



# Federal Aviation Administration

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## Memorandum

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Subject: Guidance for Recognition and Use of Applicant Showings on Standard  
Certification Projects

Memo No. AIR100-15-150-PM16

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### Overview

The purpose of this memo is to describe how Aircraft Certification Offices (ACO) can recognize an applicant's showing of compliance for specific requirements using criteria defined below. This memo applies to domestic, non-organizational delegation applications for "new" or amended type certificate (TC), supplemental type certificate (STC), amended STC, or parts manufacturer approval (PMA).

### Background

This memo provides a standardized method to allow the Federal Aviation Administration (FAA) to exercise discretion and redirect resources to higher risk areas. Currently, most substantiating and type design data submitted by the applicant to show compliance is reviewed by either an FAA designated DER or, for retained items, by the FAA. In either case there is a record in the form of an 8110-3 from the DER or a correspondence from the FAA for the specific finding of compliance. In limited cases the ACOs have relied upon the applicant data without review to support a showing of compliance to a specific requirement. Historically this has occurred more often in the flight test area due to the specific requirement under 14 CFR 21.35 for the applicant to submit a report prior to FAA involvement decisions. However, the FAA can exercise discretion for all areas of a project and determine what individual data submittals need specific review. Therefore, the FAA may refrain from review of specific submittals recognizing the applicant showings for those applicants that have demonstrated the ability to develop and provide competent compliance data.

Order 8110.4 prescribes the FAA Type Certification design approval process. However, the Order does not specify the methodologies in which "all" tasks and requirements must be accomplished. This memo formalizes a standard method for how ACOs exercise discretion to

determine their Level of Project Involvement (LOPI). LOPI includes the decision whether or not to review a piece of substantiating and descriptive data submitted by an applicant, as well as determining the need to conduct FAA conformity inspections or witness applicant tests. For example, airworthiness standards that are assessed as low risk can include receipt or acknowledgement of the applicant's test plan with no FAA approval required. In order to do this, the ACOs use an approved risk based decision making (RBDM) tool to determine whether to retain, delegate or recognize the applicant's showing of compliance to a specific requirement. The use of an approved RBDM tool is an acceptable alternative to instructions found in Order 8110.4 that address FAA involvement in finding compliance.

The FAA may issue a design approval based on compliance data provided by the applicant where the FAA elected not to review data, or use a designee to review data, for all or some applicable requirements. This policy does not alleviate the applicant from any responsibilities under Part 21, especially section 21.33, and the applicant must submit the type design and substantiating data necessary to show compliance with all the applicable requirements per section 21.20. (AC 21-51 describes how an applicant can produce a statement of compliance.) This policy does not remove or alter data retention and record keeping policy requirements, including data retention agreements with applicants.

### **Recognition of Applicant Showings**

In order to promote greater standardization, an ACO's LOPI determination will be based on defined risk criteria. An ACO will utilize the approved RBDM tool results to identify the compliance risk for each airworthiness requirement for a project. LOPI decisions are made on a case by case basis by the FAA. This memo does not grant or guarantee any privilege to applicants. The applicant can request show only provided they include the justification for applicant showing in each application package. Office managers and project managers should be cautious to verify that such recognition of showings would be beneficial from a resource perspective. The FAA or a designee must continue to review and approve deliverables associated with Special conditions, Equivalent Levels of Safety (ELOS), Airworthiness Limitations Sections, and limitations in the Flight Manual.

The primary basis for LOPI used in the RBDM tool is the CFR Part Prioritization List. This list identifies the primary assumption of regulatory risk for each design standard. "Compliance risk" (RBDM output – FAA (High), DER (Med), Show (Low)) is a compilation of assessment indicators related to the applicant, and technical factors applied with the CFR Part Prioritization List. Compliance risk becomes "Show or Low" when certain criteria are met. When determining LOPI for compliance data related to flight test, ACOs should apply the RBDM tool in conjunction with review of the applicant's report of company flight test results as required by 14 CFR 21.35 and Order 8110.4C to determine FAA direct, delegation, or acceptance of applicant data for compliance findings.

RBDM Tool Output = Show or Low - ACOs can determine FAA or Designee involvement is not necessary and can therefore rely upon an applicant's showing of compliance for specific airworthiness requirements on a particular project where the RBDM Tool output is "Show or Low" and the following criteria are met:

- a) The applicant has evidence of successfully obtaining FAA approval for that type of specific compliance data on past projects, including projects of comparable complexity and,
- b) The applicant's compliance methodology is the same as on past FAA projects and,
- c) The applicant uses the same person(s) in making the applicant showing, or an auditable documented company process for the compliance methodology is used to develop the specific substantiating data and,
- d) The company provides a signed written statement of compliance for each regulation that applicant showing was authorized.

An acceptable, but not the only, means to meet the above criteria is by referencing past design approvals on a new application where the complexity of the project is similar and the compliance method and personnel used are the same.

The project office (i.e., project manager, ASE, ASI or manager) may disagree with the RBDM tools recommendations. If they disagree, they use the comment areas to explain why the recommendation is not appropriate and what other LOPI should be implemented. Only the project manager or office manager can override another team member's decision for LOPI, provided they communicate the justification to the team member. Additionally, an ACO may change their original LOPI determination any time during the course of a project if justified. However, if the change occurs after the Project Specific Certification Plan (PSCP) is accepted, a written explanation must be provided to the applicant and approved by management. To promote standardization and to be consistent with the RBDM tool, all LOPI determinations, including changes to the original determination, must have management concurrence. The RBDM tool output including any changes must be printed and kept as part of the project file.

The applicant is solely responsible to show compliance with all applicable airworthiness regulations. The deliverables necessary to show compliance must be documented in the applicant's statement of compliance and submitted to the FAA, unless the applicant has a data retention agreement that preserves the FAA access to all data used to show compliance at any time in the future. Further, although the FAA may elect to not review any type design or substantiating data submitted by the applicant, we always have the authority to do so at any time. The FAA may at any time audit the compliance showings regardless of RBDM output. If the showings are found to be inadequate, the applicant should not be allowed future show only activity until they can provide evidence that they have corrected the problem.

### **Implementation**

AIR continues to develop and implement a Safety Management System (SMS). One of the key elements of SMS is appropriately allocating our resources based on safety risk. The use of this policy allows us to meet the requirements of Title 14 of the Code of Federal Regulations (14 CFR) part 21.21(b) and 14 CFR 21.117(b)(1). Applicant showing enables us to be more available to focus our limited resources on the issues that have the largest effect on safety.

While the policy in this memo addresses specific requirements associated with recognition of applicant showings, ACOs should be cautious to verify that such recognition would be beneficial to both the FAA and the applicant from a long term resource perspective. Consideration should be given that some recognition of applicant showings will also allow the FAA and industry to

gain experience that will become increasing more important as the FAA continues to consider future process based certification systems.

Familiarization briefings will be provided to all AIR employees and we will continue to monitor the efficacy of this policy and modify any criteria as necessary.

The currently approved RBDM tools referenced in the body of this policy are:

1. RBRTa (Excel spreadsheet)
2. RBRT web based ASKME tool

Thank you for your continued support.

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