within FAA.** The Office of Rulemaking ensures that the background paper is coordinated in the FAA with the Office of the Chief Counsel, the Office of Aviation Policy and Plans, and the OPI. For harmonization tasks, this coordination takes place during the Harmonization Work Program approval process.

(4) **ATSRAC Acceptance of Task.**

a. The Office of Rulemaking will transmit the background paper to the Committee members for review and acceptance of the task. In their review of the task, the Committee members should determine if the task will impact on any other ATSRAC issue or any other task. They also should determine if completion of the new task would be dependent on the completion of any other task. The ATSRAC Chair should recommend the priority of the new task in relation to other tasks that are being completed.

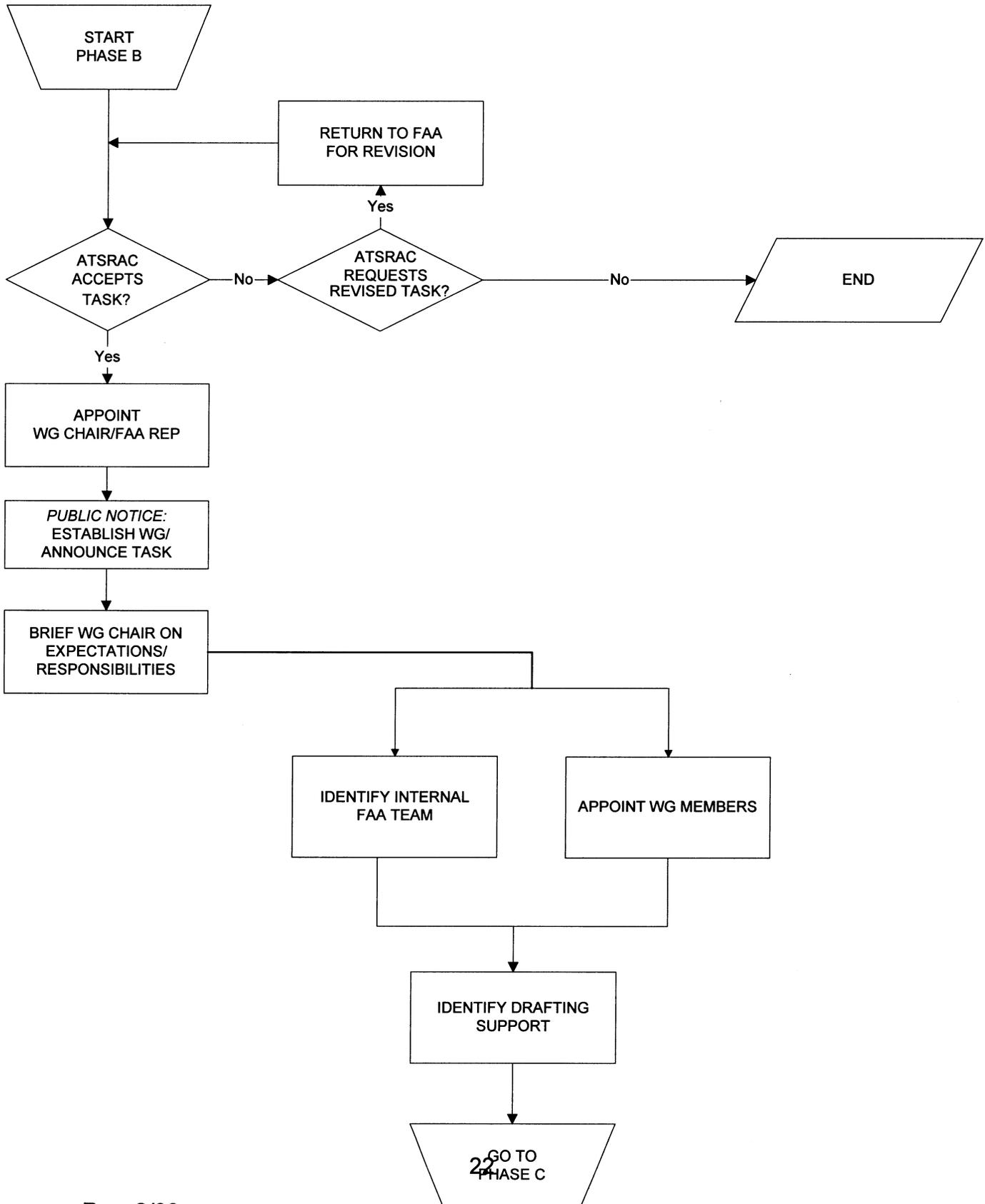
b. Schedule for completion of review. The Committee members will be given 10 working days to provide feedback. If no feedback is received from a Committee member, it will be assumed that he or she has no comments on or problems with the proposed task. If there are problems, the Office of Rulemaking should be advised prior to the end of the 10-day comment period. All comments should be sent to the Office of Rulemaking.

(5) **Preparation of Tasking Letter to ATSRAC.** Once all of the necessary steps have been accomplished to determine that ATSRAC should be assigned a task, the Office of Rulemaking will prepare a tasking letter from the Associate Administrator for Regulation and Certification to the appropriate ATSRAC Chair.

(6) **Task Approval.** All tasks must be approved by the Associate Administrator for Regulation and Certification prior to assigning them to ATSRAC. Approval is documented by the tasking letter. If the Associate Administrator elects not to sign the tasking letter, the process cannot go forward until the objections are addressed. Once the tasking letter is signed and sent to ATSRAC, the formal ATSRAC process begins.

(7) **Discussion of the Task at Next ATSRAC Meeting.** The Executive Director ensures that a discussion of the new task is included in the agenda for the next ATSRAC meeting for the relevant issue.

B. WORKING GROUP FORMATION PHASE



B. **Working Group Formation.** For ATSRAC to accomplish its mission, a staff may be formed. Extended interest and expertise may be available from the general public which would positively contribute to ATSRAC's ability to study and make recommendations on specific tasks. These persons must be brought together and organized. ATSRAC may choose to establish a working group to accomplish a specific task; or a task may be worked by an existing working group, if that group possesses the requisite knowledge and skills. If the task is assigned to a working group, the working group is directly responsible to the ATSRAC Chair for completion of the assignment, etc. Although the working group is staff to ATSRAC, to preserve the autonomy of group, members of ATSRAC may not enter the working group arbitrarily.

(1) **ATSRAC Decision to Accept Task.** Should ATSRAC decide to accept the task, acceptance is documented in the minutes of the ATSRAC meeting.

(2) **Appointment of Working Group Chair/FAA Representative.**

a. If a task is formally accepted by ATSRAC and ATSRAC has decided to establish a new working group, the ATSRAC Chair, in coordination with the Executive Director, must appoint a Working Group Chair. This Chair must be a person who possesses technical expertise in the specific task area, who is capable of organizing and leading the working group, and who is available to meet the commitments of the Working Group Chair. The Working Group Chair need not be a representative of any of the ATSRAC member organizations. Although there is no legal prohibition to an FAA Representative being appointed as the Working Group Chair, it is discouraged.

b. While awaiting the final selection and appointment of the working group members, the Executive Director appoints the FAA Representative to the working group.

(3) **Announce Task/Establish Working Group.** Public notice must be given to announce the task and establish the working group. This can be done either through notice and discussion at a public ATSRAC meeting, or in the *Federal Register*. If the *Federal Register* notice is used, it is prepared by the regulations analyst, coordinated with the ATSRAC Chair and released for publication in the *Federal Register* by the Executive Director. The notice states the task and solicits participation from interested members of the public who possess knowledge or experience in the task area. Interested persons are instructed to forward, their qualifications and desire to participate.

(4) **Brief Working Group Chair on Expectations and Responsibilities.** While waiting for the public response to the public notice, the Office of Rulemaking briefs the appointed Working Group Chair on the duties, responsibilities, and

requirements of both the Chair position and the working group. This is extremely important because the Working Group Chair will lead the working group through its process.

(5) **FAA Internal Team Assigned.** The Office of Rulemaking prepares and forwards letters to other offices with rulemaking responsibility requesting designation of an office representative to serve as an FAA internal team member to support the FAA Representative. The FAA internal team meets as necessary to discuss pertinent issues and to provide feedback to the FAA Representative on topics such as the work plan, the concept, and draft recommendations. The FAA internal team members are not members of the working group but provide support to the FAA Representative.

(6) **Working Group Members Chosen.** Volunteers for working groups may respond to the Executive Director, the ATSRAC Chair, or the Working Group Chair. Responses received will be sent to the Working Group Chair for review and consideration. As soon as possible after the notice, the Executive Director, the ATSRAC Chair, and the Working Group Chair should meet to select the members of the working group.

a. Selection of members should be based on their technical expertise in the task area and availability to participate actively in the working group activities. The Working Group Chair should define the background and experience required, then evaluate and select volunteers accordingly. The working group member selection must be approved by the ATSRAC Chair and Executive Director, and may be reviewed by the standing ATSRAC members if they desire.

b. Although not legally required, a substantial attempt should be made to ensure a balanced representation of interests in the working group.

c. Task modifications cannot be made without the approval of the Associate Administrator for Regulation and Certification; however, should the Associate Administrator for Regulation and Certification approve a task modification, it may be necessary to change the composition of the working group to reflect additional expertise to work the new task.

d. The ATSRAC Chair must respond, in writing, to all letters received, notifying the petitioners of their selection/non-selection. The Chair should also forward to the Executive Director and the Working Group Chair the official list of names and addresses for all members selected.

e. Following the selection of working group members, the Working Group Chair will establish the date, time, and location of the initial working group meeting.

f. The Working Group Chair will notify working group members, in writing, of the date, time, and place of the initial working group meeting. Written notification of any working group meeting must be given 15 days prior to the scheduled meeting date.

g. There is no restriction on the number of members who may serve on a working group; however, a working group should consist only of individuals who participate actively in working group discussions. Members need not be representatives of any of the ATSRAC member organizations represented on the full committee.

h. If ATSRAC assigns a new task to an existing working group, it must determine the workload that the group is already facing, and whether the working group includes the expertise required to accomplish the new task.

i. Normally, there is only one FAA Representative on a working group, who serves as the liaison between the working group and the FAA. The FAA Representative should be from the FAA office that requested that the subject matter be addressed (the OPI). The FAA Representatives may be assisted by other FAA employees as necessary. To the extent possible, the FAA Representative is the team leader of any subsequent FAA rulemaking project.

j. To ensure that all members have a clear understanding of the FAA task assignment, each working group functions under a written task statement accepted by ATSRAC. The agreed task statement serves as the basis for the working group's activity.

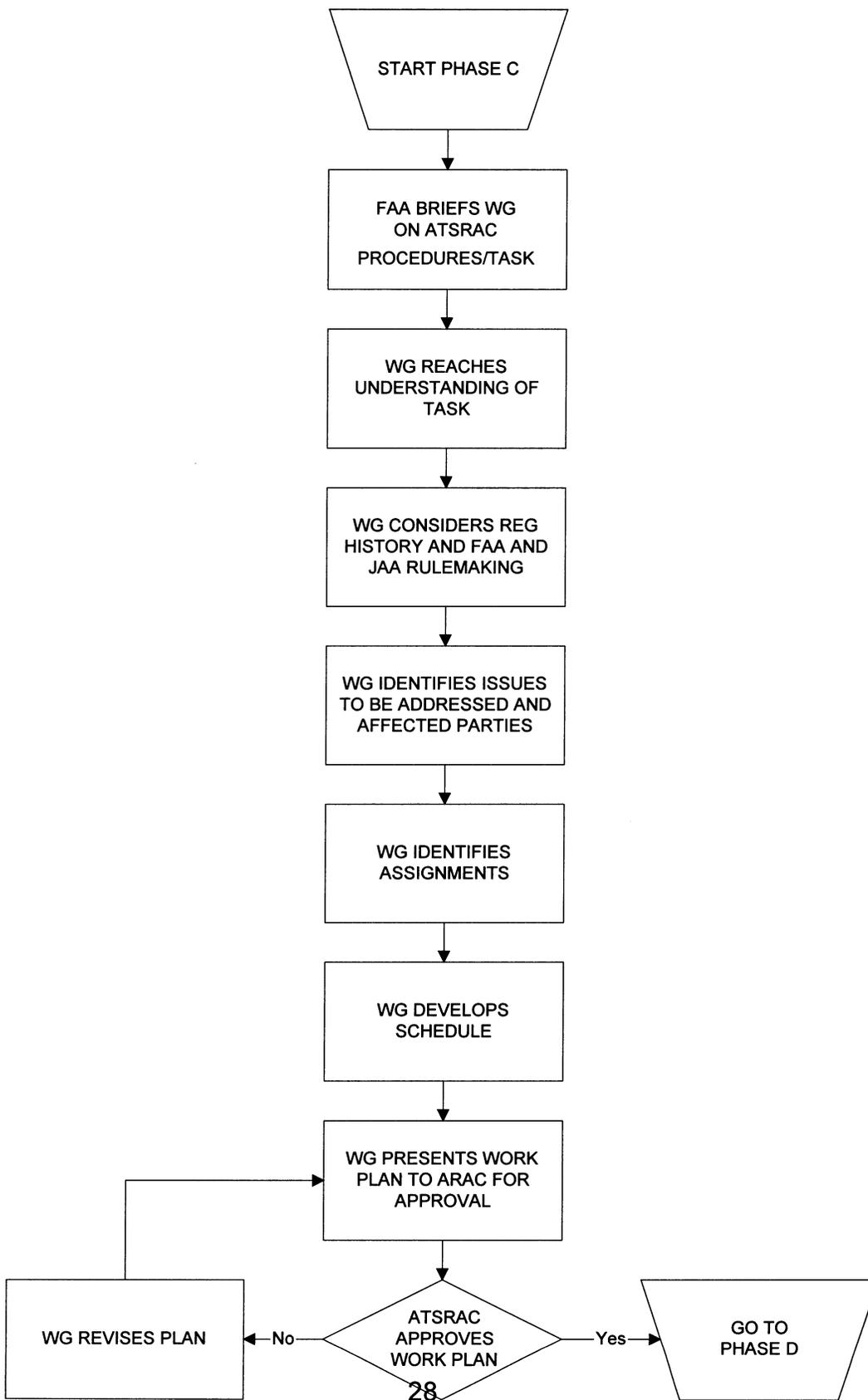
k. The working group may form a task group to handle a specific task. The task group must provide a report to the working group. A task group is disbanded when all of its assigned tasks are completed.

l. Normally, the working group activity is complete after ATSRAC forwards the recommendation to the FAA; however, if the initial task assignment tasks the working group with reviewing public comments or drafting a final rule, or if the FAA asks ATSRAC to consider comments after the proposal has been published, the working group remains inactive until the next action is required.

(7) **Identifying Drafting Support.** At this point it may be evident that the working group will need drafting support to assist in developing its

recommendation. For FAA Headquarters projects, the Office of Rulemaking will make arrangements to provide the drafting support. For Directorate projects, the writer/editor will make arrangements to provide the support. Either of these FAA offices may secure the services of a private contractor and would administer the contract.

C. WORK PLAN PHASE



C. **Work Plan.** Once the working group is assembled, it must decide what it has to do and how it is going to do it. This is accomplished through the establishment of a work plan. The work plan defines the task assignment, identifies the issues to be resolved, identifies individual assignments, develops a schedule, and establishes common ground rules by which the group will function. This methodology for task accomplishment must be submitted to and approved by ATSRAC prior to working group's actual commencement of work on the task. The work plan is the cohesive overlay that will move the working group through the process to completion.

(1) **Brief Working Group on ATSRAC Procedures, Task Assignment**

a. The Working Group Chair should contact the regulations analyst to confirm the date, time, and place of the initial working group meeting and request that the Office of Rulemaking brief the working group on ATSRAC procedures at that meeting. This will provide a working familiarity with the ATSRAC procedures for the newly formed working group and identify non-technical areas which may be of special interest to the working group.

b. The FAA Representative briefs the entire working group on the task assignment. This briefing will include the task assignment from the FAA's perspective and any additional background or peripheral information that will be helpful.

(2) **Working Group Reaches Understanding of Task.** For the working group to proceed further, it is an absolute requirement that all working group members have a thorough understanding of the task. All questions must be asked. Any questions which are not answered to the satisfaction of all members must be addressed to the ATSRAC Chair for resolution. The working group must then establish the ground rules for group functioning.

(3) **Working Group Considers Regulatory History and FAA/JAA Rulemaking.** Items such as regulatory history, current FAA rulemaking, and JAA rulemaking must be considered. This is where the FAA Representative to the working group can provide valuable information.

(4) **Identifies Issues to be Addressed and Affected Parties.** To accomplish the task, it is often advantageous to break down the task into its composite issues and then address individual issues. The working group must identify all issues to be resolved. During this process, the working group must also identify all those who will be affected by any recommendations and should address any of their concerns.

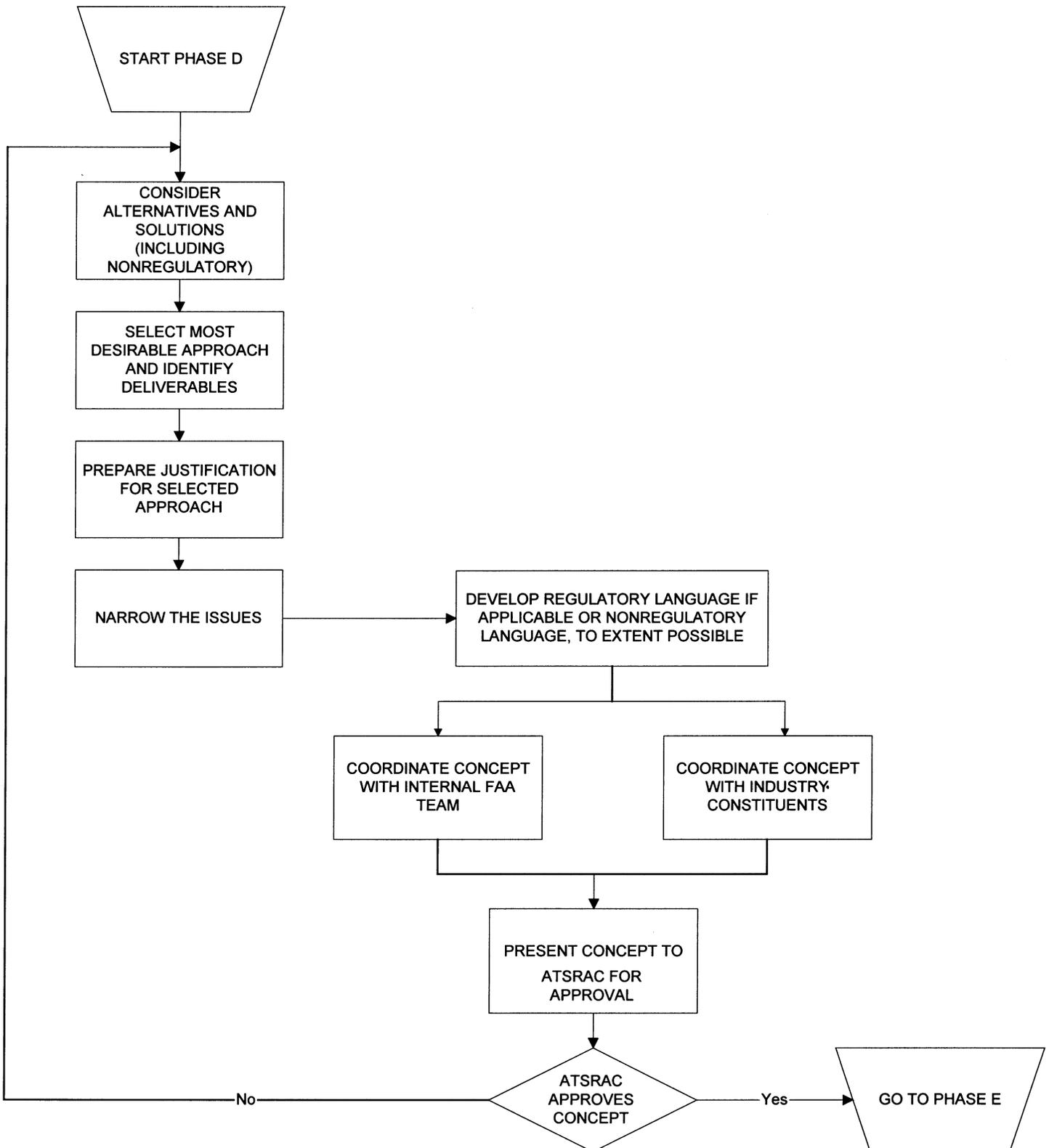
(5) **Working Group Identifies Assignments.** In the process of addressing issues and completing tasks, it is often advantageous to assign portions of issues, milestones, or tasks to sub-portions of the working group (task groups) to be worked on simultaneously. These assignments need to be identified, assigned to responsible task groups, and recorded in the work plan. Since the whole equals the sum of the parts, it is imperative that all completed task group assignments be reviewed and accepted by the working group.

(6) **Develop Schedule.** For the working group to assess its progress, a schedule must be developed with goals and milestones. The schedule should allow for completion of the task to meet the deadline imposed by the FAA. Consideration must be given to the availability to meet of the working group and task group members; frequency, duration and location of meetings; and a realistic expectation of time required to accomplish assignments and milestones leading to task accomplishment. If the working group determines that the FAA-imposed deadline cannot be met, ATSRAC may negotiate the schedule with the FAA. As in any schedule, there must be a determination of project flow, critical path, and unavoids built into the schedule. The complete schedule must be recorded and distributed to each member of the working group for planning purposes.

(7) **Present Work Plan to ATSRAC for Approval.** After the working group formulates its work plan, the Working Group Chair must present this plan to ATSRAC for approval. If ATSRAC disapproves the plan, the reasons for disapproval will be given and the working group will reconvene, address the objections, and adjust the work plan for resubmission and presentation to ATSRAC.

(8) **ATSRAC Approves the Work Plan.** By obtaining ATSRAC approval of the work plan, assurance is achieved by the working group that the task is understood, the methodology planned is consistent with the desires of ATSRAC, and the work to be done will culminate in a recommendation to ATSRAC that addresses the assigned task.

D. CONCEPT APPROVAL PHASE



D. **Concept Approval.** To ensure that the working group is proceeding in a direction consistent with the task, it is important to develop a concept and obtain ATSRAC's agreement to the concept before further resources are expended. The concept briefing is a detailed discussion of the proposed recommendation.

(1) **Consider Alternatives and Solutions (including nonregulatory).** A working group must decide what the desired outcome of its efforts will be and how to accomplish that outcome. What is the best way to address the issues to be resolved? Not all tasks will require rulemaking action. Some tasks may be accomplished through other avenues such as development of an advisory circular, development of a technical report, or a recommendation to establish a training program. The working group must consider all alternatives before deciding how to address the issues. The FAA Representative should discuss the alternatives with the FAA internal team members to make sure the alternatives are legally and economically sound.

(2) **Select the Most Desirable Approach and Identify Deliverables.** After considering the alternatives and solutions, the working group must decide on its end product. In what form will its recommendation be submitted to ATSRAC? Will it be rulemaking, advisory material, or both?

(3) **Prepare Justification for the Selected Approach.** In its concept briefing, the working group must present the logic that led to the particular path chosen. Therefore, it is important to document the reasons for all decisions that are made. If the recommendation will be in the form of a notice of proposed rulemaking (NPRM), the justification supporting the NPRM must be explained in the preamble, and the working group will save much time and reconstruction efforts if the justification for its decision is recorded when the decision is made. The justification should include discussion of any objections to the approach taken. Documentation of objections and their dispositions will reduce the possibility of receiving adverse comments from members during any public comment process.

(4) **Narrow the Issues.** The working group must study all the issues it has identified and determine those that can be disposed of outside the scope of the recommendation and those that will need to be addressed in the recommendation.

(5) **Develop Regulatory Language, if Applicable, or Nonregulatory Language, to the Extent Possible.**

a. If the working group has decided that regulatory action is necessary, it will need to develop, to the extent possible at this point, the regulatory language that will afford the desired result. The Office of Rulemaking can help draft this language, or may assign a private contractor to assist the

working group in drafting the language. It is strongly recommended that the working group take advantage of this drafting support so problems with format and content (NOT technical content) can be avoided. The legal office should also be involved in this initial draft of the regulatory language to ensure the legality of the proposed action.

b. If the working group has decided that the recommendation will be nonregulatory in nature, it will need to develop as complete an outline as possible, including as much actual draft language as is available. Again, the Office of Rulemaking can assist the working group in developing the draft language, and the legal office should be consulted for legal advice.

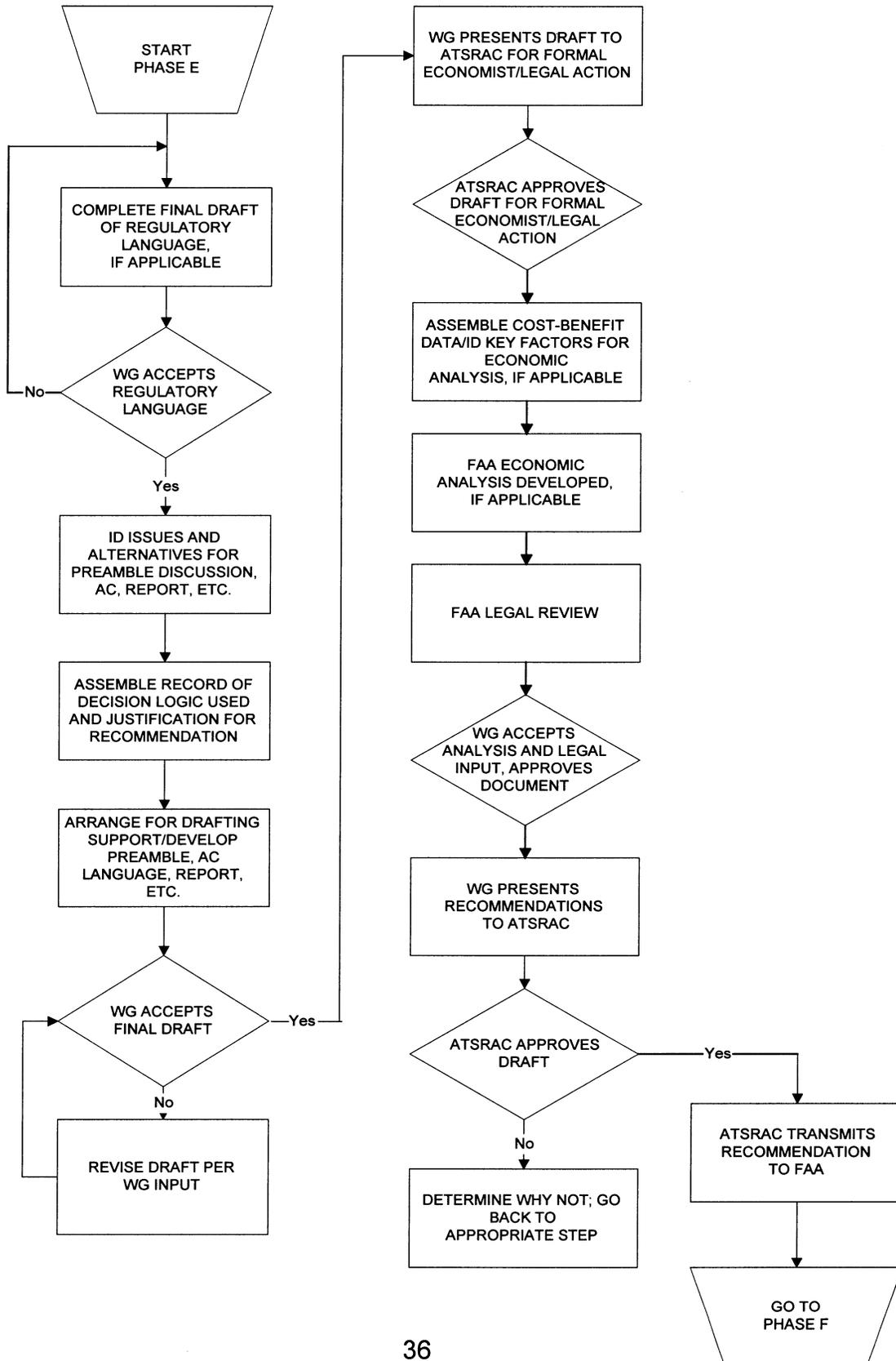
(6) Coordinate the Concept with Industry Constituents/Coordinate the Concept with the FAA Internal Team. Throughout the development of the working group's concept, during its deliberations, and during development of the final document, members should provide their constituents with reports on decisions being made and objections being raised. The FAA Representative, as a member of the working group, has the same responsibility to keep the FAA internal team informed of working group actions. Any draft documents that are distributed for review must be marked DRAFT WORKING MATERIAL--NOT FOR PUBLIC RELEASE.

(7) Present Concept to ATSRAC for Approval. When the working group is ready to present its concept to ATSRAC, the Working Group Chair should contact the ATSRAC Chair and secure time on the next meeting's agenda. Before the working group can go forward with achieving its task, ATSRAC must approve, during a public ATSRAC meeting, the concept that has been developed. The presentation of the concept should be included in the agenda set forth in the *Federal Register* announcing the public meeting, and copies of the briefing should be made available for advance distribution as requested. The FAA attorney and economist should be invited to attend the meeting. At the meeting, the Working Group Chair or appointed substitute will present any regulatory and/or non-regulatory language the working group has developed to give ATSRAC a clear picture of the final goals and intentions of the group.

(8) ATSRAC Approves the Concept. After hearing the working group presentation of its concept, ATSRAC must vote whether to accept the concept or task the working group with refining its goals and presentation. It is ATSRAC's responsibility to ensure the working group is proceeding on the right track, and ATSRAC approval of the concept is a prerequisite for obtaining further FAA drafting assistance.

(9) **FAA/JAA Harmonization Work Program**. The concept developed by the FAR/JAR harmonization working group must be approved by both ATSRAC and the JAA study group.

E. RECOMMENDATION DEVELOPMENT PHASE



E. **Recommendation Development.** After ATSRAC approves the concept, the working group may proceed with developing the actual recommendation document.

(1) **Complete Final Draft of Regulatory Language, if Applicable.** If regulatory action is the recommendation, much of the regulatory language should have been developed during development of the concept. If additional regulatory language is needed, it should be addressed before the rest of the document is developed. As before, the Office of Rulemaking can assist with the draft language, and the legal office should be consulted.

(2) **The Working Group Accepts the Regulatory Language.** Before preamble language and an economic analysis can be written, the working group must accept the regulatory language that will be the basis for the document.

(3) **Identify Any Issues and Alternatives for Preamble Discussion, Advisory Circular, Technical Report, etc.** All issues and alternatives discussed (including objections and dissenting views) that led to decisions by the working group must be addressed in the recommendation or in the letter transmitting the recommendation. Included in the discussion should be any reasons for dissent, and the working group's justification for proceeding in the face of dissent. For regulatory actions, this discussion should be addressed in the preamble.

(4) **Assemble the Record of Decision Logic Used and Justification for Recommendation.** Although working groups are not required to keep written minutes or records of their meetings, their final recommendations to ATSRAC, and ultimately to the FAA, need to address what decisions were made, and why, during the process of achieving their goals. It is helpful if this information is recorded continuously so it can be turned over to the drafter without having to reconstruct meeting events and decisions made.

(5) **Arrange for Drafting Support; Develop Preamble, AC Language, Report, etc.**

a. The FAA can provide support to draft the working group's document to ensure that the recommendation is properly written, is in the required format complying with legal requirements, and is fully justified. Depending on the nature of the document, the Office of Rulemaking may recommend contract support, just as contract support is used in other, agency-initiated actions.

b. To obtain FAA drafting support, the Working Group Chair notifies the ATSRAC Chair of the need for the support. The ATSRAC Chair then notifies

the Executive Director, who in turn notifies the Office of Rulemaking or the directorate writer/editor.

(6) **The Working Group Accepts the Final Draft.** Whether the working group's document is drafted by working group personnel, FAA personnel, or private contractor personnel, the working group must approve the final draft.

(7) **Assemble Cost-benefit Data and Identify Key Factors for Economic Analysis, if Applicable.** The working group should provide all applicable information that the economist may need to develop an economic evaluation. This information would include any key economic concerns of interest to the public.

(8) **FAA Economic Analysis is Developed, if Applicable; FAA Legal Review.** When the regulatory language and preamble material have been drafted and economist support has been requested, the FAA internal team economist will draft the economic evaluation. Ninety days must be allowed for the economist to develop the economic evaluation. Simultaneously, the FAA internal team attorney will commence legal review of the final draft. When the FAA economist completes the economic evaluation, the FAA attorney will also review that document. An aggregate total of 120 (the 90 days allowed for the economist + 30 additional) days is allowed for the attorney to complete his or her review. These are target time periods and may vary in light of other ATSRAC and agency rulemaking priorities. The FAA must perform a legal review before a rulemaking action can be considered a complete package.

a. Advisory circulars do not require an economic evaluation/analysis. However, advisory circulars do require legal review. Ninety days must be allowed for this legal review.

b. To obtain FAA economic analytical support and legal review, the Working Group Chair notifies the ATSRAC Chair of the need for that support/review. The ATSRAC Chair notifies the FAA Office of Rulemaking, in writing; a copy of the approved draft should be provided with the notification. The Office of Rulemaking notifies the legal office and the Office of Aviation Policy and Plans, in writing, and ensures that those offices have received and are working from the draft document approved by ATSRAC.

(9) **The Working Group Accepts the Economic Analysis, if Applicable, and Approves the Final Package.**

a. For rulemaking packages, the FAA Representative ensures that the working group has a copy of the economic evaluation that was developed by the FAA economist. If the working group has concerns or problems with the evaluation, the FAA Representative should take the concerns back to the FAA

economist and resolve the issues. Only when the economic evaluation has been accepted will a summary be inserted into the preamble. (The full economic evaluation will ultimately be filed in the FAA rules docket.)

b. When drafting of the final package is complete, the working group must approve the package. That is, it must agree that this is the document it wants to submit to ATSRAC for recommendation to the FAA. For rulemaking packages, this will include a preamble (with an economic evaluation summary), regulatory language, and the full economic evaluation. Other packages that may be approved can include an advisory circular, a technical report, or another proposal.

(10) **Presentation of the Recommendation to ATSRAC.** When the working group is ready to present its final document to ATSRAC, the Working Group Chair should contact the ATSRAC Chair and secure time on the next meeting's agenda. No later than three weeks prior to this next meeting, the Working Group Chair should provide the ATSRAC Chair with the recommendation document(s) for distribution to all ATSRAC members for review.

a. ATSRAC must approve, during a public meeting, the recommendation that has been submitted. The presentation of the recommendation needs to be included in the agenda set forth in the *Federal Register* announcing the public meeting, and copies of the recommendation need to be made available for advance distribution as requested.

b. At the public meeting, the Working Group Chair or an appointed substitute will formally present the recommendation to ATSRAC for approval. Questions and comments will be solicited from ATSRAC members and any interested members of the public.

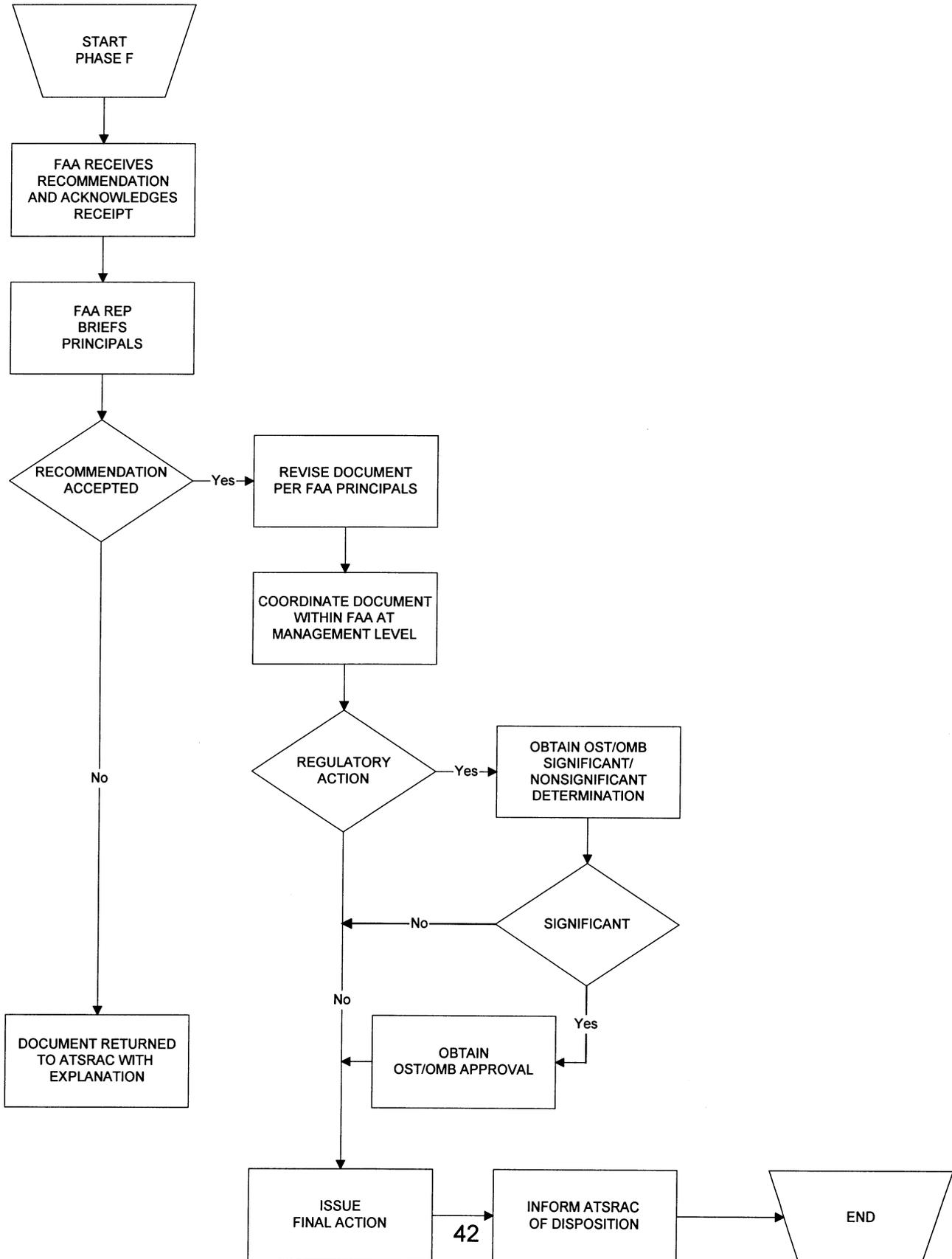
(11) **ATSRAC Approves the Recommendation.** For the recommendation to be submitted to the FAA, the voting members of ATSRAC must approve the working group's recommendation. If the recommendation is not approved, the members must determine why it is not approved, resolve the issue, and go back to the appropriate step in the process.

(12) **ATSRAC Transmits Recommendation to the FAA.** When the recommendation has been approved by ATSRAC, a cover letter addressed to the Associate Administrator for Regulation and Certification is prepared for signature by the ATSRAC Chair and accompanies the recommendation to the FAA. See Appendix E, an ATSRAC Checklist for Recommendations.

(13) **FAA/JAA Harmonization Work Program.** The FAR/JAR harmonization working group must present its final document to ATSRAC and the

JAA study group for approval. Keep in mind that when the ATSRAC recommendation is in the form of an NPRM, a similar document (NPA) has been drafted for the JAA system. Following JAA study group review, the document will be issued as a formal NPA in accordance with JAA procedures. If the recommendation is not approved, it must be determined why it is not approved. Appropriate actions must be decided to resolve the issue and go back to the appropriate step in the process. Non-joint approval by both ATSRAC and the JAA study group may lead to disharmony.

F. FAA ACTION PHASE



F. **FAA Action on ATSRAC Recommendations.** After the ATSRAC recommendation is forwarded to the FAA, the FAA will take action in the following manner:

(1) **Acknowledgment Letter.** When the FAA receives a recommendation from ATSRAC, the Office of Rulemaking prepares a letter for the signature of the Associate Administrator for Regulation and Certification acknowledging receipt. This letter is just an acknowledgment--it does not mean that the FAA will process the recommendation as submitted. The letter is coordinated with the appropriate OPI before it is signed.

(2) **Principals' Briefing.** While the acknowledgment letter is being prepared and coordinated, the OPI recommends whether a meeting of FAA's upper-level management to brief them on the contents of the recommendation is necessary. This management briefing is called a "principals' briefing," and is conducted for some FAA rulemaking actions--whether or not they are recommended by ATSRAC. The Associate Administrator for Regulation and Certification; the Chief Counsel; the Associate Administrator for Policy, Planning, and International Aviation; the director of the Office of Aviation Policy and Plans; and the director of the OPI are invited to attend. In addition, the Deputy Administrator is advised that a briefing is being scheduled and invited to attend. The FAA Representative to the working group presents the briefing. As a result of the briefing, FAA management may determine that changes to the ATSRAC developed regulatory package may be necessary. Depending on the extent of the changes, the FAA may or may not ask ATSRAC to make them. If the FAA chooses to make the changes without ATSRAC's input, ATSRAC will be advised that changes are being made.

a. Nonacceptance of recommendation. If, during the principals' briefing, FAA management decides that ATSRAC's recommendation is not acceptable, a letter will be sent to ATSRAC stating why the recommendation is not acceptable. The FAA would not accept a recommendation if, for example, it is not adequately justified; the FAA has no authority to take the recommended action; a rule proposed in the recommendation would not be legally enforceable; or a recommendation to issue an advisory circular should actually be rulemaking. The letter to ATSRAC will be prepared by the Office of Rulemaking and signed by the Associate Administrator for Regulation and Certification.

b. Nonregulatory recommendations. Nonregulatory documents recommended by ATSRAC do not require a principals' briefing. These recommendations are processed following administrative procedures established by the FAA for documents of their type.

(3) **Coordination Within the FAA.** After the recommendation is formally accepted, it must be coordinated throughout the FAA for agency concurrence. The document is routed to all appropriate associate- and executive-level FAA offices for input and concurrence. Regulatory documents are then forwarded to the Deputy Administrator and Administrator for approval.

(4) **"Significant/Nonsignificant" Determination.** Executive Order 12866 requires that all "significant" regulatory actions be reviewed by the Office of Management and Budget prior to being issued. An action is considered significant under the executive order if it is likely to result in a rule that may: have an annual effect on the economy of \$100 million or more; create a serious inconsistency or otherwise interfere with an action planned by another agency; materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of their recipients; or raise novel legal or policy issues. The Office of the Secretary of Transportation also requires that regulatory actions that it determines to be significant (under its own criteria) be reviewed by the Office of the Secretary of Transportation. "Significant" as defined by the Office of the Secretary of Transportation includes actions also defined by the Office of Management and Budget as significant and those that concern a matter on which there is substantial public interest or controversy. As a rule, the FAA will recommend that regulatory actions received by ATSRAC are "nonsignificant," on the basis that they were developed by the affected parties and therefore should result in no controversy.

(5) **Office of the Secretary of Transportation/Office of Management and Budget Review.** If a regulatory action is determined to be "significant" under the Office of the Secretary of Transportation criteria, it must be coordinated within the Office of the Secretary of Transportation. If it also has been determined to be "significant" under the Office of Management and Budget criteria, then it also must be reviewed by the Office of Management and Budget. No regulatory action may be issued until the determinations have been made and the required reviews have been completed.

(6) **Disposition of ATSRAC Recommendations.** After the FAA has completed all briefing and coordination requirements and the document (either regulatory or nonregulatory) has been signed and published, as appropriate, a letter will be sent to the ATSRAC Chair advising of the disposition of the recommendation.

(7) **Disposition of Comments to an ATSRAC Recommendation.** Depending on the complexity of comments received as a result of publication of an ATSRAC recommendation, the FAA may or may not decide to task ATSRAC with disposition of the comments. If no substantive comments are received, the FAA will proceed with the final action with no ATSRAC assistance. If substantive

comments are received, the FAA will generally task ATSRAC with recommending the next step. In the event the FAA chooses to take the next action internally, ATSRAC will be notified in writing of that decision.

(8) **Disposition of Comments to an FAA/JAA Harmonization Work Program Recommendation**. It is anticipated that neither the NPRM nor the NPA developed by a FAR/JAR harmonization working group will receive substantive comments during the public comment period. If the harmonization process works as it should, there should be no substantive comments that need to be reviewed by the working group. However if the FAA or the JAA do receive comments that would result in substantive comments on either proposal, the FAA or the JAA may ask ATSRAC or the JAA study group (or both) to recommend disposition of those comments to ensure that the regulations will remain harmonized throughout the FAA and JAA rulemaking procedures.