

ANNEX 4  
to PC/01/11/6

**EUROCONTROL Notice of  
Proposed Rule-Making  
(ENPRM) Regulatory  
Process  
ADVISORY MATERIAL**

Proposed Version

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EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

**EUROCONTROL**

**EUROCONTROL NOTICE OF PROPOSED RULE-MAKING  
(ENPRM) REGULATORY PROCESS**

**ADVISORY MATERIAL**

Doc No. [tbn]

[Proposed version]

[July 2001]

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# **1 GENERAL**

## **1.1 ROLES, DEFINITIONS AND ABBREVIATIONS**

### **1.1.1 Roles**

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### **1.1.2 Definitions**

#### **1.1.2.1 Regulatory Impact Assessments**

1.1.2.1.1 Varying levels of RIA will be necessary at different stages of the process:

- a) an 'Initial RIA' means that the Originators of proposals would be expected to have carried out a basic assessment on the basis of readily available guidance and advice; this should ideally outline costs, benefits, who/what will be affected and why non-regulatory action is not sufficient;
- b) a more robust RIA development would be required during the evaluation stage of a proposal to assist in determining whether regulatory action was appropriate; this should outline costs, benefits, who/what will be affected and why non-regulatory action is not sufficient;
- c) the full RIA carried out during the Drafting Phase will be more encompassing to assist in the selection of the best option and to provide justification for the proposed rule. The outcome of this RIA will be included in the formal consultation explanatory material as a draft RIA report. This will then become the final RIA report, taking into account any amendments necessary as a result of the consultation. The final report will accompany the draft rule when submitted for adoption.

1.1.2.1.2 Overall, the RIA may start as a somewhat outline and speculative assessment but will be refined as proposals are developed and particularly as the views and inputs of a wider perspective of stakeholders are determined and incorporated.

1.1.2.1.3 In conducting RIAs responsible parties should ensure that it is done from the perspective of all relevant stakeholders, i.e. beyond service providers and airspace users. The RIAs should also take into account a wider perspective, including industrial, environment, competition and consumer policies. In all cases, outside bodies should be consulted as early as feasible.

1.1.2.1.4 RIA reports may vary in content depending on the particular proposal; however, the following main headings should be included:

- a) Purpose and effect of the Proposal:

- i) identify the problem requiring regulation and provide a clear statement of the objective(s) of the proposal;
  - ii) assessment of any risks, including environment and safety impacts.
- b) Options for dealing with the issue – usually several are identified, including the ‘do nothing’ option and perhaps at least one non-regulatory option. c) identify and quantify the benefits of each option and who will benefit.
- d) Describe the costs to business for compliance.
- e) Summarise and recommend a solution.

1.1.2.1.5 The Regulation Manager should provide detailed guidelines, to Rule Sponsors, on the conduct of RIAs and on the format and content of RIA reports.

### **1.1.3 Abbreviations**

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## **2 THE ENPRM REGULATORY PROCESS**

### **2.1 SCOPE**

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### **2.2 DOCUMENTATION**

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### **2.3 ADMINISTRATIVE MANAGEMENT**

2.3.1 The single point of contact is a role for the overall regulatory function who should be capable of dealing with general queries related to activities associated with the process and be able to direct interested parties to the necessary specialist contact. It is expected that Rule Sponsors, for example, will provide that specialist contact for each rule development.

2.3.2 The resources identified to support the process administration should be the minimum necessary to achieve the task. To enhance the efficiency of the tracking and monitoring of key process actions and documentation, the Regulation Manager should employ a suitable software management application to reduce the administrative burden and to enhance the auditability of the process.

## **2.4 PROCESS TRANSPARENCY**

### **2.4.1 General**

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### **2.4.2 Conditions of Access to ENPRM Material**

2.4.2.1 As a minimum, the following ENPRM regulatory process material should be published in the future EUROCONTROL Journal:

- a) appropriate regulatory texts adopted by the EUROCONTROL decision-making bodies;
- b) notices of the availability of A-ENPRM/ENPRM documents;
- c) a regular update on the status of national implementation of the regulatory texts previously published.

2.4.2.2 Except for the formal 'Deliverables' distributed under the provisions of the ENPRM process to key stakeholders and Subscribers, other material will not generally be made available by post. However, requests for postal distribution will be assessed by the Regulation Manager on a case-by-case basis.

2.4.2.3 The Regulation Manager should maintain and operate the regulatory process Website which should contain public and password protected areas:

- a) Public areas should include, as a minimum:
  - i) a general narrative of progress for each proposed rule;
  - ii) relevant ENPRM contact details and addresses;
  - iii) notices of availability of A-ENPRM/ENPRM documents;
  - iv) access to extant A-ENPRM/ENPRM documents(via registration);
  - v) access to current EUROCONTROL rules (via registration);
  - vi) access to details of comments received in response to A-ENPRM /ENPRM documents and approved responses;
  - vii) completed RIA reports, including completed Cost Benefit Analyses (CBAs);
  - viii) completed Safety Cases;
  - ix) completed Business Cases;
  - x) rejection/withdrawal rationales for proposals.

- xi) details of exemptions granted to existing rules;
  - xii) list of addressees considered as key stakeholders as defined under the process paragraph 2.10.2.1a);
  - xiii) guidelines and formats for submitting rule-making proposals;
  - xiv) access to relevant forms, e.g. A-ENPRM/ENPRM response sheets;
  - xv) access to the EUROCONTROL Journal;
- b) Password protected areas should include:
- i) dedicated areas for each project to contain detailed information on the rule development, including working papers, meeting notes, technical correspondence, incomplete RIA material etc;

2.4.2.4 The need for registration to access extant A-ENPRM/ENPRM documents exists so that the Regulation Manager is able to monitor and record the scope of the consultation. Registration will not be restricted and will be possible by a simple mechanism through the Web page itself and will provide immediate access. The process for registration will be explained clearly on the Web page.

2.4.2.5 In considering whether to grant access to superseded rules and other old, deleted or changed texts, the Regulation Manager should take into account the sensitivity and impact of releasing the information and be satisfied that the requester has good cause for requiring the information.

## **2.5 EUROCONTROL RULE FORMAT**

### **2.5.1 General**

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### **2.5.2 Rule Elements**

#### **2.5.2.1 General**

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#### **2.5.2.2 Title and Code**

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### **2.5.2.3 References**

2.5.2.3.1 References to particular pieces of text may be used in preference to the repetition of source material except where it is not possible to avoid such repetition. In the latter case, the source of repeated material should be identified precisely. References should include the title of source material and the publication and edition dates.

2.5.2.3.2 Circular references (references to a rule or provision which itself refers back to the initial provision) and serial references (references to a provision which itself refers to another provision) should be avoided.

2.5.2.3.3 Where appropriate, references may be contained in a separate list..

### **2.5.2.4 Definitions**

2.5.2.4.1 Where there are a significant number of definitions applicable to a rule they may be included in a separate section.

### **2.5.2.5 Abbreviations**

2.5.2.5.1 Where appropriate, abbreviations may also be separated from the definitions and contained in a separate element.

### **2.5.2.6 Scope**

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### **2.5.2.7 Detailed Technical Provisions**

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### **2.5.2.8 Entry into Force Provisions**

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### **2.5.2.9 Annexes**

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### **2.5.2.10 Rule Sub-Structure**

2.5.2.10.1 EUROCONTROL rules may be so diverse, as regards both the nature of their content and their length, that flexibility should be maintained in the specification of the sub-structures to be used within documents containing the rules. However, it is important to ensure that all documents are logically structured so that they are easy to understand, simple to refer to and straightforward to apply. For example, a simple and easy to use structure might include:

- a) Part numbers of a rule (where a rule was in several parts);

- b) Section numbers, e.g. 1
- c) Paragraph numbers, e.g. 1.1
- d) Sub-paragraph numbers, e.g. 1.1.1 (and lower levels)
- e) Lists, e.g. a) and i)
- f) Annexes, e.g. A, B, C or numbered

2.5.2.10.2 Within the overall sub-structure, the use of clear and unambiguous headings should be made wherever necessary to simplify the use and understanding of the document. Within certain rule categories, the use of Articles to identify sub-structures may be appropriate.

## **2.6 ADVISORY MATERIAL**

2.6.1 Wherever practicable, advisory material should be developed in parallel to the associated draft rule and be included alongside the parent rule during the consultation process.

## **2.7 TIMESCALES**

2.7.1 The Regulation Manager should publish detailed guidelines in respect of rule-making timescales as soon as possible after implementation of the ENPRM process. However, to avoid issuing misleading information, the Regulation Manager should develop such guidelines on the basis of experience gained and then ensure that they are sufficiently generic to take account of the fact that each rule-making case may require different amounts of time depending on the complexity and level of consensus on the issues involved.

## **2.8 INITIATION PHASE**

### **2.8.1 Proposing a New Rule/Rule Change**

2.8.1.1 The EUROCONTROL Agency will identify rule-making requirements in line with the revised EUROCONTROL Convention and the Statute of the Agency and it is anticipated that most rule proposals will be initiated from within the Agency. However, the process also provides the possibility for other parties to submit proposals for new or amended rules.

2.8.1.2 Proposals may be submitted in writing, by E-mail, by fax or via the regulatory process Website to the Regulation Manager. The Regulation Manager should ensure that the relevant phone numbers and addresses are appropriately published, including on the Website and in the EUROCONTROL Journal.

2.8.1.3 In providing a suitable format for the submission of rule proposals, the Regulation Manager should include examples of the minimum level of content for reference. The format should be published on the ENPRM regulatory process Website.

2.8.1.4 The proposal format should include the following minimum content:

- a) the subject area of the proposal and, where applicable, the associated rule;
- b) an initial RIA based on readily available information or advice, including:
  - i) clear identification of the specific problem(s) giving rise to the need for a regulatory solution;
  - ii) the key features of the proposed change and an outline of the associated rule (if any);
  - iii) an assessment of the costs, benefits, who/what will be affected and why non-regulatory action is insufficient;
- c) a description of how the rule would comply with EUROCONTROL's strategic objectives;
- d) an estimate of time-scales for development of the proposed rule;
- e) any amplifying documents or information which would assist in clarifying the proposal.

## **2.8.2 Receipt and Initial Assessment of a Proposal**

- 2.8.2.1 On receipt of the submission, the Regulation Manager will ensure that it is properly registered and acknowledged in writing.
- 2.8.2.2 The initial assessment exists as a first check to ensure that a proposal is applicable to the ENPRM regulatory process and that the Originator has undertaken at least a minimum amount of research to provide a sufficient basis of information and justification upon which to commence the process.
- 2.8.2.3 To be applicable to the ENPRM process, 2 basic criteria should be met:
  - a) firstly, the proposal must be one which is applicable to EUROCONTROL rule-making, i.e. meets EUROCONTROL's strategic objectives and is permissible under the EUROCONTROL Convention;
  - b) secondly, the proposed rule must be of such impact that the use of a widespread, formal consultation phase is justified, i.e. it is not a rule (or amendment) that could justifiably be processed using a more fast-track (non-ENPRM) procedure.
- 2.8.2.4 Should the proposal not meet the required content and format and/or is not clearly understood, the Regulation Manager should refer the matter back to the Originator and request that the necessary rectification action be taken and/or establish the necessary clarity.
- 2.8.2.5 The Regulation Manager should also be prepared to provide advice to Originators of proposals to assist in the preparation of submissions.

## **2.8.3 Evaluation of a Proposal**

- 2.8.3.1 In evaluating the suitability of a proposal for regulatory action, the Regulation Manager should use whatever practical means he feels appropriate to achieve a fair and sound conclusion. He should, in particular, seek advice from suitable groups or individuals, e.g.:
- a) relevant EUROCONTROL Agency services;
  - b) existing working arrangements at Organisation level, including regulatory advisory bodies which might have been created to cover the regulatory area addressed by the proposal (e.g. SRC for the safety area, CMIC for military issues, etc)
- 2.8.3.2 In respect of early contact with ICAO and/or the JAA the following guidance should be observed:
- a) In respect of ICAO, initial contact should always be via the ICAO Paris Office unless other arrangements already exist. This would support the review of possible implications, address initial queries and identify the necessary detailed ICAO interface mechanisms should rule development go ahead.
  - b) In respect of the JAA, initial contact should always be via the JAA Regulation Director unless other arrangements already exist. This would allow early queries to be addressed and any need for further action initially determined.
- 2.8.3.3 In assessing whether an identified problem requires regulatory change, a proposal should be evaluated with certain questions in mind. These questions should include:
- a) Is there a real problem?
  - b) Can the problem be addressed by non-regulatory methods?
  - c) Is there an existing regulation that would cover it?
  - d) Is the proposal consistent with EUROCONTROL strategy/objectives?
  - e) Is it consistent with international practice?
  - f) Does it avoid over-regulation?
  - g) Does it take into account complementary legislation?
- 2.8.3.4 In presenting his intention to proceed to the Drafting Phase to the [Provisional] Council, the Regulation Manager should take into account the benefits of having a positive indication from the appropriate Agency consultative or advisory body (e.g. ACG, CMIC, SRC etc).

2.8.3.5 Should a proposal be rejected or referred for non-regulatory action there is no formal appeals procedure in respect of EUROCONTROL rulemaking. There is nothing, however, to prevent parties from making representations to members/observers of the [Provisional] Council or to attempt to re-submit rejected proposals following amendments.

2.8.3.6 Examples of non-regulatory solutions might include:

- a) improved training/education;
- b) better transparency;
- c) bilateral/multilateral co-operation agreements.

## **2.9 DRAFTING PHASE**

### **2.9.1 General**

2.9.1.1 A policy objective provides the basis for subsequent rule development and is an essential element of the process. Once the decision to draft has been taken, the Regulation Manager should first determine whether a policy objective already exists in respect of a particular regulatory requirement and, if so, identify that to support the Drafting Phase. Where no suitable policy objective exists, the Regulation Manager should develop one accordingly.

2.9.1.2 The Regulation Manager's outline terms of reference for the Rule Sponsor should provide the necessary guidance and authority for the execution and completion of the Drafting Phase, including:

- a) the policy objective;
- b) estimated time-scales for completion;
- c) reporting requirements;
- d) available resources (including the possibility of project team support);

2.9.1.3 Participation in rule development, e.g. through project teams and/or external consultation activities, should not be restricted to the EUROCONTROL or ECAC areas where it is determined that the participation of a particular party would enhance the development and efficient implementation of the proposed rule. Access to parties beyond the EUROCONTROL/ECAC areas should initially be achieved through the proper channels, e.g. ICAO Paris Office for EUR region States.

2.9.1.4 The intention of creating a Project Team should be communicated to all stakeholders to allow them to indicate their interest to participate.

- 2.9.1.5 Should a project team be required, the Rule Sponsor should determine its optimum configuration in consultation with the Regulation Manager. The team should be composed of representatives of national regulatory authorities (civil and military) of EUROCONTROL Member States, other authorities as required, the EUROCONTROL Agency, service providers, airspace users, international organisations (ICAO, JAA etc), manufacturing industry, trade and professional associations and other [multi-disciplined] representatives having subject matter expertise in the issue(s) referred to the Rule Sponsor by the Regulation Manager. The composition of project teams should be the minimum necessary to achieve the desired results. Wherever possible, existing working arrangements at Organisation level should be used where they have been created to cover the regulatory area addressed by the proposal.
- 2.9.1.6 The Rule Sponsor should convene meetings, where applicable, of project teams to review progress when key milestones are achieved and at other times when required. The review meetings should consider what work remains to be done, and whether the cost and schedule targets should be reviewed on the basis of experience.
- 2.9.1.7 Project teams should work “electronically” to the maximum extent possible. Face-to-face meetings should only be convened where remote communications are not possible or are considered ineffective.

## **2.9.2 Rule Development**

### **2.9.2.1 General**

- 2.9.2.1.1 Work plans for rule development should establish time-scales and resource usage, and show clearly the required milestones.
- 2.9.2.1.2 The Rule Sponsor should develop the draft rules, taking account of the following general guidelines:
- a) Rules should be developed on a basis of clear understanding of the need for legislative change and of the policy objective provided by the Regulation Manager.
  - b) All the regulatory options that may be available to meet the objective should initially be considered to determine what constraints that might exist which make some options not viable.
  - c) Consider the viable options and research the social and economic costs and benefits of each option under consideration, to determine the impacts of each option on:
    - i) the regulated community;
    - ii) the EUROCONTROL Organisation, and other organisations;
    - iii) consumers;

- iv) any other affected groups.
- d) Select the preferred regulatory option and:
  - i) define the technical content;
  - ii) ensure, where appropriate, the necessary compatibility with ICAO provisions and international practice;
  - iii) take necessary action to initiate the development of the necessary means of compliance;
  - iv) ensure that a full RIA report is produced to support the selection of a rule option.
- e) Conduct sufficient internal/external consultation as necessary to achieve the necessary results.

#### 2.9.2.1.3

The closest contact should be maintained with the EC, ICAO and the JAA to achieve the necessary compatibility/consistency with their processes and to achieve efficient synchronisation of the parallel rule-making processes, where appropriate:

- a) In respect of ICAO, Rule Sponsors should remain sensitive to the requirements of the ICAO publication and amendment cycles and factor these into the work plan. Every opportunity should be taken to present issues and concepts to relevant ICAO fora (e.g. EANPG) to address problems at an early stage and to enhance early ownership and acceptance beyond just the EUROCONTROL/ECAC areas. In general, inputs for ICAO attention should be tailored to be highly focussed, and requests for inputs from ICAO should be equally specific and kept to the minimum necessary to the matters they need to be involved with.
- b) It is particularly important to maintain close contact with the JAA to obtain proper advice on technical aspects, realistic time-scales, implied costs etc. Moreover, the achievement of the correct balance between the scope of a rule and the means of compliance will depend very heavily on the successful establishment and observation of effective EUROCONTROL/JAA working relationships during the Drafting Phase. Following initial contact with the JAA Regulation Director, it is anticipated that the matter would be referred to the JAA CNS/ATM Steering Group who would define the subsequent programme and interface arrangements.
- c) Where it is determined that a proposed rule should be subject to the EC regulatory process, effective and close co-operation should be maintained to encourage a harmonised rule development and implementation.

2.9.2.1.4 In considering particularly the development of safety cases, the Rule Sponsor should take account of the timing of the commencement of that development as a subsequent minor amendment may have a significant impact on the original safety case. Timing must be calculated to avoid wasted effort whilst at the same time ensuring that the safety case remains up-to-date and robust.

2.9.2.1.5 The Rule Sponsor should report to the Regulation Manager on the status of the project at least every month and when otherwise requested by the Regulation Manager. The report should include results achieved to date and forecast or revised completion date.

## **2.9.2.2 Rule Drafting Principles**

2.9.2.2.1 The basic outcome of unclear and imprecise rule-drafting is a rule that is difficult to transpose and enforce. In drafting rules, therefore, the content of provisions should:

- a) be as homogenous as possible;
- b) avoid complicated sentences and the excessive use of abbreviations;
- c) avoid cryptic, convoluted or unnecessary wording;
- d) achieve brevity in section, paragraph and sentence content;
- e) make extensive use of subject headings.

2.9.2.2.2 During rule development and particularly during formal consultation, care should be taken to identify whether draft texts might need simplification/clarification. This may become apparent where, for example, there are frequent requests for clarification and/or where a variety of different interpretations are made by the reader.

2.9.2.2.3 A performance-based rule regulates the desired outcome rather than the details of how to achieve that outcome and therefore provides the necessary flexibility and freedom of innovation for all the affected parties.

2.9.2.2.4 It may not be practical to write certain regulations in terms of performance and especially when:

- a) the expressed standard would be so vague as to be unenforceable (e.g. "fly safely"), or
- b) where a specific outcome has already been mandated elsewhere, or
- c) there is no acceptable alternative to a more prescriptive expression, e.g. detailed technical standards etc.

2.9.2.2.5 In determining whether a rule can be written as a performance-based regulation, the following principles should be taken into account:

- a) Can the requirement be expressed in terms of a practical goal that can be easily understood?
- b) Would the performance-based regulation be enforceable?
- c) Would a performance-based rule discriminate against the smaller operator/company?

2.9.2.2.6 In the case of amendments to rules, the Regulation Manager should consider that amending existing rules might be quicker and easier than drafting a completely new rule. However, amendments should not be made to rules where the development of a new rule should clearly be undertaken. Amendments to rules may also be of such significant impact that they demand a full ENPRM process.

### **2.9.2.3 Exemptions Policy**

2.9.2.3.1 The scope for derogation by Contracting Parties from a EUROCONTROL Decision is precisely defined within the EUROCONTROL Convention. Article 9 of the revised Convention specifies that a Contracting Party may derogate from a decision adopted by majority if overriding national considerations pertaining to national defence and security interests prevent it from acting on it. Derogation is therefore only possible once a decision has been adopted.

2.9.2.3.2 There is no general exemption procedure. If an exemption is required with respect to the application and/or introduction of the rule, it will have to be addressed on a case-by-case basis. This could be necessary, for example, in the event States are required to exempt certain types of aircraft from the application of the requirements contained under a rule. The conditions for exemption will be part of the Decision which will enact the rule and should only be used for temporary cases in order to avoid delays or divergent implementation.

2.9.2.3.3 Once the conditions for exemption have been adopted, the Contracting Parties will be responsible for granting the exemption to a requesting party on the basis of the requirements clearly established; however, EUROCONTROL will compile and make public the exemptions granted, both to allow interested parties to view precedents and to show progress in the implementation of the rule.

2.9.2.3.4 This type of temporary exemption should not be confused with the elements of a rule which concern its applicability and are of permanent application (e.g. exemption for State aircraft from having to meet requirements for the introduction of a specific ATM programme).

### **2.9.3 Advanced-ENPRM (A-ENPRM)**

2.9.3.1 Prior approval to use an A-ENPRM is required from the Regulation Manager as its use incurs additional expenditure and potentially significant delays in the rule development process. Ideally, the request to use an A-ENPRM should be made by the Rule Sponsor within 30 days of the commencement of the drafting phase.

2.9.3.2 An A-ENPRM does not require to be as strictly structured as an ENPRM and may be expressed in a more discursive style to reflect its purpose and invite general comment on the proposals. The document should be prepared by the Rule Sponsor and should adhere to the following general format:

- a) the purpose of the A-ENPRM, including the specific type of information/feedback being sought and the comments period;
- b) background leading to the proposal and why an A-ENPRM is needed;
- c) discussion of the problem, including issues involved;
- d) proposed regulatory changes and policy intention, including the assessed impact of the proposal (early cost/benefits);
- e) details on how to submit comments on the A-ENPRM, and how to obtain further information/submit enquiries;
- f) a response sheet.

## **2.9.4 ENPRM Document Preparation**

2.9.4.1 An ENPRM document should be structured as follows:

- a) explanatory Material:
  - i) an overview of the purpose of the ENPRM, the benefits expected, the comment period and an invitation to respond;
  - ii) the draft RIA report;
  - iii) the policy objective of the proposal, what outcomes, goals or targets are sought in relation to the identified problem;
  - iv) the consultation carried out previously including the main affected parties and the views of the parties;
  - v) explanations, where necessary, of the provisions of the rule and approach taken;
  - vi) details on how to submit comments on the ENPRM, and how to obtain further information/submit enquiries.
- b) the draft rule;
- c) associated advisory material (where this is available and considered important to the understanding of the draft rule);
- d) a response sheet;

2.9.4.2 Should an ENPRM be issued as the result of the need for re-consultation following the comments received from an original ENPRM, such an ENPRM need only contain:

- a) explanatory material:
  - i) a brief introduction to the ENPRM, explaining its purpose, highlighting the proposed revisions to the draft rule and requesting comments on them;
  - ii) the comment period and an invitation to respond;
  - iii) results of any further informal consultation and/or comments received and, where appropriate, responses made from a previous ENPRM.
- b) the revised draft rule;
- c) associated advisory material (where this is available and considered important to the understanding of the revised elements of the draft rule);
- d) a response sheet.

## **2.9.5 Progress to Next Steps**

2.9.5.1 In practice, the decision to withdraw a proposal would be expected to be taken at the end of the Drafting or Review of Comments phases where the Regulation Manager/[Provisional] Council may be in possession of significant new information. However, the decision may be taken at any time to take account of changing circumstances.

2.9.5.2 The reasons for the withdrawal of a proposal may include, inter alia:

- a) an adverse effect on safety not previously realised;
- b) a cost/benefit impact not previously realised.

2.9.5.3 Should a proposal be withdrawn, there is no formal appeals procedure in respect of EUROCONTROL rulemaking. There is nothing, however, to prevent parties from making representations to members/observers of the [Provisional] Council or to attempt to re-submit rejected proposals following amendments.

## **2.10 FORMAL CONSULTATION PHASE**

### **2.10.1 General**

2.10.1.1 The ENPRM regulatory process acknowledges the potential impact of a proposal and anticipates significant responses which will be formally reviewed and actioned, where appropriate, before further progress is made.

## **2.10.2 Scope of Consultation**

2.10.2.1 Formal consultation usually demands a more extended response period than an A-ENPRM (typically 2 months for an A-ENPRM and 3 months for an ENPRM) but the exact time period must be a matter of judgement for the Regulation Manager on a case-by-case basis, within the required maximum and minimum timescales.

## **2.10.3 Advertising the A-ENPRM/ENPRM Document**

2.10.3.1 As the A-ENPRM/ENPRM documents are developed for the purposes of widespread consultation, they should be made readily available to the stakeholders and other interested parties, including members of the public, for comment. The availability of an A-ENPRM/ENPRM will be advertised through the ENPRM Website and through the EUROCONTROL Journal; however, other methods such as Press Releases should also be used to ensure the appropriate scope of publicity.

2.10.3.2 The advertisements for A-ENPRM/ENPRM should contain the following general content:

- a) declare EUROCONTROL's intention to consult on the proposed rule, and
- b) describe the manner in which copies of the A-ENPRM/ENPRM can be obtained; and
- c) indicate the period within which written submissions may be made in relation to the proposal and the place at which such submissions should be lodged.

## **2.10.4 Distributing an A-ENPRM/ENPRM Document**

2.10.4.1 In maintaining a record of all parties that are known to have received A-ENPRM/ENPRM documents, the Regulation Manager should also include Website users, E-mail and those requesting ad hoc hard copies.

## **2.11 REVIEW OF COMMENTS PHASE**

2.11.1 All comments received should be registered and then compiled into one consolidated file by the Regulation Manager and forwarded to the Rule Sponsor for review and action as appropriate, once the response period has expired.

2.11.2 The Rule Sponsor should ensure that all comments received are initially assessed to determine and record the types of comment as follows:

- a) those respondents who agree with the proposal without change;
- b) those respondents who find the proposal acceptable but which would be improved with changes;

- c) those respondents who find the proposal not acceptable but acceptable with changes;
- d) those respondents who find the proposal not acceptable under any circumstances.

2.11.3 The Rule Sponsor should then analyse, evaluate and document/record each response against the proposal, and make comment on the responses and establish proposed intended action and disposition of such action. In carrying out these tasks, the Rule Sponsor should not hesitate to make contact with the originators of comments to clarify and discuss relevant issues.

2.11.4 Once all the comments have been assessed, the Rule Sponsor should consider whether a further formal consultation should be undertaken.

2.11.5 The Rule Sponsor should submit the proposed courses of action arising from the evaluation of the responses to the Regulation Manager only once all the responses have been evaluated. Where appropriate, the submission should also indicate any need for further formal consultation together with a rationale.

2.11.6 In principle, the publication of an SOR will be made following an A-ENPRM or ENPRM; however, the final decision as to whether an SOR will be required and exactly when it will be published should lie with the Regulation Manager. It may be decided, for example, that comments and their responses arising from an A-ENPRM do not merit a separate SOR document and could be included in the 'consultation' section of the subsequent ENPRM which must follow an A-ENPRM if rule development takes place.

2.11.7 The SOR document should contain the following elements:

- a) introduction, including:
  - i) a brief background on the associated A-ENPRM/ENPRM;
  - ii) the purpose of the SOR;
  - iii) a numerical analysis of the responses received (categories/types/distribution of comments);
  - iv) any overall comment on the responses received.
- b) a section summarising the comments, the Regulation Manager's response and what further action, will be taken;
- c) a section (or annex) detailing all the comments received, the Regulation Manager's responses (cross-referring to the responses at b) where appropriate) and what further action will be taken;
- d) a list of names of those that responded to the A-ENPRM/ENPRM (subject to the agreement of the parties to be named).

2.11.7.1 Comments should not be directly attributed to their source when publishing the summaries of comments and responses.

**2.12 ADOPTION/APPROVAL PHASE**

2.12.1 *[Intentionally Blank]*

**2.13 PUBLICATION PHASE**

2.13.1 The need for registration to access extant rules exists so that the Regulation Manager is able to monitor the extent of distribution of the material. Registration will not be restricted and will be possible by a simple mechanism through the Web page itself and will provide immediate access. The process for registration will be explained clearly on the Web page.