

**SUMMARY SHEET**  
**Airworthiness Directive Implementation Aviation Rulemaking Committee**  
*AD Development Working Group*

<b>Primary Report and Recommendation</b>	AD Compliance Review Team (Task 2), Recommendation 5 (Part 2), <i>Harmonize AD processes with foreign NAAs</i>
<b>Secondary Report and Recommendation</b>	None
<b>Assigned Members</b>	Holly Thorson (AIR) (POC) Tim Dowling (Boeing) (POC) Tammy Anderson (AIR) Elizabeth Bumann (AIR) Jim Orchard (AFS) Harry Hoffman (AFS) Eric Blancaneaux (Airbus) Marco Capaccio (EASA) Ross Stewart (ABX) Rafael Marques (Embraer) Oswaldo de Oliveira (ANAC) Craig Fabian (ARSA) Plamen Stoyanov (Alaska) Barry Baker (Pinnacle)
<b>Links to Other Working Groups</b>	None
<b>Date Sent to AD Development WG</b>	24 May 2010
<b>Date Sent to other WGs for Review</b>	22 July 2010
<b>Date Submitted to ARC</b>	27 September 2010
<b>Date Approved by ARC</b>	15 February 2011

**WORKING GROUP REVIEW OF ISSUE/PROBLEM**

Rulemaking procedures, including the issuance of ADs, are controlled by the legal processes of each country. For example, the FAA must adhere to the Administrative Procedure Act (APA) as well as executive orders and other requirements in executing its rules; other countries' agencies are governed by different laws and requirements. For example (reference AD Manual, FAA-IR-M-8040.1C, for a complete list of materials that impact FAA rulemaking):

- **Federalism (E.O. 13132).** This Order requires that every rule be assessed for its impact on state and local government.
- **Significant Regulatory Action (E.O. 12866).** Regulatory actions considered to have a “significant” impact must be sent to the Office of Management and Budget (OMB) for review.
- **The Regulatory Flexibility Act (RFA).** The RFA is part of the economic evaluation that requires federal agencies to analyze the impact that their regulatory actions will have on small entities (i.e., small businesses, small non-profit organizations, and small jurisdictions of government).
- **Paperwork Reduction Act (PRA).** The PRA requires agencies to get approval from OMB for information collection activities, and to list a record of the approval in the *Federal Register*. The purpose of the PRA is to minimize paperwork requirements.

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The APA requires agencies to publish a notice for all proposed rulemaking actions (including additions or changes to an existing rule) in the Federal Register unless an exception exists for doing otherwise. Through the notice process, the public is given the opportunity to participate in rulemaking actions. The FAA cannot adopt foreign-issued ADs without providing the public a notice and comment period (except for emergency and “Final rule; request for comments” AD actions).

Additionally, the Office of the Federal Register Document Drafting Handbook (OFR DDH) contains guidelines for developing and formatting U.S. rules. Failure to follow those guidelines might result in the OFR rejecting an AD.

A particular example of the differences between the United States laws and other countries is that service information incorporated by reference in rules, including an FAA AD, cannot be changed without further rulemaking. Therefore, the term “later-approved service information” must be handled as an alternative method of compliance (AMOC) under the U.S. legal system.

Unfortunately, there is no means of fully harmonizing the AD “regulatory process” unless appropriate U.S. and foreign statutes and/or regulations are changed.

The working group recognizes that we must continue to work within the established legal frameworks to focus on the end product—the AD—and work toward making ADs as similar as possible in format, language, and other areas where “harmonization” is possible. For example, AD harmonization efforts will work to ensure the unsafe condition is specified as exactly as possible and corrective action is defined with equal specificity.

#### **REGULATIONS AND GUIDANCE IDENTIFIED FOR REVIEW**

**FAA Order 8040.1C**, Airworthiness Directives, dated October 3, 2007

**AD Manual**, FAA-IR-M-8040.1C, dated May 17, 2010

**FAA Order 8040.5**, AD Process for Mandatory Continuing Airworthiness Information (MCAI), dated September 29, 2006

**Note:** The working group did not review foreign regulatory documents during this evaluation. Differences between U.S. and foreign regulations/guidance were discussed, but there were no detailed document reviews.

#### **WORKING GROUP PROPOSAL TO ADDRESS THE RECOMMENDATION(S)/FINDING(S)**

In 2009, the Transport Airplane Directorate (TAD) identified the use of common terminology as one primary key to harmonizing ADs among authorities. The AD-Friendly (ADF) initiative incorporates this concept in service bulletins—that is, a primary goal of ADF is to develop legally enforceable service bulletin language that can be easily adopted in transport ADs. The

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ADF initiative has resulted in appreciable gains to consistent terminology between service bulletins and ADs.

As a logical outgrowth of the ADF initiative—and to further enhance that effort with Airbus—in 2009, the TAD began to focus on working with the European Aviation Safety Agency (EASA) to identify common, legally enforceable terminology for use by both agencies in transport ADs. The TAD is currently working to share and assess the AD terminology used by both authorities and to agree on a specific standard to the maximum extent possible.

The TAD also has initiated this same effort with Transport Canada Civil Aviation (TCCA), and plans to approach the Agência Nacional de Aviação Civil (ANAC) of Brazil to launch the same effort. Since the majority of Mandatory Continuing Airworthiness Information (MCAI), i.e., foreign ADs, apply to products certificated by EASA, TCCA, and ANAC, the efforts on harmonizing with these authorities is appropriate. The FAA may consider expanding these efforts to include other authorities in the future.

These ongoing initiatives allow changes to AD terminology to adapt to evolving regulatory needs. These initiatives will improve working relationships and communication among and between the FAA and other aviation authorities with regard to ADs.

We believe our proposal meets the intent of the stated portion of Recommendation No. 5 of the AD CRT Task 2 Report.

Note: This summary paper only addresses the second part of the recommendation. The AD CRT recommendation to extend the comment period from 30 to 45 days for certain ADs was completed in September 2009, and this part of the recommendation will be addressed in the final report created by PAI.

#### **ALTERNATIVES CONSIDERED**

N/A

#### **IMPLEMENTATION PLAN**

The TAD is currently implementing the proposal through its business plan process. The steps include: proposing the concept to an authority and receiving concurrence from them to participate; documenting candidate terminology for harmonization; documenting agreed upon, harmonized terminology; briefing management on the effort; and revising applicable internal guidance to implement changes. These harmonization initiatives are already underway, and as stated above, are ongoing to allow continual changes to AD terminology to adapt to our evolving regulatory needs.

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**ASSUMPTIONS/CONSTRAINTS**

The AD processes used among aviation authorities are inherently different because we operate under different legislative authority. Therefore, harmonizing AD processes is not always possible. Reference “Working Group Review of Issue/Problem” above for additional information.

**ISSUES FOR WORKING GROUP CONSIDERATION**

N/A

**ISSUES FOR ARC CONSIDERATION**

N/A

**FINDING No. 5**

Overall, the Team found that the MCAI process works well. However, the Team noted that addressing the anomalies above [reference CRT Report] will further enhance MCAI effectiveness.

**RECOMMENDATION No. 5**

AD CRT Task 2 Report, Recommendation 5: “ ... the FAA and foreign national aviation authorities should work to harmonize AD processes.”

**APPENDIXES**

N/A