

AGING TRANSPORT SYSTEMS RULEMAKING ADVISORY COMMITTEE OPERATING PROCEDURES

I. General

A. **Definition.** The Aging Transport Systems Rulemaking Advisory Committee (ATSRAC) is a formal standing committee, comprised of representatives from aviation associations, government agencies, and industry. ATSRAC was announced by the Federal Aviation Administration (FAA) Administrator on October 2, 1998, and formed by FAA Order 8110.127 dated January 19, 1999. ATSRAC provides industry and public input in the form of information, advice and recommendations to be considered in FAA rulemaking and policy activities relative to aging transport systems. The ATSRAC charter is reviewed approximately 15 months after the charter's most recent extension to determine the need to continue ATSRAC. If determination is made to extend ATSRAC, the Executive Director will prepare all documentation required to effect that extension. Members of ATSRAC serve without compensation; however, transportation and per diem expenses may be paid when necessary and appropriate. The desired objectives of ATSRAC are to:

- (1) Gain public input early in the rulemaking and policy process.
- (2) Improve rules and policy by involving interested members of the public in their development.
- (3) Include the concerns and opinions of the public in the document thereby reducing the probability of non supportive public comments in response to rulemaking or policy document publication and issuance.
- (4) Move rules through the rulemaking process more quickly. (The Office of the Secretary of Transportation (OST) and the Office of Management and Budget (OMB) favor rulemaking developed with public input).
- (5) Avoid placing any unnecessary burden on the public because of a lack of information.

B. **Purpose.** ATSRAC provides rulemaking advice and recommendations to the Administrator, through the Associate Administrator for Regulation and Certification, with respect to aging transport system issues. The exchange of ideas that occurs through the ATSRAC process affords the FAA additional opportunities to obtain firsthand information and insight from those parties who are most affected by existing and proposed regulations. ATSRAC expedites the

development, revision or elimination of rules and policy without circumventing the public rulemaking process and procedure.

C. **Tasking.** The FAA tasks ATSRAC. ATSRAC may accept or decline the tasks offered. Once a task is accepted, ATSRAC may not modify the task without approval by the FAA. ATSRAC may recommend new tasks to the FAA; however, only tasks assigned or approved by the FAA may be undertaken. In the conduct of its activities, ATSRAC complies fully with administrative directives of the FAA pertaining to advisory committees. ATSRAC is exempt from the provisions of the Federal Advisory Committee Act (FACA).

(1) **FAA Office.** Any FAA office with rulemaking responsibility may request that ATSRAC undertake a task if that office determines ATSRAC is the best forum to use.

(2) **Member Organization or Nonmember.** Any member organization or nonmember (organization or individual) may request that the FAA assign a task to ATSRAC. To request action, the requester sends a letter to the FAA Director of Rulemaking stating the justification for the action. The FAA will respond within 30 days.

D. **Harmonization.** Harmonization of regulations has been given a high priority in the FAA's regulatory program. The goal of the harmonization effort is to ensure where possible, that regulations impacting both domestic and foreign parties do not require parties to operate or manufacture to different standards for each country involved. Additionally, safety standards adopted must be mutually acceptable to the FAA and the foreign aviation authorities. It is the intent of the FAA that, insofar as possible, any rulemaking undertaken by ATSRAC be harmonized. To this end, the European Joint Airworthiness Authorities (JAA) and Transport Canada are members of this committee.

E. **Revisiting Previous Decisions.** The ATSRAC has defined a process for revisiting previously made decisions. Efficiency of operation of ATSRAC requires that decisions be made and adhered to insofar as possible. However, it was recognized by the committee that there would be occasional need to revisit decisions because of new information. In order to strike a balance between efficiency and the need to reconsider decisions from time to time, the following procedure was defined and accepted by ATSRAC. The process for revisiting a decision is started by any member of the advisory committee preparing and distributing to the advisory committee members a petition clearly stating the issue and the reasons for revisiting the issue. This petition must be distributed prior to the next scheduled ATSRAC meeting so that other members may have a chance to prepare. Then, at the meeting, a vote will be taken on whether to revisit the issue based on the petition submitted. A simple majority of members present,

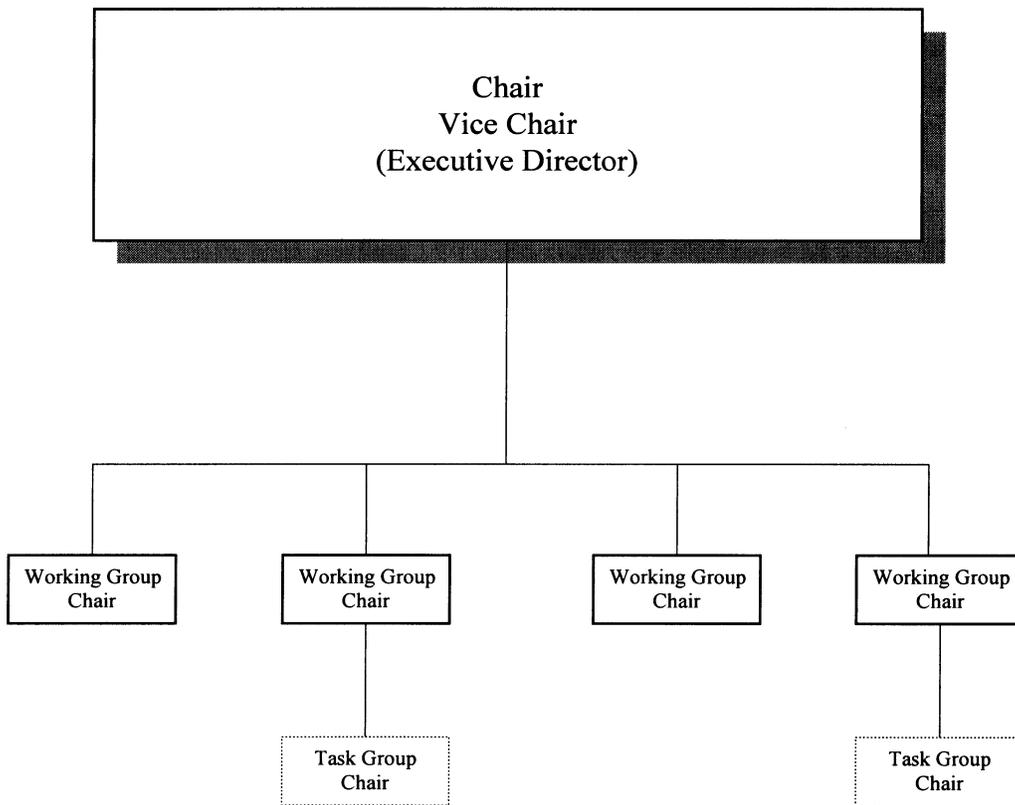
assuming a quorum, is required for revisiting the issue. Any member of the public can propose an issue for revisit through an ATSRAC member, but the requirements for petition and distribution must be met. The Executive Director will serve as a conduit to ATSRAC for the public and will distribute for vote any such material which is submitted to him. As a practical matter, any such material should be sent to the Executive Director at least three weeks prior to the scheduled meeting. A quorum is a simple majority of the ATSRAC members.

F. **Amending Operating Procedures for ATSRAC.** The ATSRAC is authorized to amend the ATSRAC Operating Procedures on its own initiative. ATSRAC regularly reviews those procedures for needed changes.

NOTE: This document was developed from the ARAC Green Book and includes rulemaking processes from that book. ARAC is now prototyping a fast track rulemaking process. If that process proves successful, this book will be updated to replace current rulemaking steps with the fast track process.

II. Organization

**AGING TRANSPORT SYSTEMS RULEMAKING
ADVISORY COMMITTEE MANAGEMENT STRUCTURE**



A. **Composition.** ATSRAC is composed of approximately 15 members representing a broad spectrum of aviation interests and possessing sufficient diversity to provide a balanced range of views and expertise. The membership of ATSRAC consists of representatives from those organizations identified in Appendix A. An Executive Director from the FAA serves as the Designated Federal Official (DFO), and serves as the FAA representative on ATSRAC.

B. **Management.** ATSRAC is managed by a Chair and a Vice Chair. ATSRAC may establish subcommittees to address specific tasks, thus allowing ATSRAC to focus simultaneously on all assigned tasks.

C. **Working Group.** To assist in its work, ATSRAC, from time to time, may form working groups to act as staff to ATSRAC. These working groups serve as technical staff to ATSRAC and consist of volunteer ATSRAC members, volunteers from the interested general public, and a representative from the FAA Office of Primary Interest (OPI) most closely associated with the subject matter being addressed by the working group. Each working group member is selected for appropriate technical knowledge and experience and contributes his or her particular knowledge or experience to task completion and subsequent formulation of alternative recommendations to ATSRAC. All working group work is reviewed by ATSRAC. ATSRAC evaluates working group contributions and approves/disapproves their incorporation into ATSRAC's recommendations to FAA. Working groups function under the administrative control of an appointed Working Group Chair who reports to ATSRAC.

D. **FAA Support.** To enable ATSRAC to function, certain organizational support is required on a continuing basis. The FAA provides this organizational support to ATSRAC through the Office of Rulemaking and the Transport Airplane Directorate.

III. Responsibilities

A. **ATSRAC Chair.** (Non FAA) The Chair is appointed by the FAA for a two-year term and is responsible for the general oversight of the activities of ATSRAC to include: (1) Presiding at meetings of ATSRAC, and providing meeting agendas two weeks prior to those meetings.

(2) Maintaining liaison with ATSRAC members and their organizations to ensure recognition of the ATSRAC role in aviation rulemaking and to enhance its effectiveness.

(3) Assessing FAA policies pertaining to membership and the ATSRAC work program and proposing changes for consideration by the FAA. These are accomplished in cooperation with the Executive Director.

(4) Certifying the accuracy of ATSRAC meeting minutes.

(5) Establishing appropriate working groups.

(6) In coordination with the Executive Directory, appoints chairs of working groups.

(7) In coordination with the Executive Director and the Working Group chair, appoints working group members.

(8) Ensures that working groups are balanced in membership.

(9) Monitors the progress of working groups.

(10) Requests legal, economist, and drafting assistance from the Office of Rulemaking.

(11) Conducts in-depth reviews of working group reports.

(12) Reviews proposed rulemaking recommendations to determine whether harmonization has been maximized.

(13) Transmits recommendations to the FAA.

B. **ATSRAC Vice Chair.** (Non FAA) The Vice Chair is appointed by the FAA for a one-year term. The Vice Chair:

(1) Assists in maintaining liaison with the ATSRAC members and their organizations to ensure recognition of the ATSRAC role in aviation rulemaking and to enhance its effectiveness.

(2) In cooperation with the chair and the Executive Director, assesses FAA policies pertaining to membership and the ATSRAC work program and, as necessary, proposes changes for consideration by the FAA.

(3) Assists the Executive Directory in management of ATSRAC working groups.

(4) Assumes all responsibilities of the Chair, in the absence of the Chair.

C. **Executive Director.** (FAA) The Executive Director is an employee of the FAA's Regulation and Certification organization and is the sole FAA spokesperson to ATSRAC. The Executive Director:

(1) Supervises the affairs of ATSRAC in conformity with established procedures.

(2) Serves as the FAA's spokesperson for ATSRAC activity.

(3) Acts as the Designated Federal Official (DFO).

(4) Serves as the focal point for all communications between ATSRAC and the FAA.

(5) Ensures that each task is properly coordinated before it is presented to ATSRAC.

(6) Establishes FAA guidance and policies pertaining to ATSRAC, including membership and procedural guidelines.

(7) Works with the ATSRAC Chair to select working group chairs.

(8) Works with the ATSRAC Chair and Working Group Chairs to select working group members.

(9) Ensures availability of formal legal and economist support when requested by the ATSRAC Chair.

(10) Manages the finances of ATSRAC in accordance with the approved Department of Transportation ceiling, including supervision over the preparation of the annual budget and periodic reports of its affairs.

D. **ATSRAC Members**. (Non FAA) The ATSRAC members include all of the organizations contained in Appendix A. ATSRAC members' responsibilities include:

- (1) Ensuring availability to attend periodic ATSRAC meetings.
- (2) Contributing their respective aviation knowledge and expertise to the tasks accepted by ATSRAC.
- (3) Advising the FAA on matters of importance to the aviation industry and aviation association constituency.

E. **Working Group Chair**. (Non FAA) The Working Group Chair is appointed by the ATSRAC Chair and Executive Director and is responsible for ensuring a balance of technical diversity within the working group, and for ensuring consideration of all technical viewpoints in accomplishing the task. The Working Group Chair:

- (1) Works with the ATSRAC Chair and Executive Director to select working group members. Defines requisite skills and experience for working group members.
- (2) Works with the ATSRAC Chair and Executive Director to secure and maintain a balanced working group membership that will materially contribute to the final product and team success. The Working Group Chair may expand or contract the working group as necessary to attain final product and team success. This includes removal of inactive, nonparticipative or disruptive members.
- (3) Establishes task groups, as appropriate, to accomplish a subtask.
- (4) Is a voting member of the working group unless another representative of the chair's organization represents that organization as its voting member.
- (5) Ensures that all working group members have a clear understanding of the FAA task assignment and schedule completion date.
- (6) Enforces the ground rules adopted by the working group.
- (7) Considers all background material relevant to the task, including unresolved petitions for rulemaking and exemption. Petitions submitted to the FAA after the working group has begun its deliberations need not be addressed in the final recommendation.

(8) Ensures that notes are taken, motions voted and recorded, and all decisions/consensus documented at each meeting.

(9) Establishes and maintains an optimum group size to provide expertise and industry interest necessary to the achievement of informed consensus, promotes collaboration, considers all elements contributed by participants, ensures each suggestion receives full consideration by the working group, combines all constructive suggestions/ideas to reach a positive, useful outcome or decision, and resolves conflict.

(10) Calls meetings of the working group and endeavors to balance meeting locations in order to minimize participant costs and to schedule tentative meeting dates in advance to reduce work conflicts and maximize participation.

(11) Ensures that working group meetings requiring attendance by the economist and/or attorney are held within the 48 contiguous United States.

(12) Advises the Office of Rulemaking of any meetings to be included in the ATSRAC calendar of meetings.

(13) Compiles agenda items and distributes them to each working group member well in advance of working group meetings.

(14) Develops, with working group consensus, a work plan for presentation to ATSRAC.

(15) Ensures via the FAA Representative that the economist and the attorney on the FAA internal team have concurred with the work plan.

(16) Briefs ATSRAC on the work plan and obtains ATSRAC approval.

(17) Develops, with working group consensus, a concept paper/briefing for presentation to ATSRAC.

(18) Ensures via the FAA Representative that the economist and the attorney on the FAA internal team have concurred with the concept paper/briefing.

(19) Briefs ATSRAC on the concept and obtains ATSRAC approval.

(20) Once the work plan and concept have been approved by ATSRAC, leads the working group toward technical agreement on recommendations. The product should be a report to the FAA on the recommendations of the group.

(21) At the appropriate stage in deliberations, requests the ATSRAC Chair to arrange for regulatory drafting support, if appropriate.

(22) At each ATSRAC meeting, reports progress, decisions reached, follow-on actions, schedule, and issues remaining to be resolved. Any written status report should be transmitted to the ATSRAC Chair at least three (3) weeks prior to the ATSRAC meeting if the report is to be distributed to ATSRAC members.

(23) Coordinates with other working group chairs to ensure there is no duplication of efforts or conflict of concepts.

(24) Ensures progress toward consensus is being achieved.

(25) Ensures consistency between documents prepared for ATSRAC recommendation to the FAA and corresponding documents prepared for the JAA.

(26) If a legal or economic issue arises during deliberation, obtains informal legal or economic advice through the FAA Representative.

(27) Ensures the report to the FAA is drafted.

F. Working Group Members. (Non FAA) Working group members are volunteers appointed by the ATSRAC Chair, the Executive director, and the Working Group Chair. They include a diverse and balanced representation with specific technical knowledge of the working group issues and are capable of providing a thorough technical investigation of the issues in the completion of the assigned task. When appropriate and with the approval of the Working Group Chair, working group members may invite persons other than working group members to speak directly to a working group and participate in its discussions. However, these invited persons are not members of the working group and have no voting rights. Working group members' responsibilities include:

(1) Ensuring availability to attend periodic working group meetings.

(2) Contributing their respective aviation knowledge and expertise to the task(s) assigned to the work group.

(3) Taking an active part in representing the public interest in making contributions to the rulemaking process.

(4) Coordinating with constituents to gain their input early in the process.

(5) Harmonization participants on the working group are responsible for ensuring that the international interests/concerns are made known to the working group.

G. FAA Representative to the Working Group (FAA) The FAA Representative is a member of the FAA staff who serves as the liaison between the working group and the FAA, to ensure the FAA's technical-level interest/concerns are made known to the working group. As a member of the working group, the FAA Representative actively participates with the group contributing professional advice based on experience. The FAA Representative is expected to participate as if working on an FAA project; accordingly, the representative must express to the working group the same concerns he or she would have in developing an FAA action. A working group has only one "FAA Representative." Although other FAA employees may contribute to the deliberations of a working group, these contributions must be made through the FAA Representative. When appropriate and with the approval of the Working Group Chair, other FAA employees may be invited by the FAA Representative to speak directly to a working group and participate in its discussions. However, these other FAA employees are not members of the working group and have no voting rights. Specifically, the FAA Representative:

(1) Serves as the leader of the FAA internal team responsible for the task assigned to the working group.

(2) Provides a copy of the agenda for each working group meeting to the FAA internal team members prior to the meeting.

(3) Following each working group meeting, prepares a trip or meeting report and provides a copy of the report to the FAA internal team members and FAA management, as appropriate, and to the ARM Regulations Analyst. The report should include working group progress and activities, a summary of the issues that were raised, how those issues were resolved, and what issues need further discussion. The report should be completed within 2 weeks of the working group meeting.

(4) Provides to the working group all background material relevant to the task, including unresolved petitions for rulemaking and exemption.

(5) Participates fully in the discussions, deliberations, and negotiations of the working group to an extent that allows the FAA to be considered a part of any working group consensus that leads to an ATSRAC recommendation. The FAA Representative may vote as a full member of the working group on any issue put to a vote.

(6) Provides the FAA position to the working group. The FAA Representative should be mindful that he or she cannot commit the FAA to a specific course of action because there will be a further management review of the documents once they are submitted to the FAA as formal recommendations.

(7) Ensures that if he or she holds a minority position, that position is accurately presented to ATSRAC through the Executive Director.

(8) Serves as the focal point between the working group and other FAA elements.

(9) Coordinates with directorates and other FAA organizations to gain their input early in the developmental process. To ensure timely input to the working group, this coordination should take place when the working group is making its technical decisions.

(10) Provides a copy of the working group's work plan and concept paper/briefing to the FAA internal team members no later than two (2) weeks before they are presented to ATSRAC for approval.

(11) If the working group chooses to ignore FAA suggestions concerning the format or content of proposed recommendations, brings the matter to the attention of the Executive Director for resolution with the ATSRAC Chair.

(12) Invites the assigned FAA internal team attorney and economist to ATSRAC meetings at which the working group briefs ATSRAC on its work plan and conceptual approach.

(13) Keeps the working group members informed of FAA opinions, concerns, and objections to working group activities.

(14) Cannot stop or veto a working group activity. He or she does not have the authority to concur with an action on behalf of the FAA.

(15) Once the working group begins drafting, provides copies of all drafts to the FAA internal team members when they become available.

(16) Relays concerns raised by the attorney or economist to the Working Group Chair, who determines the next working group action.

(17) Coordinates closely with the working group JAA representative on harmonization tasks to ensure that harmonization is achieved.

(18) Presents all principals' briefings to FAA management.

H. **FAA Internal Team.** (FAA) An internal team is established for each ATSRAC working group to support the FAA Representative. The function of this team is support to the FAA Representative during the working group's development of a report giving their recommendation. Upon receipt by the FAA of a report recommending specific action, the internal team will carry out that action. The FAA internal team is composed of, as a minimum, an attorney, an economist, and a regulations analyst from the Office of Rulemaking or a technical writer/editor from the concerned directorate. Other offices with an interest in the task of the working group also may participate on the FAA internal team. FAA internal team members are responsible for keeping the FAA Representative informed of any opinions, concerns, and objections they might have on the working group's activities. FAA internal team members may not attend any working group meetings unless invited by the FAA Representative and their attendance has been approved by the Working Group chair. The following are members of the FAA internal team with their respective responsibilities:

(1) **Regulations Analyst.** (FAA) Technical writing/editing for ATSRAC activities is provided by the Office of Rulemaking through the assignment of a regulations analyst. As required, ARM may additionally procure technical writing/editing support from contractors. The regulations analyst provides the following services to the FAA internal team, working group, and ATSRAC:

- a. Prepares all *Federal Register* announcements of ATSRAC meetings that address specific issues and notices that announce the assignment of new tasks and working groups.
- b. Maintains a current working group membership list, including the name, address, and telephone number of each participant.
- c. Coordinates the formulation of the FAA internal team.
- d. Attends FAA internal team meetings.
- e. Ensures appropriate tracking of the working group packages.
- f. Provides technical writing assistance to the working groups in the preparation of regulatory/advisory material.
- g. Attends working group meetings as necessary.
- h. Provides group facilitation services to the working group when requested by the Chair.

- i. Provides information to maintain the bulletin board and calendar.
- j. Prepares and coordinate statements of work for contractor support if required.
- k. Manages the drafting support contract.
- l. Oversees drafting contractor to ensure product quality.
- m. Attends ATSRAC meetings and prepares minutes resulting from those meetings.
- n. Provides meeting logistics (at FAA Headquarters).
- o. Ensures meeting notes are published.
- p. Prepares letter acknowledging receipt of ATSRAC recommendations.
- q. Ensures that drafting, legal, and economist support are made available when requested by the ATSRAC Chair.
- r. Advises the ATSRAC Chair and the working group of delays or changes in the schedules for drafting, legal, or economist support.
- s. Advises the FAA Representative regarding any problems or concerns with the content or format of proposed recommendations.
- t. Prepares a monthly status report of recommendations.

(2) **Directorate Technical Writer/Editor.** (FAA) For those ATSRAC tasks involving technical expertise at the directorate level (outside of FAA Headquarters), a directorate writer/editor is assigned as a member of the FAA internal team and provides support, similar to that provided by the Regulation Analyst at FAA Headquarters, as listed below:

- a. Attends FAA internal team meetings.
- b. Provides technical writing/editing assistance to the working groups in the preparation of their reports.
- c. Attends working group meetings as requested.

d. Attends ATSRAC meetings as requested and assists in the preparation of minutes resulting from those meetings.

e. Provides meeting logistics as requested.

f. Provides advice and recommendations to the FAA Representative concerning document form and content.

(3) **FAA Internal Team Economist.** (FAA) The Office of Aviation Policy and Plans assigns an economist to provide the following support:

a. Reviews the working group's technical concept before submission to ATSRAC to ensure economic considerations are included.

b. Ensures that an economic evaluation and analysis is considered for all recommendations.

c. Provides advice on the economic consequences of alternative actions being considered by a working group.

d. Provides the Office of Rulemaking with a copy of all economic comments and concerns.

e. Provides a copy of the economic evaluation to the Office of Rulemaking.

f. Serves on the FAA internal team responsible for the task assigned to the working group.

g. In any situation where economist services are requested on an activity where ATSRAC support is doubtful, works with the FAA Representative to ensure that ATSRAC supports the working group activity before these economist services are provided.

(4) **FAA Internal Team Attorney.** (FAA) The Office of the Chief Counsel or in the case of the directorates the Regional Counsel assigns an attorney to provide the following support:

a. Serve on the FAA internal team responsible for the task assigned to the working group.

b. Review the working group's work plan before submission to ATSRAC.

c. Review the working group's technical concept before submission to ATSRAC.

d. Review draft recommendations to determine whether the proposed recommendations are consistent with other regulations.

e. Provide counsel to the FAA Representative concerning the legal pros and cons of options being considered by the working group. Consult with Office of the Chief Counsel management, as appropriate, to ensure that a unified agency legal position is presented.

f. Meet with the FAA Representative to identify legal concerns that should be addressed in the working group's documents.

g. When invited to a working group meeting to explain his or her concerns, work with the working group to achieve a resolution. The attorney represents the FAA--not the working group--and may explain legal issues to the working group, but may not give legal advice to the working group.

h. If the working group cannot develop a recommendation that resolves the attorney's concerns, consult with Office of the Chief Counsel management, as appropriate, to ensure that a unified agency legal position is presented and then advise the FAA Representative that the FAA might not accept the working group's recommendations, explaining the reasons for this position.

i. Provide ARM with a copy of all legal comments and concerns.

I. Office of Primary Interest (OPI). (FAA) The OPI is the office that requested that a specific subject matter be addressed. For ATSRAC, this office is the Transport Airplane Directorate. The OPI is responsible for:

(1) Assigning the FAA Representative for each working group under its area of responsibility.

(2) Developing and documenting proposed tasks.

(3) Mailing materials to ATSRAC and working group members, as appropriate.

J. Office of Rulemaking. (FAA) The Office of Rulemaking is responsible for:

(1) Preparing and distributing Executive Committee and ATSRAC meeting minutes.

(2) Coordinating proposed tasks with the legal office and the Office of Aviation Policy and Plans.

(3) Publishing all *Federal Register* announcements of ATSRAC meetings, Executive Committee meetings, and ATSRAC meetings that address specific issues and notices that announce the assignment of new tasks and formation of working groups.

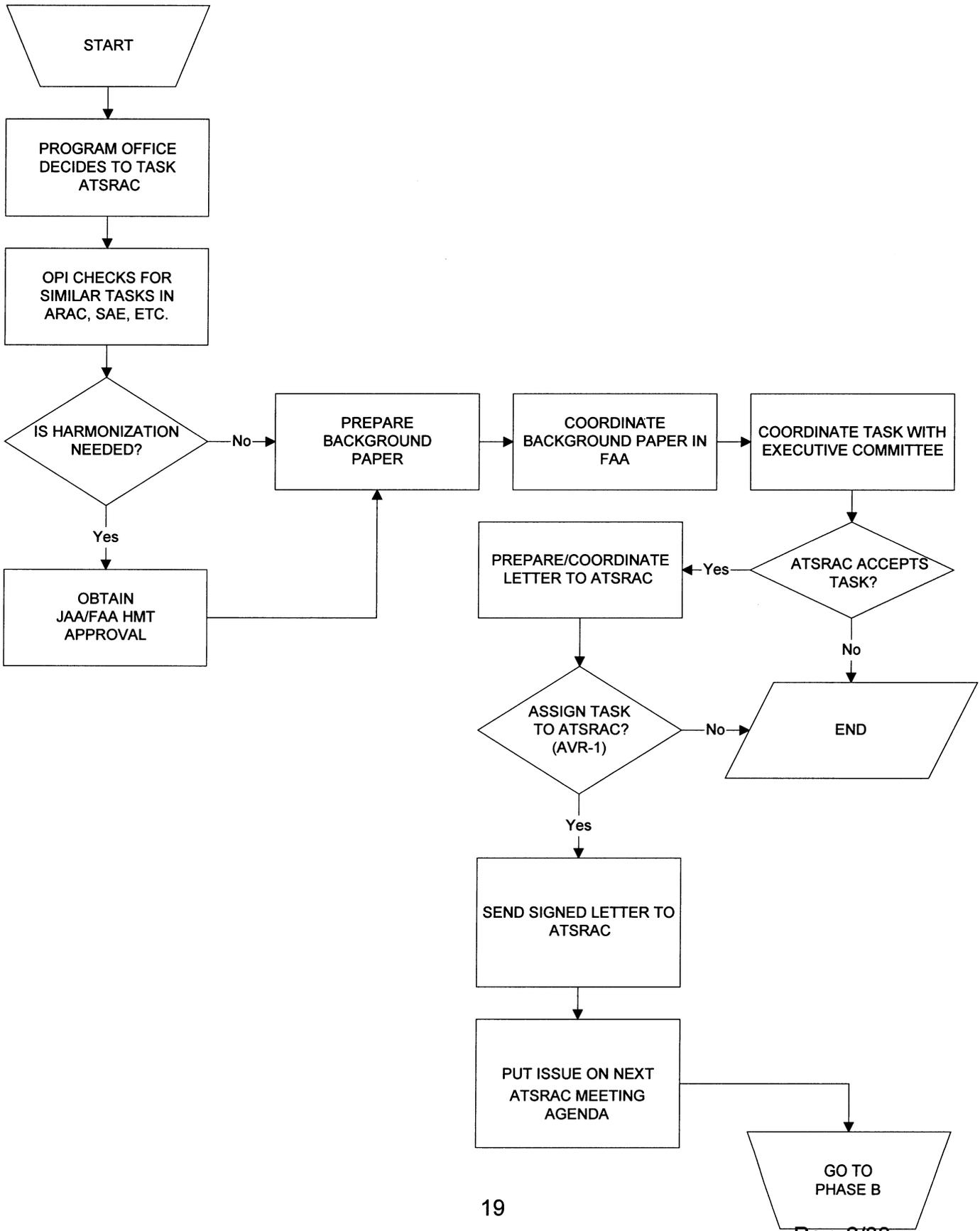
(4) Maintaining a data base list, including the name, address, and telephone number of each participant.

(5) Mailing materials to ATSRAC members and ATSRAC Executive Committee members.

(6) Providing to the Executive Committee regular reports on the status of ATSRAC recommendations.

(7) Maintaining the official files and records of all ATSRAC activities.

A. PRE-ATSRAC PHASE



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.

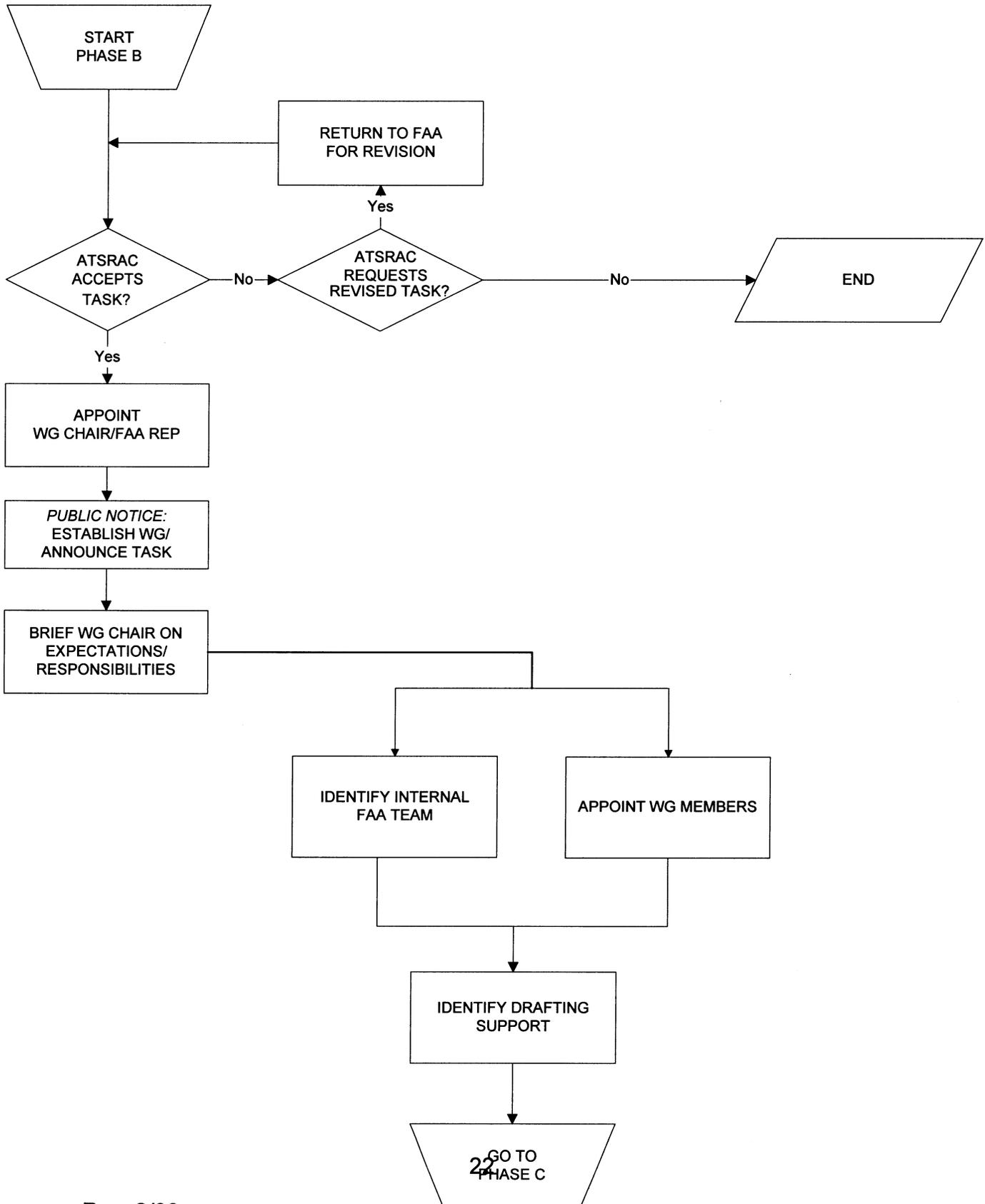
b. Schedule for completion of review. The Committee members will be given 10 working days to provide feedback. If no feedback is received from a Committee member, it will be assumed that he or she has no comments on or problems with the proposed task. If there are problems, the Office of Rulemaking should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

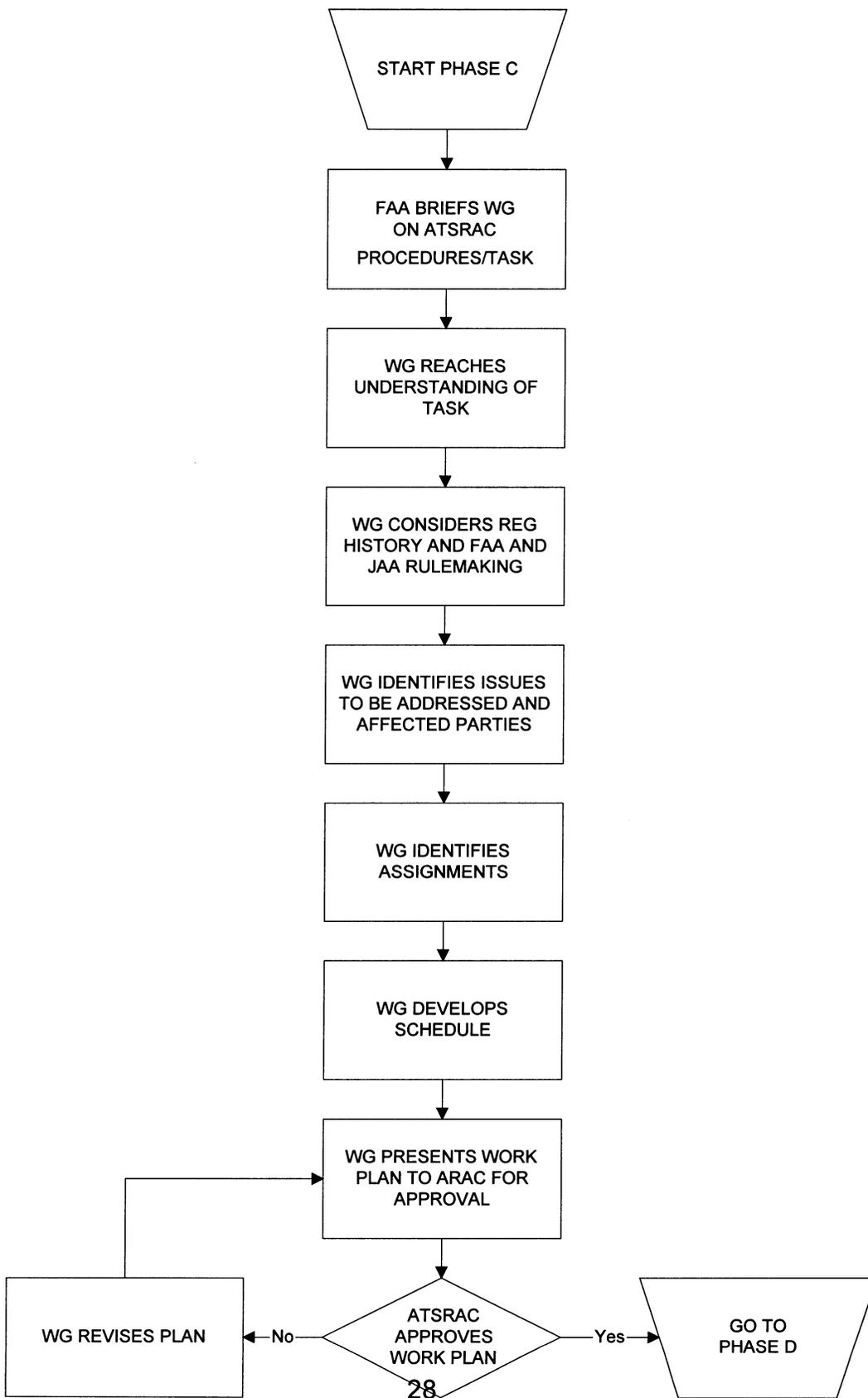
k. The working group may form a task group to handle a specific task. The task group must provide a report to the working group. A task group is disbanded when all of its assigned tasks are completed.

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.

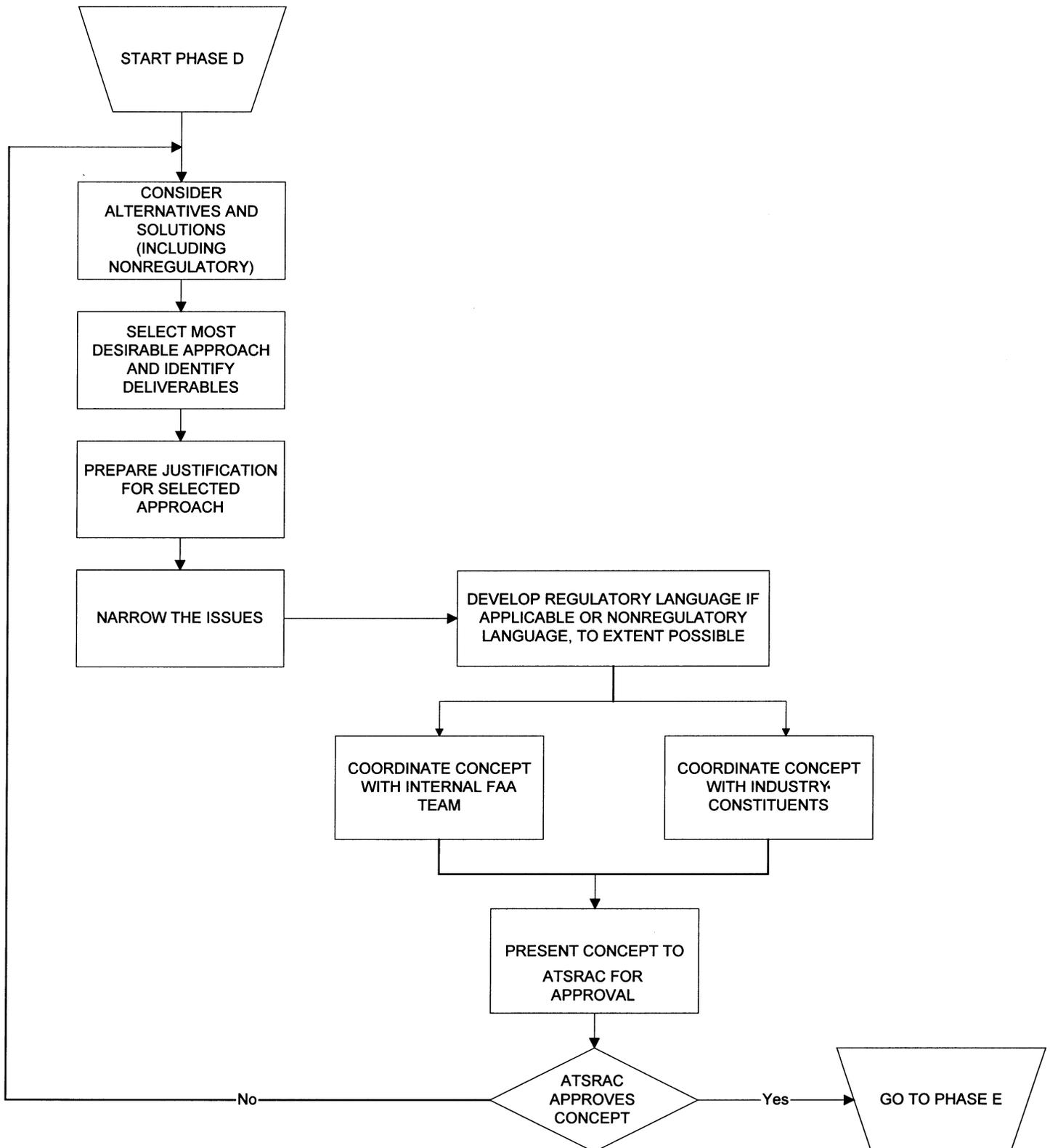
(5) **Working Group Identifies Assignments.** In the process of addressing issues and completing tasks, it is often advantageous to assign portions of issues, milestones, or tasks to sub-portions of the working group (task groups) to be worked on simultaneously. These assignments need to be identified, 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.

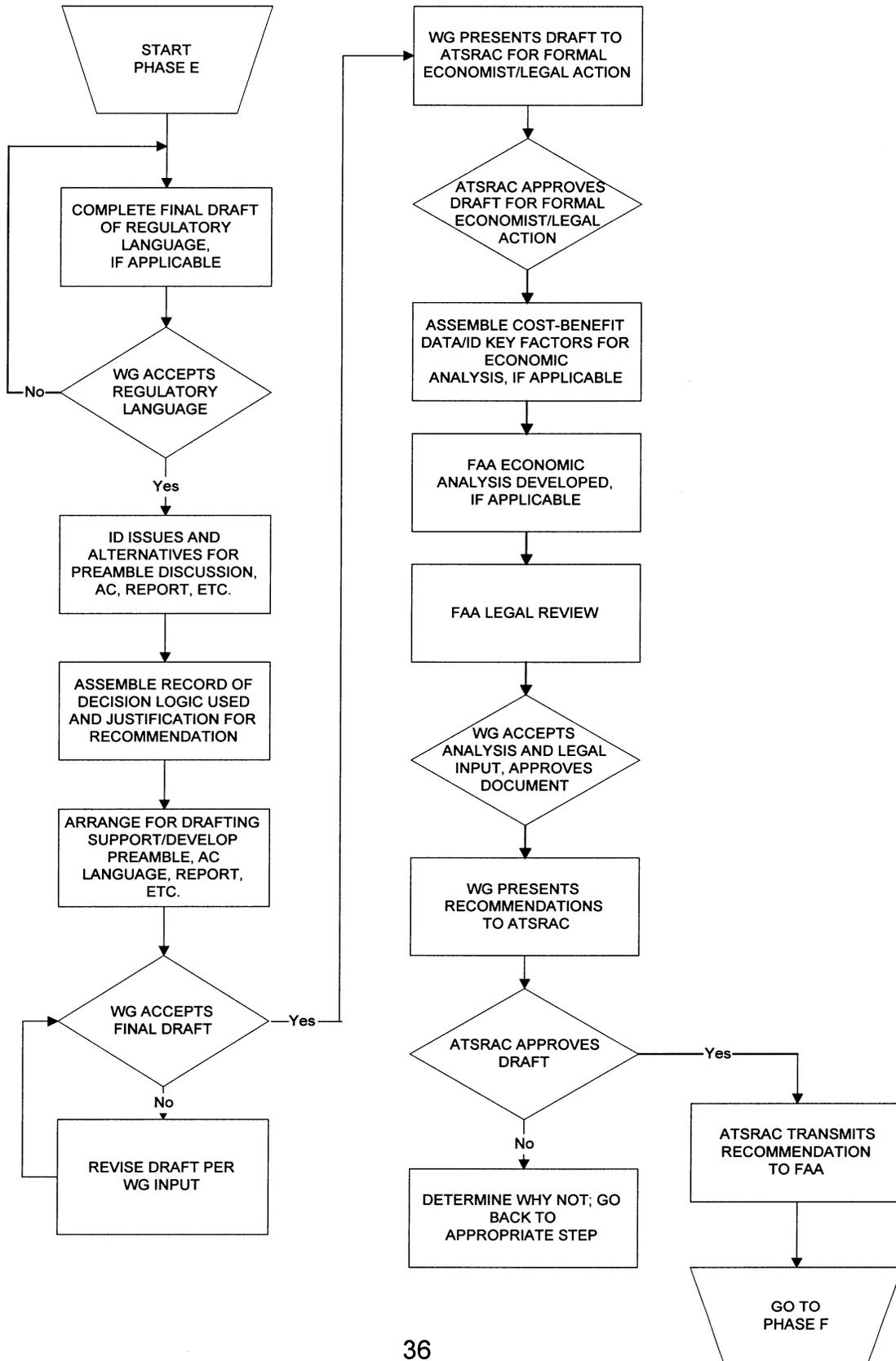
(6) Coordinate the Concept with Industry Constituents/Coordinate the Concept with the FAA Internal Team. Throughout the development of the working group's concept, during its deliberations, and during development of the final document, members should provide their constituents with reports on decisions 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.

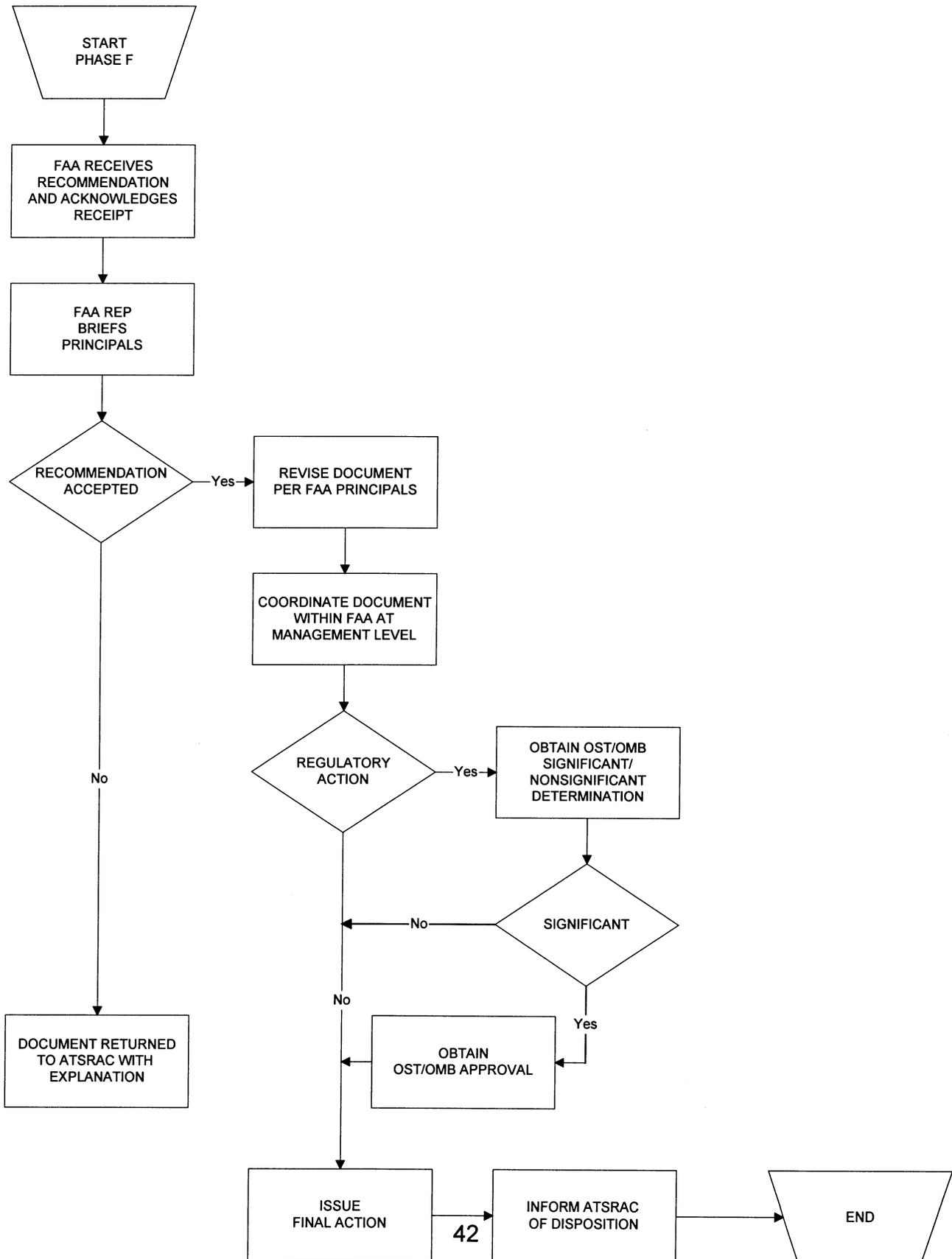
(11) **ATSRAC Approves the Recommendation.** For the recommendation to be submitted to the FAA, the voting members of ATSRAC must approve the working group's recommendation. If the recommendation is not approved, the members must determine why it is not approved, resolve the issue, and go back to the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

V. **Consensus**. 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 rules." It is important to reach consensus in every phase of the ATSRAC process because introduction of disagreement in later phases of ATSRAC is counter productive to ATSRAC's objectives and extremely costly to the FAA's rulemaking process.

Note: This general philosophy for reaching consensus is also applied within a FAR/JAR harmonization working group.

A. **Three Levels of Consensus**

(1) **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.

(2) **General Consensus** means that, although there may be disagreement among the members of the group, the group has heard, recognized, 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.

(3) **No Consensus** means that the disagreement among the members of the group cannot be reconciled to the general acceptability of the group. The group cannot reach a position that all members will support. Nevertheless, the group can send forward a recommendation with dissenting opinion(s), a record of the vote, and the group's reasons for not accepting the dissenting opinion.

B. **When Consensus Cannot be Achieved** each member has the right and responsibility to have his or her objections considered. The following guidance is provided for those situations where consensus cannot be obtained:

(1) **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 and retains its position. The documentation of objections and positions offers additional opportunity for meaningful communication among all group members in the hopes of attaining consensus. Through this exercise, disagreements can, through compromise, be resolved. If consensus still cannot be attained, the working group has the documentation required to elevate the disagreement to ATSRAC for resolution. With ATSRAC's resolution, the group can proceed with the task, because all

members' concerns have been addressed by ATSRAC. ATSRAC's decision automatically provides consensus to the working group. When ATSRAC cannot reach consensus, the majority position will prevail and the dissenting members will be allowed to include their position in the meeting minutes.

(2) **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. Facilitators are available if requested by the Working Group Chair.

C. **If All Above Attempts to Attain Consensus Fail** and major opposition to the group's position still exists, the proponents of the existing opposition must document their position, summarize their understanding of the group's position, and state why they believe their opposing position is superior. The group must document its position, summarize 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 submitted to ATSRAC as part of the working group's report and must be included in any subsequent preamble to a draft rulemaking proposal as minority positions with the reasons that they were not adopted in the rule. If action other than rulemaking is proposed, the documentation must be included in ATSRAC's report to the FAA.

VI. **Communications.** Communications on ATSRAC matters must work through the ATSRAC management structure. Non-FAA ATSRAC participants may not contact FAA management directly about ATSRAC matters without going through the ATSRAC management structure. This section has been added to provide communication guidance.

A. **Between the FAA and ATSRAC**

(1) **Between FAA Management and ATSRAC Members.**

Communication between ATSRAC and the FAA is encouraged to go through the Executive Director. If ATSRAC members want to talk to upper-level FAA management, ATSRAC is encouraged to invite the FAA personnel to a public ATSRAC meeting. Discussion at this meeting should be for the purpose of clarification, not for a preliminary approval or disapproval of a forthcoming recommendation. Statements made at any such meetings cannot be interpreted as FAA policy.

(2) **Between the FAA Representative and ATSRAC Members.**

The FAA Representative is a full member of a working group and has a responsibility to participate in the working group actions. During this participation, the FAA Representative will interact with ATSRAC members on the working group and will impart expertise when needed to enable the working group to achieve its task. The FAA Representative does not have the authority to make blanket statements about what the FAA will or will not accept, and his or her opinion should not be construed as FAA policy.

(3) **Between Other FAA Employees and ATSRAC Members.**

Often, ATSRAC members may wish to directly contact members of the internal FAA team assigned to a certain task, or may have procedural questions. If the ATSRAC member has a question pursuant to working group activity, he or she is encouraged to first discuss the concern with the Working Group Chair, then contact the FAA Representative assigned to the working group. The FAA Representative should decide (with concurrence from FAA internal team members) whether to approach the desired person to answer the question, or to allow the ATSRAC member to directly contact the FAA employee. If the question is procedural, again, the ATSRAC member should contact his or her FAA Representative, or the designated regulations analyst.

B. **Between ATSRAC and the Working Group**

(1) **Between the ATSRAC Chair and the Working Group Chair.**

The Working Group Chair should keep the ATSRAC Chair apprised of working group progress and problems. At times, this means communication is necessary beyond the status reports given at the ATSRAC meetings. The Working Group

Chair should inform the ATSRAC Chair when FAA support is needed, when a work plan has been developed, when a concept briefing is ready to be presented to ATSRAC, and when a recommendation is forthcoming from the working group. The ATSRAC Chair should inform the Working Group Chair of discussions held at Executive Committee meetings, and any other information that is pertinent to the working group's task.

(2) **Between the ATSRAC Chair and Working Group Members.**

Working group members may approach the ATSRAC Chair at any time they feel the working group is not effectively working toward its goal. The members should first discuss any discord with the Working Group Chair; disagreement with the Working Group Chair may need to be elevated to the ATSRAC Chair for resolution. Generally, the ATSRAC Chair will communicate with working group members through the Working Group Chair. When the Working Group Chair is not involved in the discourse, he or she should be advised that the communication occurred.

C. **Between the Working Group and the FAA**

(1) **Between the Working Group Chair and the FAA**

Representative. The FAA Representative is a full working group member, and any communication between the Working Group Chair and working group members should include the FAA Representative. In addition, the Working Group Chair can request a meeting with FAA personnel through the FAA Representative. The FAA Representative will identify to the Working Group Chair the FAA personnel who have been assigned to the FAA internal team (the attorney, the economist, the regulations analyst, and any personnel from other technical offices.)

(2) **Between the FAA Representative and Other Working Group**

Members. Communication between the FAA Representative and other working group members should be on a working group level. All are members of the working group, working toward a common goal, and communication should be open and honest to achieve that goal.

(3) **Between the Working Group Chair and Other FAA**

Personnel. The Working Group Chair should go through the FAA Representative to disseminate information on a project or collect information/status on a project. The Working Group Chair may contact the regulations analyst directly to update information regarding meeting location and times, and to update other relevant information. FAA personnel should contact the Working Group Chair through the FAA Representative for any exchange or request of substantial information.

D. **Between the FAA Representative and FAA Management.** The FAA Representatives are encouraged to talk with their upper-level management on a subject matter to solicit management concerns and opinions without identifying specific ATSRAC concerns or proposals. An FAA Representative can ask management for opinions or positions on particular subjects. The FAA Representative can then take that information and advise ATSRAC.

E. **Between the FAR/JAR Harmonization Working Group and the JAA Study Group.** The FAR/JAR harmonization working group should keep the JAA study group apprised of progress and problems. The JAA member should inform the JAA study group when support is needed, when the work plan has been developed, when a concept briefing is ready to be presented, and when a recommendation is forthcoming.

VII. ATSRAC Administration

A. Meetings.

(1) **ATSRAC Meetings.** The Executive Director develops the agenda for each ATSRAC meeting to discuss a particular issue. The ATSRAC Chair approves the agenda for each ATSRAC meeting to discuss a particular issue. The agenda for each ATSRAC meeting includes a briefing on procedure. The briefing need not be identified as an agenda item but is conducted by the Executive Director during his or her opening remarks. The agenda will also include, after the working group status reports, a line item to address coordination of working group information with the other working groups represented at the meeting, and with working groups not represented. Notice in writing, including the agenda, of each ATSRAC meeting is distributed to the members at least 15 days in advance of the date of an ATSRAC meeting so that the members can effectively prepare for the deliberations. In addition to the required *Federal Register* notice of meeting, other forms of notice may be used such as the ATSRAC bulletin board, press releases, notices in professional journals, and notice by mail. A one-year calendar of all meetings must be established. Locations should be included if possible.

(2) **Working Group Meeting.** Working group meetings are not open to the public. Only working group members may attend unless the Working Group Chair approves attendance by others. The Working Group Chair has the right to ask any uninvited persons to leave the meeting. The Working Group Chair is responsible for the orderly conduct of the meeting and may establish, with the group, the rules and procedures under which the group will work. The Working Group Chair develops the agenda for each working group meeting. Notice in writing, including the agenda, of each working group meeting is mailed to the members a minimum of 15 days prior to the meeting. Working group meetings are not announced in the *Federal Register*. However, the Working Group Chairs are expected to keep the ATSRAC community advised of upcoming meetings, via the ATSRAC bulletin board and other calendars maintained by the FAA. For FAR/JAR harmonization working group meetings, the co-chairs are also expected to keep the ATSRAC and JAA communities advised of upcoming meetings.

Note: Because of budgetary constraints, working group meetings requiring attendance by either the economist or attorney should be held in the United States. However, the OPI may pay the transportation expenses for the economist and/or attorney to attend a meeting outside the United States if it chooses to do so.

B. **Federal Register Notice of Meeting.** The Office of Rulemaking prepares a *Federal Register* notice no later than 30 calendar days before any ATSRAC meeting for publication no later than 15 days prior to the meeting.

Contents of the Notice. The *Federal Register* notice includes:

- a. The name of the advisory committee.
- b. The time, date, place, and purpose of the meeting.
- c. Building security requirements, if any.
- d. A summary of the agenda.
- e. A statement that any member of the public may submit written comments concerning the committee's affairs. The notice should also mention whether the public may speak at the meeting in accordance with guidelines developed by the agency or the committee.
- f. A statement concerning the availability of sign and oral interpretation as well as an assisting listening device.
- g. The name, address, and telephone number of the agency official to whom the public may address any inquiries.
- h. A reasonable deadline for written comments from the public so there will be time to copy and mail them to the members prior to the meeting.
- i. The name, address, and telephone number of the regulations analyst to contact for a copy of any draft recommendation that a working group plans to submit to ATSRAC at the meeting.

C. ATSRAC Meeting Minutes. Detailed minutes are to be kept of each committee meeting. Those minutes must contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the committee. The Executive Director is responsible for preparing the minutes of any ATSRAC meeting. The Executive Director provides the signed minutes of those meetings to the Executive Director for distribution and incorporation in ATSRAC's official files. Working groups are not required to keep detailed minutes of their meetings; however, it is extremely important that they document their progress in some way. Working group members should keep key individuals within his or her respective organization fully informed of decisions reached, issues unresolved, and action planned to resolve issues. The minutes do not need to be verbatim, but rather must contain an accurate description of each matter discussed and the resolution, if any, made by the committee. It is not necessary to record individual votes, only the decision. Minutes include the following:

(1) Time, date, and place of meeting.

(2) A list of committee members, staff, and agency employees who attended, as well as any members of the public who presented oral or written statements.

(3) An estimated number of members of the public present.

(4) An accurate description of each matter discussed and the resolution, if any, made by the committee, and copies of each report or other document received by the committee.

Note: Contract services for preparing the minutes or for providing a transcript of the meeting may be utilized only if approved in advance by the Executive Director. Draft minutes will be available to members within 30 days of the date of the meeting.

D. Public Participation. The general public must be afforded the opportunity to provide input on ATSRAC recommendations before they are submitted to the FAA. Therefore, ATSRAC meetings to discuss specific issues are open to the public, and announcements of those meetings are published in the *Federal Register*. The following normally takes place at an ATSRAC meeting:

(1) Every effort is made to set aside a portion of ATSRAC meetings for public participation to the extent that the meeting time and agenda permit.

(2) Members of the public may speak at the discretion of the Chair.

(3) Members of the public may file a written statement with the ATSRAC.

To be accessible to the public, each meeting must be held at a reasonable time and in a place reasonably accessible to the public. Open meetings may not be held at remote locations or in buildings that are not freely open to the public. The FAA has interpreted "easily accessible" to mean only within the United States. The public is advised in the *Federal Register* notice announcing the meeting that the space is limited and seating will be on a first come, first served basis. In choosing a location, the Executive Director takes into consideration how many members of the public attended similar meetings in the past and the resources and facilities available to the agency. Because working groups function as technically oriented ATSRAC staffs for deliberation and resolution of technical issues, working group meetings are not conducted in a public forum. Working group deliberations are conducted in closed meetings, where attendance is limited to working group members only.

F. Mailouts.

(1) **Preparation for ATSRAC Meetings.** The Executive Director is responsible for mailing a notice, including the agenda, of each meeting, as well as copies of any materials that will be voted on at the meeting. The material should be mailed well in advance of the date of a meeting so the members can effectively prepare for the deliberations. In addition to the required *Federal Register* notice of meeting, other forms of notice are used such as the ATSRAC bulletin board, press releases, and notices in professional journals.

(2) **Preparation for Working Group Meetings.** The Working Group Chair is responsible for mailing a notice, including the agenda, of each working group meeting to the members a minimum of 15 days prior to the meeting.

(3) **Minutes of Committee Meetings.** The Office of Rulemaking is responsible for mailing draft minutes of committee meetings to the members. In addition, the Office of Rulemaking is responsible for mailing signed minutes to the members as well as to those other individuals who have asked to receive them. Draft minutes should be mailed out no later than two weeks after the meeting.

(5) **Minutes of Working Group Meetings.** Complete minutes of working group meetings are not required. However, at a minimum, working groups must maintain a list of attendees at each of its meetings, a chronology of all meetings, and working drafts of reports prepared by the working group. If minutes are prepared and distributed, the Working Group Chair is responsible for their mailing.

G. **Address Lists.** The Office of Rulemaking is responsible for maintaining address lists and telephone numbers/fax numbers/e-mail addresses for the ATSRAC. Each Working Group Chair is responsible for maintaining address lists and telephone/fax numbers for his or her working group.

H. **Membership Database.** The Office of Rulemaking maintains a database containing the names, addresses, telephone numbers, fax numbers, and e-mail addresses of the ATSRAC members, the Working Group Chairs, and the FAA Representatives.

VIII. Reporting and Recordkeeping Requirements.

A. Reporting Requirements.

(1) The sponsoring organization (the Office of the Administrator) is required by Department of Transportation order to submit an Annual Committee Report to the FAA Committee Management Officer.

(2) To assist in the preparation of the Annual Committee Report, the OPI's responsible for each of the issues assigned to ATSRAC must submit the following information to the Executive Director for time spent on ATSRAC (actual time for the current fiscal year and estimated time for the next fiscal year).

a. The prorated salary for Federal staff (i.e., the Executive Director and other support personnel);

b. Travel and per diem (if applicable) for Federal staff; and,

c. Other (rents, graphics, printing, mailing, etc.).

(3) Information may be submitted to the Executive Director periodically throughout the year.

(4) The Executive Director is required to submit monthly reports of ATSRAC expenditures under FAA ceiling to the FAA Office of Financial Services by the 10th working day of each month.

(5) The Office of Rulemaking prepares all management reports that the sponsoring organization is required to submit.

B. Recordkeeping.

(1) Committee.

a. The Executive Director maintains the official ATSRAC records. Such records include establishing documents, official correspondence relating to committee activities, membership information, agenda, minutes of meetings, invitations, studies, analyses, drafts of reports presented to the committee for discussion, final reports, other compilations of data or working papers, and records of time served and claims for payment (as appropriate).

b. The official ATSRAC records are maintained in hard-copy form in the office of the Office of Rulemaking.

c. Whenever possible, individual documents to be included in the official ATSRAC records are submitted to the Executive Director in electronic form (Microsoft Word for Windows).

d. Documents included in the official ATSRAC records are indexed to allow eventual electronic access.

e. ATSRAC records are available for public inspection during normal business hours (8:30 a.m. through 5 p.m.).

f. Charges for copies of documents are made in accordance with 49 CFR Subpart I.

(2) **Working group.** Working groups must maintain a list of attendees at each of its meetings, a chronology of all meetings, and working drafts of reports prepared by the working group.

C. Availability of Records under the Federal Advisory Committee Act (FACA) and Pursuant to a Request under the Freedom of Information Act (FOIA).

(1) **Availability of Records** Subject to the provisions of the FOIA, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by ATSRAC shall be available for public inspection and copying at a single location in the FAA Office of Rulemaking until ATSRAC ceases to exist. In practice, as soon as working group information is included for discussion on the agenda for an ATSRAC meeting, the information should be made available for public inspection and copying.

(2) **Freedom of Information Act Requests to the FAA.** Subject to the provisions of the FOIA, the FAA shall make available to a requester records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by ATSRAC.

Working group information in the custody and control of the FAA is releasable under the FOIA, unless it fall within one of the nine statutory exemptions. It makes no difference that the working group information has not passed the material on the ATSRAC. Therefore, FAA Representatives need to be aware of the type of information in their possession. For example, if at a working group meeting manufacturers are asked to share sensitive data with the working group members, the FAA Representative may look at and discuss the data during the meeting without the information being subject to a FOIA request. However, if the FAA Representative takes possession of the information upon leaving the

meeting and uses the information in performance of his/her duties, then the working group information would be subject to the FOIA. It is recommended that if an FAA Representative needs such data to complete a working group assignment, he/she should, to the extent possible, make sure the data is in a form or format that would be releasable under FOIA. For example, proprietary data should be redacted, or, for information in which identity of the source is sensitive, the identifying information should be redacted or removed before the FAA Representative takes possession of the documents.

APPENDIX A

The following organizations are represented in ATSRAC:

1. Department of Defense (DOD)
2. Air Transport Association (ATA)
3. Aerospace Industries Association (AIA)
4. National Aeronautics and Space Administration (NASA)
5. General Aviation Manufacturers Association (GAMA)
6. European Joint Airworthiness Authorities (JAA)
7. Transport Canada Civil Aviation
8. Boeing
9. Airbus Industrie
10. National Electrical Manufacturers Association (NEMA)
11. Society of Automotive Engineers (SAE)
12. European Aerospace Industries Association (AECMA)
13. International Federation of Airworthiness (IFA)
14. Federal Aviation Administration (FAA)
15. International Air Transport Association (IATA)
16. Air Line Pilots Association (ALPA)
17. International Association of Machinists (IAM)

In addition, one individual member, General (Ret.) Michael Loh, was selected for his background and previous involvement with the White House Commission on Aviation Safety and Security