



FAA – EASA Rulemaking Cooperation

WI.RPRO.00011-002

	Name	Validation	Date
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**DOCUMENT CONTROL SHEET****Reference documents****a) Procedures**

PR.RPRO.00002 – Rules programming

PR.RPRO.00001 – Rules development

b) Internal documents

Management Board Decision 01-2012 of 13/03/2012, amending and replacing Decision 08-2007, concerning the Procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material ("Rulemaking Procedure"), and in particular Article 3 "Programming" thereof.

REGULATION (EC) No 216/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC.

EASA-FAA rulemaking cooperation guidelines.

Definitions/Abbreviations

ARAC:	Aviation Rulemaking Advisory Committee
ARC:	Aviation Rulemaking Committee
FAA:	Federal Aviation Authority
NPA:	Notice of Proposed Amendment
NPRM:	Notice of Proposed Rulemaking
RAG:	Rulemaking Advisory Group
RAP:	Rulemaking Action Plan
SSCC:	Safety Standards Consultative Committee and its sub-committees
TAG:	Thematic Advisory Group
ToR:	Terms of Reference
WI:	Work Instruction

Log of issues

Issue	Issue date	Change description
001	04/09/2013	First issue to implement the EASA-FAA rulemaking cooperation guidelines signed in June 2013
002	24/06/2014	Alignment with the Convergence project
003	01/09/2014	Alignment with the Convergence project





1. INTRODUCTION

On 13 June 2013, the EASA and FAA signed the “Rulemaking Cooperation Guidelines” (Guidelines) which establish the processes through which the FAA and EASA intend to promote rulemaking co-operation. The objectives of the Guidelines are to:

- i. Exchange rulemaking intentions and priorities of the Participants to align as much as possible their respective rulemaking programmes;
- ii. Identify rulemaking initiatives of common interest that through regulatory collaboration would allow the FAA and EASA to: (i) avoid unnecessary divergence and duplication of work, (ii) maximize available resources, and (iii) further harmonisation.
- iii. Define the corresponding working methods to be followed by EASA and FAA when executing tasks which have been identified as of ‘common interest’ to both authorities.

This Work Instruction provides direction for the EASA rulemaking officers which have been designated as “focal points” to work with the FAA on rulemaking tasks within the framework of the Guidelines.

The complete text of the Guidelines is available in ARIS as [external document](#).

2. SCOPE OF THIS WORK INSTRUCTION

The scope of this WI is to provide guidance on rulemaking cooperation initiatives related to Title 14, Code of Federal Regulations and equivalent European Union rules for which proposals are developed by EASA, as well as to related acceptable means of compliance, certification specifications, advisory circulars, guidance material, and technical standard orders. In practice any rulemaking project on which EASA works can potentially fall within the scope of the Guidelines.

More specifically, this WI provides guidance on the so called rulemaking projects of “common interest”. These are the rulemaking projects which have been selected by the FAA and EASA rulemaking management for harmonization. The criteria for the selection of the projects of common interest include: safety relevance, cost savings for industry and authorities deriving from harmonization, need to ensure interoperability across the Atlantic.

A project of “common interest” can involve a number of individual rulemaking tasks on each side. For example, harmonization in relation to Remotely Piloted Aerial Systems (RPAS) can be defined as a project of “common interest” and it includes all rulemaking tasks currently related to RPAS (i.e. pilot licensing, airworthiness requirements, requirements for operators etc.).

3. RULEMAKING PROJECTS OF COMMON INTEREST

FAA and EASA will maintain an inventory of the projects of common interest and regularly update it. At EASA level, the Strategy and Safety Management Directorate is responsible for maintaining the joint inventory. In addition the individual EASA rulemaking tasks which are covered by the projects of “common interest” are specifically highlighted in the monthly EASA rulemaking scoreboard report.

4. WORKING METHODS AND FOCAL POINTS

Once a project of common interest has been identified by the EASA and FAA, each authority will allocate a focal point responsible for cooperation. In addition FAA and EASA will select one of the following three working methods for progressing the work on the project. It is the responsibility of the designated EASA or FAA focal point to follow the selected working method and to share the information with the counterpart accordingly.

**4.1 Working Method # 1 - EASA Takes the Lead**

This working method has to be preferred when EASA is more advanced in terms of starting or implementation of the project, or where the FAA does not have yet an equivalent project scheduled, but would like to “shadow” the EASA work in order to be able to launch a similar task in the future and use the results of the joint work done.

This working method follows the standard EASA rulemaking procedure (see [PR.RPRO.00001 - Rules development](#)).

This working method aims at giving the FAA sufficient involvement in the EASA rulemaking project to understand the content of the draft rule and to be able to contribute to this process as necessary to allow it, where appropriate, to launch an equivalent Notice of Proposed Rulemaking (NPRM) or take other equivalent rulemaking decision.

Under this working method the designated EASA focal point should ensure that communication takes place for the following phases of the EASA process:

- When drafting the terms of reference (ToR) of the task. The ToR should be consulted with the FAA before it is sent to EASA advisory bodies (i.e. RAG/TAGs/SSCC);
- When deciding changes to the ToR;
- Prior to the publication of the Notice of Proposed Amendment (NPA).

More generally the designated EASA focal point should lead the rulemaking process in regular coordination with the FAA focal point, to ensure the broadest possible exchange of information and aiming at arriving at harmonized approaches to key aspects of the project.

4.2 Working Method #2 - FAA Takes the Lead

This working method will be usually chosen when FAA is more advanced in terms of timing of the project, or where EASA does not have yet an equivalent project scheduled, but would like to “shadow” the FAA work in order to be able to launch a similar project in the future and use the results of the joint work done.

The general process for this working method is outlined in the FAA Office of Rulemaking’s Rulemaking Manual. A copy of this manual can be requested to the FAA focal point.

This working method aims at giving EASA sufficient involvement in the FAA’s rulemaking project to understand the content of the NPRM and be able to contribute to this process as necessary to allow it, where appropriate, to launch an equivalent NPA or take other equivalent rulemaking decision.

The FAA focal point should ensure that communication takes place for the following phases of the FAA process:

- When developing issue papers in preparation for drafting the Rulemaking Action Plan (RAP);
- When selecting the membership of an Aviation Rulemaking Advisory Committee (ARAC) or Aviation Rulemaking Committee (ARC) to allow EASA participation;
- During the deliberations of an ARAC or ARC up to and including publication of the final reports;
- When deciding changes to the scope of the rulemaking project prior to the development of the RAP.

More generally, the EASA focal point should expect from its FAA counterpart a regular coordination and the broadest possible exchange of information during the overall rulemaking process. The objective of such a coordination is to ensure harmonized approaches to key aspects of the project



4.3 Working Method #3 – Authorities Cooperation

Under this method, the FAA and EASA intend to develop their rulemaking projects separately, but concurrently (to the extent practicable). However, as appropriate, the FAA and EASA focal points may follow the process described in Working Methods #1 and #2 in sharing information during the concurrent development of the rule. From the EASA side this Work Instruction recommends to the focal points follow the same principles as under Working Method # 1.

5. WORK PLANS

For each rulemaking project of “common interest” selected, EASA and FAA focal points should develop a simple work plan. Each work plan should describe the following:

- a) Working method;
- b) Technical points of contact (i.e. Focal points);
- c) Project implementation schedule and meeting dates;
- d) Description of the technical documents that either the FAA or EASA intends to make available for review and discussion. These may include jointly developed issue papers, analyses, research results and other technical documents of a non-confidential nature, except that the FAA and EASA, if their national procedures or rules so require, may decide not to make available copies of documents, such as in the case of the FAA, the RAP, or the NPRM prior to publication in the Federal Register;
- e) Participation in work groups, e.g. ARAC and ARCs; and
- f) Any other cooperative activities mutually determined by EASA and the FAA to be beneficial.

6. RELEASE OF DATA

Except as required by applicable law, neither the FAA nor EASA should disclose to any third party confidential or pre-decisional rulemaking information received from the other Participant as a result of that Participant's involvement in any rulemaking project under these Guidelines, without the written consent of that other Participant. Each Participant should identify documents designated as confidential or pre-decisional and should ensure that such information is not accessible to unauthorized third parties

7. FAA EX PARTE COMMUNICATIONS

To the extent that the FAA engages in any ex parte communications with EASA after approval of the RAP until publication of the final rule and receives significant information and argument from EASA respecting the merits of the proposed rule, the FAA will provide a summary of those discussions in the rulemaking docket.



RECORDS

Appendix A : Operational Documents

Record	Step/Related to
None	

Appendix B : External documents

Record	Step/Related to
None	