U.S. Department
of Transportation
Federal Aviation Administration

Advisory Circular

Subject: Certification Data Retention Agreements and Government Records

Date: 06/10/2013 **AC No: 20-179**
Initiated by: AIR-110 **Change:**

1. Purpose.

a. This advisory circular (AC) describes the procedures that you, domestic design approval applicants and design approval holders (DAHs), should follow when entering into a certification data retention agreement with the Federal Aviation Administration (FAA). This AC also defines the type of certification data that constitute a government record.

b. If you are planning to use an electronic data storage system as your means of retention for your type design data, we recommend you follow the guidance outlined in AC 21-48, *Using Electronic Modeling Systems as Primary Type Design Data.* AC 21-48 describes an acceptable means for using electronic modeling systems in design, manufacturing, installation, and inspection processes. Although in that AC we define an "electronic modeling system" as a three-dimensional (3-D) modeling system, we encourage you to use the guidance provided because it identifies the criteria for using electronic type design data and includes requirements for how to access and present the data.

c. This AC is not mandatory and does not constitute a regulation, but if you elect to follow the means described in this AC, you must follow it in its entirety.

2. Applicability. This AC applies to domestic applicants for type certificates (TCs) and domestic TC holders. For the purpose of this AC, the term type certificate applies to the original TC, an amended TC, a supplemental type certificate (STC), or an amended STC. The procedures described in this AC also apply to parts manufacturer approval (PMA) applicants and holders. (See 14 CFR part 21, subpart K.) This AC is not applicable to Organization Designation Authorization (ODA) holders. ODA holders must ensure their ODA Procedures Manual Data Retention section is consistent with the requirements listed in of FAA Order 8100.15( ), *Organization Designation Authorization Procedures*.

3. Background. The FAA maintains a custodial record of the type design and substantiation data used to show compliance (14 CFR 21.21(b)). All information received, created, or compiled by the officers and employees of the Federal Government for the use of the government is an official government record.

4. Data Submittal.

a. Certification Projects. For on-going certification projects, you are required to submit the required type design and substantiating data to show that the product being offered for certification meets the applicable airworthiness regulations, including all special conditions prescribed by the FAA (14 CFR 21.21). Though 14 CFR 21.21(b) specifically requires submission of data to the FAA, in the event design data are offered in any format other than paper, a part of a Partnership for Safety Plan (PSP) or a signed Memorandum of Agreement (MoA) between you and the FAA is necessary.

b. Type Design and Substantiation Data. The FAA maintains project data, type design data and substantiation data for each type certification project. At the discretion of the aircraft certification office (ACO) manager or the manager of the directorate office responsible for design approval activity, you may retain some or all of these data on behalf of the FAA. A data retention agreement between the FAA and you must be established before entering into such an arrangement. The data retention agreement could be part of a PSP or a standalone MoA. Examples of the types of data that you can retain under a data retention agreement are listed in figure 1 below. These data are a permanent record of the TC of the product and must not be destroyed. These data must be retained in accordance with the current FAA records management schedule. If you choose to enter into a data retention agreement, you understand that the data retained on behalf of the FAA is FAA data and not your data. Data retained by you must be made available to the FAA when requested. The FAA may use the project data retained by you for any official purposes such as production inspections, technical oversight of designees, design reviews, continued operational safety oversight, or any other reasons deemed necessary by the FAA. For an electronic data system, the data format may vary depending on the application used to create the data. You are required to control the storage, maintenance, and backup capabilities to ensure data accessibility. You are also responsible for providing the FAA with all data in a format that is readable by the FAA. In the case of legacy data, you must be able to retrieve the data (or transfer it to other media that will be retrievable). When the data is transferred to another media, you must ensure the FAA has the means to access all previously submitted data as well as new data submitted to the FAA.

Figure 1. Types of Data for Retention by ACO or TC Holder

Type design: (a) Drawings and specifications, and listing of those drawings and specifications, necessary to define the configuration and the design features of the product; (b) Dimensions, materials, and processes necessary to define the structural strength of the product; (c) Airworthiness Limitations section of the Instructions for Continued Airworthiness; (d) For primary category aircraft, if desired, a special inspection and preventive maintenance program designed to be accomplished by an appropriately rated and trained pilot-owner; and (e) Any other data necessary to allow, by comparison, the determination of the airworthiness, noise characteristics, fuel venting, and exhaust emissions(where applicable) of later products of the same type. Refer to 14 CFR 21.31.
Operating limitations (refer to 14 CFR 21.41).
Test plans.
Test and analysis reports, including company and FAA conformity inspection records (refer to 14 CFR 21.21, 21.33, and 21.35).
Original of approved flight manuals and all revisions (refer to 14 CFR 21.5). Also, approved engine and/or propeller installation manuals (refer to 14 CFR 33.5 and 35.3, respectively).
Original of all accepted manuals such as the ICAs (refer to 14 CFR 21.50).
Service bulletins (including alerts, service letters, all operator letters, etc.). Refer to 14 CFR 21.99, 21.277, 43.13(a) and (b), 43.17, etc.

5. FAA Safeguard Measures. FAA employees have an obligation to protect your proprietary data from unauthorized release. Unauthorized release of certain information by a federal employee is a violation of Title 18 of the United States Code (U.S.C.), section 1905. Some of the circumstances in which the FAA can release proprietary data to the public or other federal agencies are:

a. The owner of that proprietary data has consented in writing to the FAA, authorizing release of their proprietary data.

b. The requestor of the proprietary data has a signed, written release for that proprietary data from the owner or authorized representative.

c. The requestor of the proprietary data has a court order or subpoena from a court of competent jurisdiction ordering the FAA to release that proprietary data to the requestor.

d. The requestor of the proprietary data can cite a statute, a bilateral agreement, or a written order from a higher governmental authority directing the FAA to release that proprietary data.

6. Purpose and Procedures for Data Retention Agreements.

a. A data retention agreement is a formal written document signed by you and the FAA, specifying which certification records/data will be retained by you. As a minimum, the data retention agreement must include the following provisions:

(1) A list of all the type design and substantiation data, including those data found compliant by designated engineering representatives (DERs). Submit this information in a cover transmittal letter for all type certification activities or other FAA approval activity. The submittal must also contain the identification of the specific airworthiness requirements with which the record shows compliance in accordance with 21.20(a) (i.e., compliance listing). In the case of applicants, the submittal must contain the identification of the specific airworthiness requirement with which the record intends to show compliance.

(2) Identification of those portions of the record which you consider proprietary.

(3) A statement that all records are readily available to the FAA or the NTSB for examination upon request (see 14 CFR 21.49). A DAH may have different data storage systems and supplier relationships. However, each agreement must specify the time interval the requested data will be available for FAA review after a request is received.

(4) The method used by the FAA to request data when necessary. This includes the name and contact method for someone authorized to access all records in the event of an emergency, after working hours, weekends, or holidays. This employee is required to provide FAA with access to the records upon FAA request. Also, the company will send the FAA a copy of any and all files requested by the FAA when the company is remotely located and is not practical for an FAA employee to travel to the company's facility to review data.

(5) The method and frequency by which you will provide the FAA with a list of all project files that are in your repository.

(6) Assurance that the company controls access to and removal of data from the FAA data file.

(7) For all data created in an electronic format, you will provide the FAA with that data in a format that is readable by the FAA.

b. The agreement may be amended or terminated by the FAA or the DAH with written notification at any time. If the agreement is terminated, all records must be returned to the FAA, and FAA access to the data under the agreement will not be terminated until the record transfer is completed. The data agreement must require the DAH to forward all data associated with the certificate to the appropriate/cognizant FAA office when the DAH surrenders a TC, or if the DAH is dissolved, enters bankruptcy or foreclosure, or the certificate is revoked or otherwise terminated. In any case, you are responsible for providing the FAA with all data in a format that is readable by the FAA. In the case of legacy data, you must be able to retrieve the data (or transfer it to other media that will be retrievable). Upon surrender, revocation or termination of a TC, a DAH retains their intellectual property rights in the underlying design and substantiating data. Protection of intellectual property is provided for in paragraph 5 of this AC. Paragraphs 5.a. and b. require written consent from the DAH to release data to the public.

c. The written data retention agreement is not transferable. If a TC is transferred to another entity, the previous type certificate holder will transfer all FAA records retained at its facility to the FAA, unless the FAA has advised the previous holder that the new holder has entered into their own data retention agreement with the FAA (i.e., when a certificate is transferred, the new holder must negotiate their own data retention agreement with the FAA if they desire to enter into a data retention agreement). The FAA will notify the previous TC holder if an agreement has been made with the new holder. Once the new agreement exists, the previous TC holder will transfer all FAA records to the new holder. However, if the new TC holder does not wish to enter into a data retention agreement with the FAA, then the previous TC holder must return all the FAA records that were retained at its facility to the appropriate/cognizant FAA office prior to the certificate transfer. This will require the previous TC holder to provide the FAA with all data in a format that is readable by the FAA. If the physical location does not change, the records are maintained intact, and the storage method does not change, then there is no need to return the records to the FAA, provided a new signed data retention agreement is in place between the new type certificate holder and the FAA.

7. Data Retention Agreement Format. A data retention agreement format will typically contain the following:

a. Cover page containing the title of the data retention agreement, including company name, effective date, and revision(s) information.

b. Signatures of representatives from both the FAA and the company. A representative could be an executive, such as your company president or a vice president. The FAA representative must be the ACO manager.

c. A brief description of the purpose, scope, and procedures of the agreement as identified in paragraph 6 of this AC.

d. Information on effectivity of the document, including information on revisions approvals and cancellation procedures.

e. Type of data submittal and format.

f. Company's data safeguard measures. Refer to paragraph 4.b. above.

8. Request for Information.

a. You can order copies online at www.access.gpo.gov. Select "Access" then "Online Bookstore." Select "Aviation," then "Code of Federal Regulations."

b. You can also get copies from the FAA website at http://www.faa.gov/regulations_policies/advisory_circulars/, or from the FAA Regulatory and Guidance Library (RGL) website at http://rgl.faa.gov.



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