

Agenda item 2. Discuss draft of proposed accelerated rulemaking provisions

The Compact Office presented a draft of an amendment to the Rulemaking Rule for a direct final rule. It would amend Section 303 of the rule. The Management Committee would propose that the Commission use direct final rulemaking authority to adopt a rule that is noncontroversial. If there were any substantive objections, the rule would go through the regular rulemaking process.

Committee members asked about the criteria to determine if the objection would be substantive or non-substantive. Some members suggested that if there was any objection, it should go through regular rulemaking. The chair asked the members to consider the draft and to submit any comments for discussion on the next call. The draft will be shared at the May Roundtable to get public comments.

The committee discussed a proposal for consensus rulemaking. The Compact Office said that this procedure would have more public input than the current process. It would create an advisory committee with appointments made to the committee either by the Management Committee or the Compact Officers. The meetings would be public, and all materials would be available on the Compact website. The recommendations from the advisory committee would go directly to the Management Committee to begin the formal rulemaking process.

Committee members suggested this was similar to the current process used by the Product Standards Committee. A committee member said that the PSC is reaching out for comments earlier in the process. Committee members suggested that the Product Standards Committee (PSC) could rearrange its process and gather feedback from the public earlier in the drafting process. Committee members said there was a need to show the steps and how consensus rulemaking would shorten the process. Members asked to see the steps in the proposed process to compare it to the current PSC process to see if it will shorten the process. Members suggested developing a flow chart to compare. The Compact Office said that getting everyone together to go over a draft and hear the comments at one time would be beneficial. There was a comment that there is value in regulator only sessions to share concerns.

The chair asked if the consensus rulemaking process was going to be helpful and suggested that this could be shared at the Roundtable to get feedback. Committee members said that they needed more time to discuss the consensus rulemaking process and whether it would save time. The chair said there will be a discussion on the direct final rule at the Roundtable and the committee will continue discussing the consensus rulemaking process.

Agenda item 3. Discuss draft of proposed appeals procedures

The Compact Office provided a draft of the appeals procedure for discussion. One proposal would be to provide a formal disapproval of a product filing with a specific timeline for a company to request an appeal. The appeals committee would be regulators. Committee members discussed the number of regulators who would be on the appeal panel. The chair asked members to discuss what is an appealable decision and what would be the timeline. The chair asked if a filer could appeal a decision during the review process. Committee members felt that an appeal during the review process would slow the review process significantly. There was discussion about the need for a formal disapproval to begin an appeals process, rather than during the filing process.

The committee discussed other types of product filing interpretations that a company might want to request, such as an interpretative ruling on a withdrawn filing. Such information could be published for future reference. The Compact Office asked committee members for ideas regarding how to address company concerns regarding competition, confidentiality and consistency. Committee members said states did not have a formal process for interpretive rulings. The Compact Office stated that a Compact advisory opinion rule already exists. The Compact Office will do some research. The committee suggested this could be discussed at the roundtable.

Agenda item 5. Any other matters.

There were no other matters.

