

**Clearance Record
DOCUMENT COMMENT LOG**

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| Originating Office: AIR-110 | Document Description: AC 21-SoC – Applicant’s Showing of Compliance and Certifying Statement of Compliance | Project Lead/Reviewer ANAC Brazil | Reviewing Office: | Date of Review: |
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| Commenter | Page & Paragraph | Comment | Reason for Comment | Suggested Change | Comment Resolution |
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| Edson Souza de Jesus Filho (Brazilian Civil Aviation Authority – ANAC) | Paragraph B.3 Page 1 Now B.1. | After "...responsible for satisfying all applicable requirements", it could be interesting to include the following additional information: "...and for the accuracy of all technical data and substantiation provided to show the compliance with these requirements". | | B.3 The intent of 14 CFR §§ 21.20(a), and 21.97(a)(2) is to emphasize that it is the applicant who is responsible for satisfying all applicable requirements and for the accuracy of all technical data and substantiation provided to show the compliance with these requirements. The applicant (...) | Non-Adopt, maybe true, but not what the intent of this rule was. More applicable of a statement for 21.21. |
| Edson Souza de Jesus Filho (Brazilian Civil Aviation Authority – ANAC) | Paragraph C Pages 2 and 3 | It could be interesting to create a specific form for this statement as a model to be filled by the applicant or ODA holder. | | Create a specific standardized form for the Compliance Statement | Non-Adopted, we actually did consider a form and decided against it because of the time necessary to get a new form approved. May consider it in the future. |

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| Originating Office: AIR-110 | Document Description: AC 21-SoC – Applicant’s Showing of Compliance and Certifying Statement of Compliance | Project Lead/Reviewer Boeing | Reviewing Office: | Date of Review: 5/2/11 |
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| Commenter | Page & Paragraph | Comment | Reason for Comment | Suggested Change | Comment Resolution |
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| Boeing Commercial Airplanes | Page 1 Paragraph A.2. [Also see Paragraph A.1.] | <i>2. Audience. This AC applies to applicants for a type certificate (TC), amended type certificate (ATC), supplemental type certificate (STC) or amended supplemental type certificate (ASTC) for civil aircraft, aircraft engines and propellers. This also applies to applicants for parts manufacturer approval (PMA) via test computation.</i> | Revise or clarify the applicability regarding 21.97, as it relates to major changes in type design. | This section, as currently written in the draft AC implies that the AC is only applicable to new TC, STC, and/or ASTC projects. However, the Purpose section of the AC indicates that provides guidance for complying with 21.97. That section concerns approval of major changes to type design projects, which would not necessarily involve new TC, ATC, STC, and/or ASTC. We request clarification on this. | Adopted, changes made |
| Boeing Commercial Airplanes | Page 2 Paragraph 5 Now B.3. | 5. Use of a Compliance Listing | Change the title of this paragraph as follows: 5. Use of a Compliance <u>Checklist</u> | Our suggested change aligns the text with FAA Order 8100.4C. | Non-Adopted, new terminology will be incorporated in other guidance. |

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| Boeing Commercial Airplanes | Page 2 Paragraph 5.a. Now B.3.a. | <i>a. You can meet 14 CFR 21.20(a) or 21.98(a)(2) by using a compliance listing that contains, as a minimum, the following information:</i> | Change the text as follows: <i>a. You can meet 14 CFR 21.20(a) or 21.97(a)(2) by using a compliance checklist that contains, as a minimum, the following information:</i> | Our suggested change aligns the text with FAA Order 8100.4C. | Non-Adopted, see above |
| Boeing Commercial Airplanes | Page 2 Paragraph 5.a.(2) Note Now B.3.a.(3) | <i>Note: A compliance listing is also highly encouraged for PMA.</i> | Change the text as follows: <i>Note: A compliance checklist is also highly encouraged for PMA.</i> | Our suggested change aligns the text with FAA Order 8100.4C. | Non-Adopted, see above |
| Boeing Commercial Airplanes | Page 3 Paragraph 5.b. Now B.3.b. | <i>b. If you use a compliance listing, submit it to the project aircraft certification office (ACO) and update it as compliance is shown. A completed compliance listing along with a final statement of compliance is required to be submitted prior to the FAA issuing the TC, ATC, STC, or</i> | Change the text as follows: <i>b. If you use a compliance checklist, submit it to the project aircraft certification office (ACO) and update it as compliance is shown. A completed compliance checklist along with a final statement of compliance is required to be submitted prior to the FAA issuing the TC, ATC, STC, or ASTC.</i> | Our suggested change aligns the text with FAA Order 8100.4C | Non-Adopted, see above |

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| | | ASTC. | | | |
| Boeing Commercial Airplanes | Page 2 Paragraph 5.c. Now B.3.c. | <i>c. The compliance listing becomes a permanent record in the FAA project file at the ACO. You should keep a copy of the compliance listing in your project records.</i> | Change the text as follows: <i>c. The compliance listing becomes a permanent record in the FAA project file at the ACO. You should keep a copy of the compliance checklist in your project records.</i> | Our suggested change aligns the text with FAA Order 8100.4C | Non-Adopted, see above |
| Boeing Commercial Airplanes | Page 2 Paragraph C.6.b. C.1.c. | <i>b. The compliance statement that is part of a compliance listing must contain the words....</i> | Change the text as follows: <i>b. The compliance statement that is part of a compliance checklist must contain the words....</i> | Our suggested change aligns the text with FAA Order 8100.4C | Partially Adopted, see above |
| Boeing Commercial Airplanes | Page 3 Paragraph C.6.c. Now C.1.b. | <i>“... I certify that we have complied with all applicable requirements, as identified in the certification basis [reference inserted].”</i> | Clarify what is to be inserted | There is no instruction as to what reference is required to be inserted. | Partially Adopted, changes made |

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| Boeing Commercial Airplanes | Page 2 Paragraph C.6.e. Now C.1.e. | <i>e. The statement needs to be made by an individual having authority over the certification. The individual and their position should be identified at the time of application or well in advance of the program's completion. If you have a Partnership for Safety Plan (PSP) or Project Specific Certification Plan (PSCP), the authorized individual may be identified therein.</i> | Change the text as follows: <i>e. The statement needs to be made by an individual having authority over the certification, as <u>allowed per the applicant's procedures.</u></i> | The text, as proposed in the draft AC, adds a requirement that is overly prescriptive to accomplish the intended result. This AC should allow standard procedures within a company to determine who can sign the statement. | Partially Adopted, changes made |

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| CarlisleIT/ Electronic Cable Specialists | All | The phrases “compliance statement” and “statement of compliance” are used interchangeably and inconsistently throughout the document. | Use of multiple phrases to describe the same item leads to confusion. Is a “compliance statement” the same as a “statement of compliance”? | Standardize the phrase describing the new requirement to be “Statement of Compliance (SoC)”. Eliminate the use of “compliance statement” and “statement of compliance”. | Adopted, changes made. |
| CarlisleIT/ Electronic Cable Specialists | All | Are authorized agents of an applicant eligible to sign the SoC? Does the signatory on the Statement of Compliance have to be a direct employee of the applicant? | A company may be an applicant for a project but they may have an agreement in place that allows a non-company employee to act on their behalf and as their agent when working a FAA project. | Provide clarification regarding the role of company “agents” as it relates to the SoC requirement. | Adopted, added a definition of agent. |

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| CarlisleIT/ Electronic Cable Specialists | All | Minor changes, minor revisions, and periodic updates are not addressed. | There are many additional activities that occur with an data package besides a TC/STC/ATC/ASTC/PMA issuance or reissuance. The AC draft does not currently address any of those types of activities regarding the SoC requirement. | Guidance should be provided for if/when a Statement of Compliance would be required for minor changes, minor revisions, and periodic updates. | Non-Adopted, rule doesn't cover minor changes, therefore a statement is not required. |
| CarlisleIT/ Electronic Cable Specialists | All | Does the Statement of Compliance need to be signed? If so, what are the approved methods to sign the SoC? | The AC does not currently state that the SoC is required to be signed, it just states that the SoC must be made by a person of authority over certification. If a signature is required, then the AC should provide guidance on what signature methods would be acceptable. For example, would it be acceptable to sign the SoC electronically? | Provide clear guidance regarding whether or not a signature is required for the SoC and, if required, the approved signature methods. | Partially Adopted, paragraph 6.a. requires sign. But silent on electronic signature policy is under development and any existing policy in that area can be used. |

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| CarlisleIT/ Electronic Cable Specialists | Page 2, item 6a Now C.1.a. | The two sentences in this item appear to conflict: “you must write” and “can be done”. | The second sentence can be interpreted to mean that a SoC would not have to be done by using language such as “can be done”. The second sentence also makes it appear that the SoC is done twice, once before anything has been completed and then again at the end of the project. | Change second sentence to “A SoC is required to be made at the completion of the project. As the applicant, you make choose to make a statement at the beginning of a project, for example in a PSCP, that is a intent to show compliance. Refer to item 6b for an example.” | Adopted, in concept. Initial and final added for clarity |
| CarlisleIT/ Electronic Cable Specialists | Page 2, item 6b Now C.1.c. | The statement example here appears to be an intent to show compliance statement that would be made at the beginning of a project. | It is not clear whether it is required to make this statement and when this statement must be made. | Change first sentence to: “At the beginning of a project, an applicant can elect to include an intent of compliance statement in their PSCP or equivalent document. If doing so, that statement should contain the words:” | Adopted, in concept. Changes made to clarify that this statement is optional. |

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| CarlisleIT/ Electronic Cable Specialists | Page 3, item 6c Now C.1.b. | This statement appears to be the SoC, to be made at the completion of the project. | It is not clear whether it is required to make this statement and when this statement must be made. | Change first sentence to: “At the completion of a project, an applicant must make a SoC. The SoC can only be made after all requirements have been complied with. This statement should be made in a Compliance Report or equivalent document that contains the final compliance listing and must contain the words:” | Adopted, in concept. Changes made to clarify that this statement is mandatory and made before issuance of approval. |
| CarlisleIT/ Electronic Cable Specialists | Page 3, item 6d Now C.1.d. | “compliance responsibility” is a confusing phrase in this context. | Responsibility for a finding of compliance is a DER role. Responsibility for ensure that compliance has been found for all aspects of a project is the applicant’s responsibility. The wording in this item can lead to confusion between these two roles. | Change sentence to: “A finding of compliance made by FAA or our designees does not relieve the applicant from the responsibility on ensuring that compliance has been shown for the entire product to be certificated or PMA part to be approved.” | Partially Adopted. |

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| CarlisleIT/ Electronic Cable Specialists | 3, Item 6e Now C.1.e. | “authority over certification” – what is the definition of “authority” is this case? | This can be interpreted several ways and to some, may be an individual who is high in the chain of command but may not be involved with the certification project directly. What guidelines are there for determining the applicable level of “authority” when selecting the individuals that are able to sign on behalf of the company? | Clearly define guidance for determining the appropriate level(s) on the chain of command that would be considered to have the “authority” to sign the SoC. | Non-Adopted, it doesn’t really matter who, the company is ultimately responsible. The important point is that the person legally represents the applicant. |
| CarlisleIT/ Electronic Cable Specialists | 3, item 9 Now D.4. | This item does not clearly address whether or not a Statement of Compliance is required for a DER to complete their activity on a FAA project. | There has already been confusion regarding whether or not a SoC is required to be given to the DER. This confusion has come from the letters that went to the DERs and what was stated at past recurring seminars. | Add the following: “A Statement of Compliance (in any form) from the applicant is not required for the DER to complete their finding of compliance for data they have been authorized to review on behalf of the FAA.” | Adopted, will also reiterate in the FAA directive. |

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| CarlisleIT/ Electronic Cable Specialists | 4, Item 11 Now D.6. | “either the ODA holder themselves or external applicants are required to make the compliance statement” is an unclear statement regarding how to determine who is responsible for make the statement of compliance. | As ODAs become more prevalent, what guidance governs whether or not they are able to make the SoC for a project that they are reviewing? | Guidance should be provided on how the determination is made whether the ODA holder themselves signs the SoC or whether the external applicant signs the SoC. | Adopted, changes made. |
| CarlisleIT/ Electronic Cable Specialists | 4, item 11 Now D.6. | This item does not define who does the final statement of compliance for a project. | The only guidance provided is for the statement in the compliance listing submitted by the ODA to FAA. | Clarify the item to contain guidance for both the compliance listing and final statement of compliance. | Partially Adopted, the compliance listing is optional and discussion is covered in paragraph5., the SoC is considered covered by this paragraph. |

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| Originating Office: AIR-110 | Document Description: AC 21-SoC – Applicant’s Showing of Compliance and Certifying Statement of Compliance | Project Lead/Reviewer Garmin | Reviewing Office: | Date of Review: |
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| Garmin (Ruggles) | Page 2, ¶ B.5.b B.3.b. | This paragraph begins with the statement “If you use a compliance listing, submit it to the project aircraft certification office (ACO) and update it as compliance is shown.” | FAA is moving responsibility to ODA. The inefficiency associated with multiple updates to the compliance listing is inconsistent with FAA risk management processes to allocate scarce resources to areas of greatest risk. | This paragraph should also address ODA in addition to the ACO. Remove requirement to update the compliance listing as compliance is shown. | Non-Adopted, the compliance listing is not mandatory, merely a project management tool. |
| Garmin (Ruggles) | Page 2, ¶ B.5.c Now B.3.c. | This paragraph begins with the statement “The compliance listing becomes a permanent record in the FAA project file at the ACO.” | FAA is moving responsibility to ODA. | This paragraph should also address ODA in addition to the ACO. | Adopted. |

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| Garmin (Ruggles) | Page 2, ¶ C.6.b C.1.c. | This paragraph states ‘The compliance statement that is part of a compliance listing must contain the words: “I certify that data will not be submitted to the FAA or it’s designee until we have complied with the applicable requirements for that submittal.”’ | There are many requirements that an applicant must fulfill prior to completing a project that don’t require a statement acknowledging what the applicant “will not” submit “until we have complied with the applicable requirements for that submittal.” Consequently, it is unclear what purpose is served by requiring an applicant to make this statement as “part of a compliance listing”. | Suggest removing this paragraph entirely. | Non-Adopted, the purpose of the statement is to focus the applicant on their compliance responsibility. |
| Garmin (Ruggles) | Page 2, ¶ C.6.b Now C.1.c. | This paragraph states “The compliance statement that is part of a compliance listing must contain the words:” | Although this AC provides guidance on how to comply with the requirements in 14 CFR §§ 21.20, 21.97 and 21.303(a)(5), it seems inappropriate to require an applicant, via use of the word “must”, to provide the FAA the exact words in the subsequent text within quotes. | Suggest changing “must” to “should” or “may”. | Non-Adopted, we prefer these words consistency |

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| Garmin (Barber) | Page 2, ¶ C.6.b Now C.1.c. | This paragraph includes the following text within quotes: “I certify that data will not be submitted to the FAA or it’s designee until we have complied with the applicable requirements for that submittal.” | Editorial | Change “it’s” to “its”. | Adopted. |
| Garmin (Ruggles) | Page 3, ¶ C.6.c Now C.1.b. | This paragraph states “The compliance statement that is submitted after all requirements have been complied with must contain the words:” | Although this AC provides guidance on how to comply with the requirements in 14 CFR §§ 21.20, 21.97 and 21.303(a)(5), it seems inappropriate to require an applicant, via use of the word “must”, to provide the FAA the exact words in the subsequent text within quotes. | Suggest changing “must” to “should” or “may”. | Non-Adopted, we prefer these words consistency |

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| Garmin (Ruggles) | Page 3, ¶ C.6.d Now C.1.d. | This paragraph states “Compliance findings made by FAA or our designees do not relieve the applicant from compliance responsibility for the entire product to be certificated or PMA part to be approved.” | <p>This paragraph seems obvious but if FAA feels it is required, shouldn't the AC also include a statement like the following:</p> <p>“Approval of the Type Design by the FAA does not relieve the applicant of ensuring the installation/design is safe and airworthy”?</p> <p>If FAA feels the ¶ C.6.d statement is necessary then if the applicant is stating compliance for an STC that installs different brakes, does this mean the applicant is now also responsible for the compliance associated with the higher horsepower engine that was previously installed by another STC?</p> | Suggest removing this paragraph entirely. If not removed, clarify the extent to which the guidance really applies. | Partially Adopted, changed the word “entire” to “changed”. |

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| Garmin (Barber) | Page 3, ¶ D.9 Now D.4. | The FAQ question uses the term “designee” but the FAQ response uses “DER”. | “DER” is not previously defined in the draft AC. | Either use “designee” in the response or change “DER” to “Designated Engineering Representative (DER)” | Adopted, changed “DER” to “designee” |
| Garmin (Barber) | Page 3, ¶ D.9 Now D.4. | The FAQ response only refers to “14 CFR § 21.20”. | ¶ A.1.a indicates the purpose of the AC is “describe how to comply with the requirements of Title 14 of the Code of Federal Regulations (14 CFR) §§ 21.20, 21.97 and 21.303(a)(5)”. | It seems like the FAQ response should change “14 CFR § 21.20” to “14 CFR §§ 21.20, 21.97 and 21.303(a)(5)”. | Adopted, change made. |
| Garmin (Ruggles) | Page 4, ¶ D.11 Now D.6. | The FAQ response includes the following statement “However, applicants working with ODA holders, either the ODA holder themselves or external applicants are required to make the compliance statement on the compliance listing submitted by the ODA holder to the FAA.” | As written, the statement is confusing. The ODA is the FAA and, as such, an applicant for TC, STC, etc. must provide the compliance statement to the ODA. | Clarify the statement and the FAA-ODA relationship in regards to stating compliance to the 14 CFR §§ 21.20, 21.97 and 21.303(a)(5) regulations. | Adopted, changes made. |

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| GE Aviation Gerald Kyte | Page 3, Par. C. (6) (e) | Clarify the credentials of the statement maker. Executive, upper management, manager? | I believe if we want to harmonize the individual’s credentials with the requirements found in EASA programs, then it should be clarified. | ... by an individual having authority over the certification, such as an executive level person. | Non-Adopted, a legally responsible person for the company is the only important criteria. |
| GE Aviation Gerald Kyte | Page 3, Par. C. (6) (c) | Clarify the “insert reference” with more examples. | I had an ACO bounce back a statement because I inserted the “project PSCP”. They wanted the document number and revision & date. | ... certification basis [reference inserted (<i>document number, revision and date</i>)] | Adopted, changes made to clarify. |
| GE Aviation Gerald Kyte | Page 3, Par. C. (6) (c) | Clarify the NOTE , as this is really vague and no examples. | It’s obvious the FAA wants something but not clear exactly what is acceptable. I have been caught in the “I can’t tell you what I want but I will know it when I see it” trap with the ACO Project Engineers too many times. | State exactly what you want or give many examples of what is acceptable. | Non-Adopted, but eliminated the last sentence of the note. That may eliminate some confusion. |

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| GE Aviation Gerald Kyte | Page 2, Par. B. (5) (all) | This is a repeat of what is expected in a PSCP, so just state “add to the MoC table in the PSCP or Certification Plan the Compliance Listing statement”. | The List of Compliance as describe in Par. B (5) is the same as the requirement in a PSCP or Certification Plan so why duplicate. The PSCP should already be a part of the permanent record. | Par. B (5) (a) Add to the MoC table in the PSCP or Certification Plan, the Compliance Listing statement as shown below. | Non-Adopted, some applicants do not have a PSCP. |

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| HEICO Aerospace | Page 2 Paragraph 6.b. | We recommend softening the “must contain” followed by a required quote. | The compliance statements can contain variations and still meet the intent of the compliance statement. | Change the paragraph to: “The compliance statement that is part of a compliance listing should contain the following words: [content in brackets provides for flexibility]” “[I/We] certify that [final data] will not be submitted to the [FAA/ODA/ or it’s designee] until we have complied with the applicable requirements for [that submittal/referenced listing].” | Non-Adopted, consistence warrants these words only. |
| HEICO Aerospace | Page 3 Paragraph 6.c. | We recommend softening the “must contain” followed by a required quote. | The compliance statements can contain variations and still meet the intent of the compliance statement. | Change the paragraph to: “The compliance statement that is submitted after all requirements have been complied with should contain the following words: [content in brackets | Non-Adopted, consistence warrants these words only. But the paragraph has changed somewhat due to other comments |

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| | | | | provides for flexibility]” “[I/We] certify that we have complied with all applicable requirements, as identified in the [certification basis/referenced listing/attached table]”. | |
| HEICO Aerospace | Page 3 Paragraph 6.c. | We recommend adding other acceptable options for certifying statements | The compliance statements can contain variations and still meet the intent of the compliance statement. | Add the following as an additional option: “In accordance with 14 CFR § [21.20(a)/ 21.97(a)(2)/ 21.303(a)(5)], [Applicant name] certifies that compliance with all applicable requirements has been shown as [identified/shown] in [certification basis/referenced listing/attached table]” | Non-Adopted, consistence warrants these words only. |
| HEICO Aerospace | Page 3 Paragraph 6.e. | We recommend adding the option for multiple certifiers. | It is common practice for more than one individual to take responsibility for a completed data package. | Add “(s)” to individual (3x) and position, to allow for plurality. | Non-Adopted, it is understood that there may more than one person authorized. |

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| Stuart Law | GENERAL | As written, this proposed AC goes a long way in reversing the long standing “Partners for Progress” / PSCP position of the FAA. It will slow submittals of data to the FAA and result in the industry sharing less information with the FAA. A new, draconian FAA is emerging which, even if we waste their time in the least, may put us out of business and undue all that we have ever done. That is the message I read. Hopefully it is not what you intended. | | | |
| | GENERAL | Well established practice has the applicant proposing the applicable rules and means. But then there has been a great deal of “teaching the concept” to the FAA, negotiating on how technology can be compliant to existing rules, and establishing a mutually acceptable “means of showing compliance”. In the end, the applicant and FAA adopt the interactively negotiated applicable rules and means of compliance. Is it the purpose of this AC to do away with that (highly productive) interactive flow in favor of a “applicant does it all and the FAA says Yes or No” environment? This AC only allows the later. | | | |
| | A.1.b | Last sentence “if you use this AC, you must follow it entirely” is really not applicable and potentially confusing to both regulators and applicants.. | If I propose to the FAA that I will submit a Compliance Checklist which lists the means of compliance and the substantiating documentation, am I committing to follow the AC? 5.a and 5.b were not written in a style where “all of this” must be done if you do any | Delete this sentence or, maybe better, relate to the use of the existing Partners for Progress and PSCP guidance. | Non-Adopted, choosing to use the AC is not mandatory, but once used, if must be followed. If something is to be omitted, the applicant must request permission. |

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| | | | <p>of it. What is really required under this AC?</p> <p>This AC says nothing about WHEN these things should happen, nor does it allow for the FAA to need education or discussion to understand the project and then point out areas which are not well enough represented (in the FAA's opinion).</p> <p>Who decides if I am following the AC? What action triggers use of the AC? Does not using the AC change my relationship with the FAA? My scheduling priority?</p> <p>What happens to me if I start on the AC and decide not to follow it, but merely satisfy the regulatory requirements? Am I then compelled to follow the "extra" parts of the AC?</p> | | |

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| | | | <p>NOTE: This AC is not really a means of compliance in itself (as compared to AC 20-115B). It is primarily educational, and suggestive, but the elements discussed in it are merely the rules. There is no guidance as to the level of detail, methodology used, or even submittal timing of the material espoused. Use of methods required by the rule should not imply that we are adopting this AC, nor is there any reason to adopt this AC as it merely embellishes on the rules (except for 6.b which is discussed below).</p> | | |
| | <p>B.3 Now B.1.</p> | <p>Title is not consistent with paragraph 4.</p> <p>First sentence does not explain what “all applicable requirements” are.</p> <p>The second sentence reads</p> | <p>This adds confusion to the applicant.</p> <p>At least get the</p> | <p>3. Proposing the applicable rules and means of compliance. Delete 1st sentence.</p> <p>Try instead: “The intent of</p> | <p>Non-Adopted, the purpose was taken straight from the preamble. What you stated is true though and covered in 8110.4.</p> |

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| | | <p>as if the AC is adding the requirement for a “means of compliance” when it is a rule that requires it.</p> | <p>chronological flow correct and discuss what the FAA in this area.</p> <p>What does “show” mean? I think it is “propose”, followed by FAA “accept” or “concur”.</p> <p>No concept here that some of this stuff will probably change as the project develops!</p> | <p>14 CFR §§ 21.20(a), and 21.97(a)(2) is to emphasize that it is the applicant who is responsible for (1) identifying the applicable regulations, (2) determining the means by which each applicable regulation will be satisfied, and then (3) delivering the substantiating data satisfies each regulation and means combination.</p> <p>It is strongly recommended that the applicant identify the applicable regulations and propose his means of compliance to each regulation soon after establishing an FAA project.</p> <p>The FAA may require substantive joint discussions, working groups, and negotiations to determine if the proposed</p> | |

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| | | | | rules and their methods of compliance are acceptable. The FAA may impose additional rules and even special conditions in cases where there are not adequate rule coverage. They may also require specific standards of compliance not proposed by the applicant. But in the end, it is the applicant that proposes the final set and the FAA that accepts them.” | |
| | 3. Note applicable to PMA. Now after B.1. | There is a lot of material on how to work with the FAA on PMA, a simple referral to the Order would probably work better than this rather confusing sentence. | Do I have to propose a means or not??? I think the desired answer is that you do it in the same manner that the type design holder did it or another way that the FAA finds acceptable. | Refer PMA elsewhere. | Partially Adopted, reworked some of the PMA verbiage. The means is not directly required by this new regulation but, implied in guidance and pure practicality of performing a “showing” of compliance. |
| | 5.b Now B.3.b. | There is no discussion about changing the compliance listing due to technical issues developing through the project’s development and | Both the FAA and the applicant may wish to alter the compliance listing due to the knowledge gained during a program. | Add such a discussion considering: 1) Applicant initiated 2) FAA initiated | Non-Adopted, as written is doesn’t preclude the changing of the compliance listing for other than stated reason. |

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| | | test. | | | |
| | 5.c Now B.3.c. | Is there is not a need for the applicant to keep a copy of the substantiating data, why does he need to keep the compliance listing? | I've never tried to get my data back from the FAA, but I'll bet it is not trivial! Also, does not consider the TC case where applicant provides the FAA document repository. | Really needs a discussion on applicant's documentation requirements, especially access to detail and history not required for certificate, but which may be significant for future problems. | Non-Adopted, retention is a suggestion. |
| | 6.b. Now C.1.c. | Why the incremental statement of compliance? It is neither needed, nor accurate of the typical work environment. | How can I give the data to a FAA DER for his review to tell me if I did it right, without giving it to the FAA DER in violation of this statement? Explain where the line is where it is OK and where you have violated the "AC in its entirety"? This sounds as if I have to hire the DER twice ... once to read it as an engineer, and then having | Delete 6.b. There is no basis for it and it doesn't work unless we are going to substantially change the FAA does certification business. If you must keep it, add detail that allows applicant to know when his Engineer can spin his hat around and be the DER without violating the certification. Ditto for making controversial or critical data | Non-Adopted, this is now an optional statement. |

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| | | | <p>approved it, re-reading it for DER approval.</p> <p>In my experience, we often submit data and then have to re-do that data because later data showed a flaw that impacted the earlier data. There is no legal path for this very typical flow to occur given the required certification.</p> <p>How does a ODA comply with the rule?</p> | <p>available to the FAA prior to formal submittal. How do we handle partial submittals ... what part can be submitted on the bet that it's remaining data is OK? For instance, planning data for AC 20.115B which is then found to be lacking during a SOI-1 or SOI-1+ inspection?</p> | |
| | <p>6.d. C.1.d.</p> | <p>Why does the FAA think they can go through life with no certification responsibility?</p> <p>You are the regulators. It is your duty and your responsibility to draw the fine regulatory line that is "good enough". A task that your safety engineers excel in performing. I</p> | <p>I cannot see how the FAA can 1) require the applicant to comply with additional existing rules, 2) unilaterally impose new "special conditions", or 3) tests, or inspections as part of TIA and at the end of the day blame the applicant because he did not petition them to add something that was</p> | | <p>Question answered</p> <p>The applicant makes a showing and the FAA makes a finding. This is our Accountability Framework mantra which is supported by the statute.</p> |

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| | | <p>understand that an applicant can, and does, “adopt” your requirements . But if there is still a regulatory hole, it is the applicant’s fault?</p> <p>If the applicant has been open, frank, and cooperative then I think not.</p> | <p>needed but missed.</p> <p>Surely, it is expected that the FAA is the “authority” on regulatory matters, not the applicant. Is it our intent to blame the applicant if the FAA authority fails to impose a rule or special condition or official test condition that was overlooked and then found?</p> <p>Previously this has been a mutual work in progress with open and frank communication, cooperative attitudes, and emphasis on all of us getting it right. I fear that the new emphasis on correctness or punishment (</p> | | |

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| | 10 Now D.6. | Incorrect use of the word “finding”. | “Finding” is defined by the FAA as a notice of a deficiency. No deficiency – no Finding! As used here, it is a positive result (no deficiencies results in a finding) from a (TIA) inspection. | Use another word that does not have a formally defined “incorrect” meaning. | Non-Adopted, in 21.21 the Administrator “finds- ... meets the applicable airworthiness requirements, and in a condition for safe operation....” You’re referring to an audit definition. |
| | 10 Now D.6. | Invoking 14 CFR 21.2 for an incorrect compliance statement is going to significantly chill the Partners-for-Safety and PSCP closeness as well as any other “working” discussion. | The real problem is the wording of 14 CFR 21.2: “A person may not make or cause to be made – Any ... misleading statement in any record or report or record ...” I think it is the intent of the FAA that this really means “... intentionally misleading statement ...”, but my Texas grammar school notes on the use of comma’s just doesn’t let me make that case. If the FAA is planning to | This is an excellent place to provide some guidance on how the FAA decides if something is “misleading” or merely an error made in the ignorance of all the factors that actually took place. It appears to me that any incorrect submittal, and certainly a certification of such a submittal, fully provides the FAA with the authority to shut a company down. How the FAA is going to use this really big hammer is an interesting question that will be eagerly | Non-Adopted, we will let the enforcement and legal systems sort that out. |

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| | | | <p>invoke 21.2 and revoke not only the current approval, but also all former approvals ever done, just because a technical report submitted a year before flight test had a statement made with “good engineering judgement” at the time that proved to be “misleading” based on the results of the flight test (or whatever) later in the program, then we are likely to be entering a new world with substantially less frankness and open discussion of issues and a lot less declarative English, but then, that alone could be misleading!</p> | <p>awaited by the applicants once they realize their dilemma. Unfortunately, explaining the FAA’s planned usage of their power probably requires an Order instead of an AC.</p> | |

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| | D.9 Now D.4. | <p>The FAQ answers the case of a DER “approving” data, but the required certification is that he will not even have it “submitted” to him.</p> <p>There may be a misconception about DER that comes to light here: Is the DER a DER when REVIEWING DATA or just when he SIGNS THE 8110-3?</p> | <p>The great bulk of Company DERs and even Consulting DER’s spin their hats fairly frequently. In the great majority of companies the DER is the resource of certification knowledge so the company decision on whether to “submit” a substantiating data document is usually a direct result of the DER being willing to approve it. This creates a conundrum on complying with 9 and the prohibition of the 6.b. certification: “I certify that data will not be submitted to the FAA or it’s designee until we have complied with the applicable requirements for that submittal.” Note it is “submitted” in the</p> | <p>Define the DER narrowly on Approval.</p> <p>There is a chance of unintended consequences in that FAA protection of a DER from company pressure is limited (I think) to this performance of official FAA work. [I should have refreshed myself on the wording].</p> <p>Really a discussion for the DER Order.</p> | <p>Non-Adopted, no suggestion here. The designee APPROVES the data not merely submits it, as you alluded to. What a concern here is the DER hat spinning. The applicant submits for a showing and the DER approves by making a finding.</p> |

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| | | | certification, not “approve” as stated in 9’s FAQ answer. | | |
| | 11 Now D.6. | What does “establish compliance before data is reviewed by the ODA ...” mean. | Do you mean that the applicant must submit and the ODA must accept the applicable rules and means of compliance before they can start reviewing data? | Correct statement to state requirement. Explain how this correctly works when the ODA is the applicant. | Question answered OK, there was some wording change here, but the point is that there are two distinct functions here, showing and finding done by the ODA. They need to clearly distinguish these two activities. |
| | GENERAL | <p>After going through this document, I am left with the following:</p> <ol style="list-style-type: none"> 1) Most of what this document says does not constitute anything more than what is said in the Partners for Progress and PSCP guidance. I believe that those documents should be revised to convey the regulatory message. 2) Elements of legal significance and how the FAA interprets the words and the policies of drawing the line on “misleading”, etc. and enforcement should go into an Order. My two cents would be Order 8110.4 “Type Certification” 3) The existing guidance on PMA should be updated to encompass the new regulations. 4) This draft should be dropped from consideration of becoming an AC <p>It appears that the FAA is trying to find a legal comfort zone, but this AC does not make at all clear what that is for either the FAA or the Applicant or the ODA. If shared responsibility, especially for identifying the adequacy of</p> | | | |

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| | | <p>applicable rules and determining acceptable means of compliance is not in the FAA's future, then a substantive part of Order 8110.4 needs to be updated explaining it to all of us. I don't think that anybody has a problem with the applicant being the proposer and the FAA being the acceptor, but I don't think that the industry wants to be responsible for the lack of FAA special conditions or official test and inspection requirements to cover new, novel, or unusual circumstances of use. To do so would imply that industry is the equal of the FAA in regulatory expertise and we could delegate all activity to industry. That is not true and should not happen.</p> | | | |