

18 Aug 2026

Design Delegation Holder Advice
Address: Electronic Correspondence

Kia ora Design Delegation Holders,

SOC / FOC Signatories for STC and TC projects

This letter provides guidance to DDHs and Part 146 Senior Persons regarding Statements of Compliance (SOC) and Findings of Compliance (FOC) on TC and STC projects. This letter supersedes any previous guidance provided by the CAA on this topic.

Context

In 2018 the CAA introduced a process where DDHs may be delegated the authority to make Findings of Compliance on TC or STC projects. A copy of this process “*CAA Finding or Compliance for TCs/STCs*”, initial issue dated 22/05/2018, is included in Appendix A for reference.

The intent of this process is to avoid the duplication of effort by CAA personnel, be more efficient in the use of CAA resources, and leverage industry expertise. Such delegations are agreed in a Project Specific Certification Plan (PSCP), and where a DDH makes an FOC the CAA will not review the associated compliance data.

As part of this process the CAA stated that if a DDH has been authorised to make any FOC on a certification project, it is inappropriate for them to sign an associated SOC as this presents a conflict of interest.

Discussion

The CAA has reviewed the risks to aviation safety associated with a DDH signing an SOC and an FOC for the same airworthiness requirement (on a TC or STC project) and is now providing updated guidance on this topic.

It is acknowledged that conflicts of interest are an inherent part of New Zealand’s small, specialised aviation industry, where DDHs already work with Part 146 Design Organisations exposed to commercial pressures. Existing risk controls include the CAA’s initial assessment and monitoring of DDHs with respect to their professional integrity and ability to exercise independent judgement without undue influence.

Independent checking is also a standard Part 146 practice, providing CAA with assurance regarding the accuracy and validity of compliance data developed by Part 146 Design Organisations for TC/STC projects.

It is also important to recognise that an SOC already constitutes a formal declaration (by a competent, authorised person working in accordance with the procedures of a certificated Part 146 Design Organisation) that the design data complies with all applicable airworthiness requirements.

In addition, the CAA carries out a detailed review prior to agreement of each PSCP on TC/STC projects. This process allows the CAA to identify project risks, establish the appropriate controls and oversight as required (i.e. the CAA's level-of-involvement).

On a TC or STC project, the CAA still retains the final authority to approve and issue the certificate, as this function/power is not provided by an Instrument of Delegation.

Guidance

The CAA's updated view is that strict independence between an individual signing an SOC and a DDH signing an FOC for the same airworthiness requirement is not necessary on every TC/STC project.

This view is based on the CAA high expectations of DDH's professional integrity and judgement, independent checking of compliance data, and adherence to Part 146 design control systems. The CAA recognises there is some benefit from a different individual reviewing compliance and making an FOC, however this is simply considered good practice where practicable.

This letter will be published on the CAA website, along with other advice previously promulgated to DDHs.

If you have any questions or are seeking any further advice on this topic, please get in touch with the Product Certification team. We're also looking forward to seeing you at the next DDH workshop.



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Appendix A – CAA Finding of Compliance Process

DDH Finding of Compliance for TCs/STCs

Initial Issue, 22/05/2018

Introduction: A DDH has been delegated authority to act on behalf of the Director to perform certain functions which are detailed in their Instruments of Delegation including the ability to find compliance of design data to applicable airworthiness requirements. The process that follows details how to implement that delegation on a TC/STC project and the requirements for documentation. The intent of using DDHs to make findings of compliance against rule parts on a TC/STC project is to avoid the duplication of effort by CAA personnel, be more efficient in the use of CAA resources, and leverage industry expertise. It is expected that where a DDH makes a finding of compliance, little to no further review of the data should be required by the CAA project engineer.

References:

- 1) Civil Aviation Act
- 2) Civil Aviation Rule Part 21
- 3) Civil Aviation Rule Part 146
- 4) Advisory Circular AC 21-8
- 5) Advisory Circular AC 146-1

Definitions:

Showing of compliance: Presentation of data by an applicant for the purpose of demonstrating compliance of a design to applicable airworthiness rule parts.

Statement of compliance (SOC): Formal declaration by an applicant that the type design data prepared and presented to the CAA complies with all applicable airworthiness rules per Part 21.37(b) & 21.505(a)(6)(i) as applied to TCs and STCs respectively.

Finding of compliance (FOC): Determination made by the CAA or one of its delegates (DDH) that the type design data presented by the applicant satisfies the applicable airworthiness rules in accordance with Part 21.19(a) or 21.119(a) as applied to TCs and STCs respectively.

See Appendix A for further explanation of SOC vs FOC.

Process:

Note: This process is subject to periodic review and update. If at any point there is a contradiction between this process and the Civil Aviation Rules, the CARs must take precedence as they are legal requirements. Any user of this process is encouraged to bring any contradictions to the attention of the Manager of the Airworthiness Unit at the CAA.

1 – PSCP submission: The applicant (usually a Part 146 DO) should propose which rule parts they would like the project DDH to make FOCs against. By proposing FOCs, the DDH is also stating that they are authorized by their Instrument of Delegation to do so. Even if a DDH is authorized to make a FOC against a proposed set of rule paragraphs, the CAA reserves the right to retain any and all findings on a TC/STC project if desired. It is permissible for multiple DDHs to make FOCs on a project. The proposed FOCs must be recorded in the PSCP. Note that FOCs related to ELOS, Exemptions, Special Conditions or any other requirement that is not directly complied with, will be retained by CAA and may not be delegated to DDH. It is recommended that the compliance checklist shown in AC 21-8 Appendix A be modified for this. A brief example is provided below:

Regulation	Amendment	Method(s) of Compliance	Plan, Drawing, Report number	Applicable guidance, references & remarks	Finding of Compliance
23.1 Applicability	63	Review	TA - ###	N/A	D. Elegate - ID 123456
23.2 Special retroactive requirements	63	Review/Test	TA - ###	G-2 Issue Paper	CAA

2 – DDH Delegation review: Prior to any agreement on what rules a DDH will be permitted to find compliance to on a TC/STC project, the CAA project engineer should review the scope of the Instrument of Delegation of the DDH. As a reminder, Instruments of Delegations are approved by the Minister of Transport in accordance with the Civil Aviation Act, not the CAA.

Civil Aviation Act Part 2, Section 23B Delegation of Director's functions or powers to persons outside Authority:

(4) No delegation shall be made under this section without the written consent of the Minister

While delegations are generally quite broad, they do have limitations and they cannot be exceeded. This is detailed in Part 146, Appendix 1:

146.A.1(e): *The Director may prescribe limitations and restrictions on the scope of design approvals issued by the holder of a delegation for the approval of design changes.*

The limits of a DDH's delegation will bound what rule parts they can find compliance to, regardless of the TC/STC project scope.

3 – PSCP review & agreement: Agreement between the CAA and the project DDH on level of delegation for Finding of Compliance is part of the CAA PSCP review and agreement. The CAA project engineer should take into account the DDH's recent experience and approvals

they have made. The scope of the TC/STC project should be evaluated as well (aircraft type, category, passenger capacity, fleet size, etc). Per the usual process, the PSCP will be signed once the CAA and applicant agree on all aspects of the project plan.

4 –Applicant Statement of Compliance: An SOC from the applicant is required as part of the TC/STC process. In many situations, the applicant is a Part 146 Design Organization that employs the DDH that will be make the FOC. For the purposes of a TC/STC, the SOC is considered part of the Showing of Compliance by the applicant. This is supported by rule 146.57(3) for a Design Organization:

146.57 Design control system

Each applicant for the grant of a design organisation certificate shall establish a design control system that ensures—

(3) each design or design change to be issued with a statement of compliance by the applicant complies with the applicable airworthiness design standards and has no unsafe features;

The Statement of Compliance is part of the substantiation process, and the 146.57(3) requirement is mirrored in Part 21 by 21.505(a)

21.505(a)(6)(i): *a statement of compliance provided by a design organisation certificated in accordance with Part 146 stating that the technical data meets the airworthiness requirements of rule 21.31, and the applicable additional airworthiness requirements prescribed in Part 26, and the applicable aircraft noise and engine emission requirements prescribed in rule 21.32, and that the associated design change is fit for embodiment:*

If a DDH signs an SOC, they are acting on behalf of the applicant. It is noted here that Part 146 does not require a DDH to sign an SOC.

5 – Finding of Compliance by a DDH: The Finding of Compliance is considered part of the approval action conducted by the Director. When a DDH makes an FOC, they are acting on behalf of the Director of the CAA. They are not the applicant in this context. This is supported by rule 146.57(4):

146.57 Design control system

Each applicant for the grant of a design organisation certificate shall establish a design control system that ensures—

(4) each design change to be approved by its senior person required by 146.51(a)(3) complies with the applicable airworthiness requirements, has no unsafe features, and is fit for embodiment

The 146.57(4) requirement is mirrored in Part 21 by 21.505(d).

21.505(d): *The Director may approve technical data and an applicant is entitled to the approval of technical data if the Director is satisfied that—*

(1) the applicant meets the applicable requirements under paragraph (a); and

(2) the approval of the data is not contrary to the interests of aviation safety; and

(3) any airworthiness requirement that is not complied with is compensated for by a factor that provides an acceptable level of safety; and

(4) there is no feature or characteristic of a product, component, or appliance that makes it unsafe for its intended use when the product, component, or appliance is— (i) changed in accordance with the data; and

(ii) operated in accordance with the correctly amended flight manual or other specified limitations.

~~It must be stated at this point that if a DDH has been approved to make any FOC on a certification project, it is inappropriate for them to sign an associated SOC. The signing of both the SOC and FOC by a DDH presents a clear conflict of interest. There are no known scenarios at this time that would allow for this.~~¹

The form in which the FOC takes is to be agreed upon between the CAA and the DDH. At this time the CAA does not have a published pro forma for a DDH to use. The FOC declaration needs to incorporate the following elements to be valid:

- 1) The current TC/STC work request.
- 2) The SOC provided by the applicant.
- 3) Reference to the agreement on the FOC to be made in the PSCP.
- 4) Reference to a DDHs delegation that allows them to make the FOC.

An example of FOC language is as follows:

“Based upon the Statement of Compliance given in <insert document name, rev, date & location within>, and pursuant to the powers of the Director of Civil Aviation delegated to myself, <DDH name and client ID> under <Design Organisation name and DO number> I have found compliance to those rules and regulations as listed in the agreed PSCP <insert revision and date>, per CAR 21.505(d) for TC/STC application <XX/21(B/E)/XX>. The design changes have no unsafe features and are fit for their intended use.”

If multiple DDHs are making FOCs on a project, then each DDH must issue their own FOC statement and identify which compliance data they have reviewed.

*“Based upon the Statement of Compliance given in <insert document name, rev, date & location within> **and my review of <insert document name, rev, date>**, and pursuant to the powers of the Director of Civil Aviation delegated to myself, <DDH name and client ID> under <Design Organisation name and DO number> I have found compliance to those rules and regulations as listed in the agreed PSCP <insert revision and date>, per CAR 21.505(d) for TC/STC application <XX/21(B/E)/XX>. The design changes have no unsafe features and are fit for their intended use.”*

6 – Review by CAA Project Engineer: Part of the intent of allowing a DDH to make a formal FOC on behalf of the CAA is to reduce the review burden on CAA project engineers. Where a DDH has made a FOC, the CAA engineer should check that the finding was done in accordance with this process and the PSCP but should not be re-reviewing the compliance data. Some spot checks may be acceptable if they do not delay the issuance of the TC/STC. Where the CAA has retained the FOC on a TC/STC project, the CAA project engineer is expected to fully review the data necessary to make the finding. If any issues and/or errors are observed when reviewing the FOCs on the compliance data, these must be noted and brought to the attention of the applicant for resolution before the FOC can be completed.

Discussion on making an FOC: It is noted here that a review for compliance is not a quality control check. The CAA project engineer/DDH should not be checking calculations in detail for technical correctness (this should have been done prior by the applicant), but rather verifying the method and data used to show compliance is appropriate, acceptable, complete,

¹ Superseded by updated guidance.

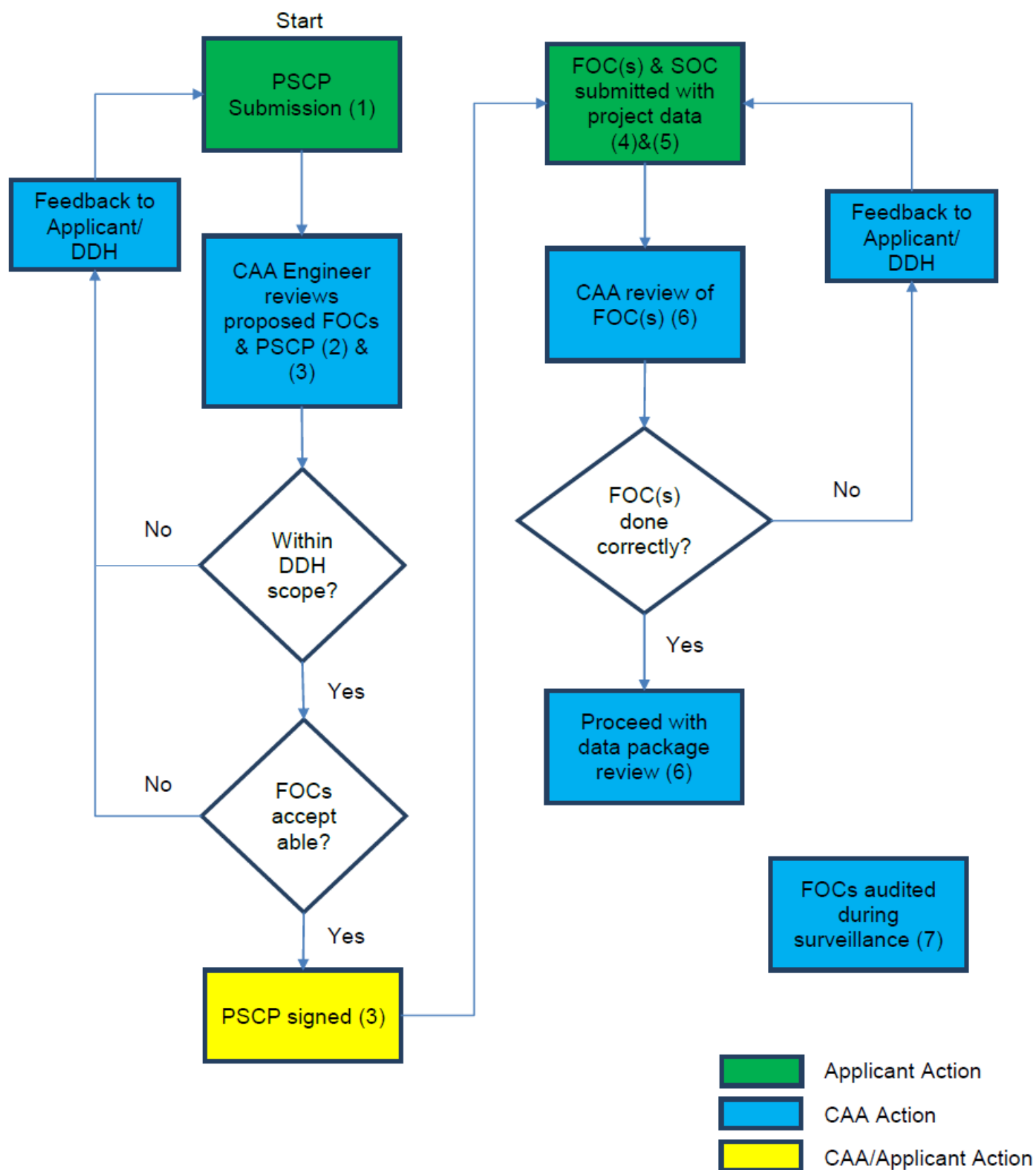
and in accordance with what was agreed upon in the PSCP. The following is a brief, but not exhaustive, list of items to consider when making an FOC:

- *Are the requirements identified in the Statement of Compliance accurately reflected in the data being reviewed?*
- *Are the requirements appropriate for the substantiation presented?*
- *Do the methods of compliance and amendment levels used by the Applicant align with those presented in the Compliance Checklist?*
- *Has compliance against all requirements been adequately substantiated?*
- *Are the methods presented appropriate and logical?*

7 – DDH Audits: DDHs should expect a sample of their FOCs to be reviewed in more detail during routine surveillance of Part 146 Design Organizations. This is in line with reviewing minor change and one-off major design change packages. Any findings noted during surveillance activities may impact the level of delegation given to that DDH on future certification projects.

Process Flow Chart

(Numbers refer to process steps described previously)



Appendix A: SOC vs FOC

