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SAFETYWIRES



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Notice of Proposed Rule Making Open for Comment

BY: Rhodri Norton-Quick

Source: FAA

In the words of Michael Scott , “OK, ITS HAPPENING, EVERYONE STAY CALM”.



After several years of will they, won't they; the Federal Aviation Administration has submitted it's [Notice of Proposed Rule Making \(NPRM\)](#) pertaining to 14 CFR Part 5 and Mandatory SMS for: “all certificate holders operating under the rules for commuter and on-demand operations, commercial air tour operators, production certificate (PC) holders that are holders or licensees of a type certificate (TC) for the same product, and holders of a TC who license out that TC for production.”

Basically, what this means in plain English: The FAA is extending part 5 beyond part 121 operators to include part 135 operators, § 91.147 air tour operators, and certain certificate holders under part 21. This is a “proposed rule”. This means you have until March 13th, 2023, to submit any comments to the FAA.

After slaving away on an incredibly detailed article, picking apart all the individual sub parts for important information, it was brought to our attention that much of it is covered in the Summary. Work smarter, not harder as they say. As such, what will follow is section B from the NPRM, or the summary.

And now from the hallowed halls of 800 Independence Avenue....

B. Summary of the Proposed Rule

An SMS requires four essential components—safety policy, safety risk management, safety assurance, and safety promotion. Additionally, an SMS requires that an organization document the system itself and maintain any records produced under that system. In this NPRM, the FAA proposes

to expand the applicability of the SMS requirements to include additional entities, add new requirements to part 5, and amend existing regulations in parts 5, 21, 91, and 119. Several of these proposed amendments respond to the statutory mandate in ACSAA.

Specifically, the FAA proposes to expand the applicability of part 5 beyond part 121 operators to include part 135 operators, § 91.147 air tour operators, and certain certificate holders under part 21. These entities would receive the greatest safety benefits of an SMS as they are best situated to prevent future incidents and aviation accidents.

In response to the statutory requirements in ACSAA, the FAA proposes to add a requirement for each SMS to include a code of ethics that applies to all employees and clarifies that safety is the highest priority. Consistent with ACSAA, the FAA also proposes to revise the existing requirement for a confidential employee reporting system by adding a provision to ensure that employees can report without concern of reprisal.

Additionally, the FAA proposes several amendments to part 5 that are intended to increase the effectiveness of SMS, including several new requirements. The FAA proposes to require organizations to develop a system description, which is a summary of aviation-related processes and activities and a description of interfacing persons that contribute to the safety of the organization's aviation-related products and services. The FAA proposes to add information that must be considered during the system analysis, which is conducted when a person applies safety risk management. Specifically, the FAA proposes to require persons to consider the interfaces of the system in conducting the system analysis. The FAA also proposes to require persons who identify hazards to notify interfacing persons who are best able to address or mitigate the hazard. To account for these new requirements, the FAA proposes conforming amendments to the SMS documentation and recordkeeping requirements to ensure organizations document the system description and retain all communications concerning the notification of hazards to interfacing persons. Furthermore, the FAA proposes several amendments to part 5, including a revision to the definition of “hazard” to ensure it encompasses aviation incidents as well as accidents, the relocation of the definitions to the beginning of the subpart to facilitate readability of part 5, and the removal of all references to the term “certificate holder” to conform to the new applicability proposed by the rule. The FAA also proposes amendments to certain regulations in parts 21, 91, and 119 to conform with, and enable the implementation of, the proposed requirements in part 5.

The following table summarizes the proposed provisions and provides the proposed section(s) of the Federal Aviation Regulations that contains the provisions.

TABLE 1—SUMMARY OF MAJOR PROVISIONS

Provision	Proposed 14 CFR § affected	Summary of proposed provision
Applicability of part 5	5.1, 21.55, 21.135, 21.147, 91.147, and 119.8.	Expand the applicability of part 5 (currently limited to part 121 operators) to make SMS requirements applicable to part 135 operators, §91.147 air tour operators, and certain holders of a TC ⁶ and PC issued under part 21 for the same product. ⁷
Definition of “Hazard”	5.3 ⁸	Revise the definition of “hazard” to also mean conditions or objects with the potential to cause or contribute to an incident.
General Requirements	5.5(b)	Add a new requirement to develop and maintain a system description that includes information about the aviation products or services provided by the person and a description of the interfacing persons that contribute to the safety of the person’s products or services.
Part 121 operators	5.7(a)	Require part 121 operators to revise their current SMS in accordance with the new requirements of part 5 and to submit revisions no later than 12 months after effective date of final rule.
Applicants seeking to operate under part 121.	5.7(b)	Require applicants seeking to operate under part 121 to develop and implement an SMS in accordance with part 5 and to submit a statement of compliance as part of the certification process.
Part 135 operators and §91.147 air tour operators.	5.9(a)	Require part 135 operators and §91.147 air tour operators to develop and implement an SMS in accordance with part 5 and to submit a statement of compliance no later than 24 months after the effective date of final rule.
Applicants seeking to operate under part 135 or §91.147.	5.9(b)	Require applicants seeking to operate under part 135 or §91.147 to develop and implement an SMS in accordance with part 5 and to submit a statement of compliance as part of the certification or LOA process.
Holders of PC and TC for the same product.	5.11	Require any person that holds a PC and TC ⁹ issued under part 21 for the same product to develop an SMS in accordance with part 5; to submit an implementation plan for FAA approval no later than December 27, 2024; and to implement the SMS no later than December 27, 2025.
TC holders applying for a PC for same product.	5.13	Require TC holders ¹⁰ who apply for a PC for the same product to develop an SMS in accordance with part 5, to submit an implementation plan for FAA approval during the certification process, and to implement the SMS no later than one year after obtaining FAA approval.
TC holders who have a licensing agreement to allow other persons to obtain a PC.	5.15(b)	Require TC holders, who have a licensing agreement to allow other persons to obtain a PC, to develop an SMS in accordance with part 5; to submit an implementation plan for FAA approval no later than December 27, 2024; and to implement the SMS no later than December 27, 2025.
TC holders who enter into a licensing agreement to allow other persons to obtain a PC.	5.15(c)	Require TC holders, who enter into a licensing agreement to allow other persons to obtain a PC, to develop an SMS in accordance with part 5, to submit an implementation plan for FAA approval when providing written licensing agreements to the FAA, and to implement the SMS no later than one year after obtaining FAA approval.
Implementation plans	5.17	Require implementation plans filed under §§5.11, 5.13, and 5.15 to include a description of how the person intends to comply with part 5, and for the person to make available, upon request, all necessary information and data that demonstrates that the SMS has been or will be implemented in accordance with the implementation plan.
Safety policy	5.21(a)(7)	Add a new requirement for the safety policy to include a code of ethics that is applicable to all employees, including management personnel and officers, which clarifies that safety is the organization’s highest priority.
System analysis and hazard identification.	5.53(b)(5)	Add a new requirement for the person conducting the system analysis to consider the interfaces of the system.
Safety performance monitoring and measurement.	5.71(a)(7)	Revise the requirement for a confidential employee reporting system by adding a provision to ensure that employees can report without concern of reprisal.
	5.71(c)	Add a new requirement for holders of both a TC and PC for the same product to submit a summary of the confidential employee reports to the FAA every 6 months.
Notification of hazards to interfacing persons.	5.94	Add a new section to: (1) require the person who identifies a hazard to notify the interfacing person who, to the best of their knowledge, could address the hazard or mitigate the risk; and (2) require procedures for reporting and receiving hazard information with interfacing persons.
SMS documentation	5.95(c)	Add a new requirement for SMS documentation to include the system description.
SMS records	5.97(d)	Add a new requirement for persons to retain records of all communications provided under new §5.94 for a minimum of 24 consecutive calendar months.



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Customs, Culture, Community

(Source: Larry Fields, FAA(Acting) Flight Standards Service Executive Director)
(FAAST Safety Briefing Jan 6,2023)

FAA > SAFETY BRIEFING

The FAA Safety Policy Voice of Non-commercial General Aviation

Customs, Culture, Community

JUMPSEAT an executive policy perspective



Several FAA employees travelled to Montreal in September to represent the United States at the International Civil Aviation Organization’s (ICAO) triennial general assembly. This gathering provided multiple opportunities to interact with civil aviation authority counterparts from dozens of countries around the world. Throughout this meeting, members of our team were intensely aware that everything they said or did would reflect not just on them as individuals, but also on our country and on the agency they represented.



A Culture of Compliance

Like countries, communities of every kind have a culture that arises from customs and shared values. If you were to make a list of your own aviation customs and values, safety is surely at the top of your list. Here at the FAA, safety is the top priority. It's the reason this agency exists in the first place.

Our tasks include establishing the foundation for aviation safety. Regulations are part of that foundation, but there's much more. As stated in the FAA's Compliance Program, our objective is to identify safety issues that underlie deviations from standards and correct them as effectively, quickly, and efficiently as possible. The FAA's approach to compliance stresses collaborative problem-solving (e.g., engagement, root-cause analysis, transparency, and information exchange) wherever possible.

The FAA Compliance Program is also aimed at furthering evolution toward a "just culture." That means a culture with both expectation of, and appreciation for, self-disclosure of errors. It gives due consideration for honest mistakes, especially in a complex environment like the National Airspace System (NAS). But since even unintentional errors can have a serious adverse impact on safety, we must ensure that the underlying safety concern is fixed every time.



Walk the Walk; Talk the Talk

In this issue of the FAA Safety Briefing magazine, we will explore some of the mindset, skillset, and toolset items that can help you do your part as a solid aviation citizen. But let me set the stage with a couple of fundamental ideas.

Although some see “etiquette” as a stuffy word, there’s nothing stuffy about what it means: treat your fellow human beings with courtesy and respect. If you visit a country whose citizens treat you rudely, would you be eager to go back? Of course not. There are enough pressures already to deter potential aviators without adding discourtesy. Treat everyone you meet — fellow pilots, potential pilots, and non-pilots — with the kind of respect and courtesy that makes them eager to be part of our group.



Language is another important part of good aviation citizenship. When you visit a country with a different language, it is courteous to make efforts to use that language, even if you can only manage a few words. The community of aviation certainly has a language of its own, one with a long history and a highly specialized vocabulary. As good aviation citizens, we should strive to use that language as precisely and as correctly as we can when we are operating in the system. Listen before you key the mike to transmit. Speak clearly and succinctly. Use proper phraseology. Whether on the radio or speaking to student pilots, potential aviators, or non-flyers, speak our language in a way that achieves the goal of communication.

As the saying goes, we never get a second chance to make a good first impression. In an environment where there are many financial and other challenges facing those who want to fly, each of us needs to cherish the precious privileges of aviation and strive to bring honor both to our community and to our fellow aviators.

FAA Safety Briefing: Leading By Example
How Modeling and Mentoring Can Elevate Aviation Safety

U.S.-registered Bizjets Mark Fatal accident-free Year

(Source: AIN Online, Gordon Gilbert-January 13,2023)



According to data compiled by AIN, U.S.-registered business jets suffered no fatal accidents last year. That is a significant improvement from 2021 when 23 people lost their lives in six (all Part 91) accidents involving N-numbered business jets.

Meanwhile, non-U.S.-registered business jets were involved in three fatal accidents last year, resulting in 14 deaths versus a single fatality from one crash in 2021. These accidents included the June 22 crash of a chartered Venezuela-registered Bombardier Learjet 55 while on approach to Charallave-Machado Zuloaga Airport; the crash on takeoff from Rio Grande Airport on July 1 of an Argentina-registered Learjet 35A; and the crash into the Baltic Sea near Latvia on September 4 of an Austria-registered Cessna Citation II/SP.

In an uptick of accidents involving business turboprops, 37 died in 11 mishaps of N-numbered turboprops last year—up from 23 deaths in 10 accidents in 2021. All but one of the fatal accidents in both comparable periods occurred during Part 91 flights. The nine fatal accidents involving non-U.S.-registered business turboprops in 2022 represented an increase of one from 2021, but the number of fatalities decreased from 40 in 2021 to 26 last year.

SAFETY MANAGER'S CORNER

SafeTALK

Questioning attitude

How does attitude affect your work and safety on the job? What is your attitude today? We all have days where our overall attitude could improve, but how is yours towards your coworkers, boss, or safety, on a day-to-day basis? If you are generally a negative person, what effects would a more positive attitude have on your life, and on your work?

A questioning attitude:

A questioning attitude fosters situational awareness, encouraging thought about safety before action is taken. Being mindful of the work situation helps a person maintain an accurate understanding of the work conditions at any given time. It alerts people to imminent hazards, warning signs and uncertainties in the work environment or plan. It also encourages workers to stop and resolve hazards, and take heed of warnings or uncertainties, before proceeding with the job. Doubt must be followed up with the discovery of facts, not assumptions, to reveal more knowledge about the situation in order to eliminate doubt.

□ Examples include situations as simple as walking by a broken door day after day without stopping and questioning why it remains broken, or skipping over a confusing step in a procedure you use every day rather than getting clarification. Another example could include ignoring an alarm because nuisance alarms go off all the time and they never indicate an actual emergency. Or something a little more complicated, such as not speaking up to question a calculation that doesn't seem right, because the direct manager performed the calculation.

Complacency and lack of knowledge undermine awareness. Most people tend to assume everything is alright and that activities always go as planned. A questioning attitude promotes a preference for facts over assumptions and opinion.

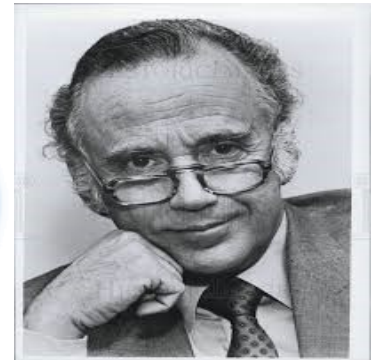
How to improve your safety attitude

1. Recognize it The first step to improvement is to recognize negativity. Ask yourself how your attitude is today. If it is negative then you need to try to improve it to be a safer, more efficient worker.
2. What is the source of the issue(s)? After you recognize the state of your attitude, you need to find the source of the issues that are making it negative. What is bothering you? Is it a coworker? A family situation? Whatever it may be, take note of the negative sources.
3. Address the issues. Take the time to address what is having a negative effect on your attitude. For example, if it is an issue with a coworker or boss, have a conversation with them. Most issues can be resolved with a constructive conversation. If the issue cannot be resolved with a conversation with the other person, go to another level of management to resolve it.

Quote of the Month

“Nothing is predestined. The obstacles of your past can become the gateways that lead to new beginnings.”

— Ralph Blum



This is a beautiful encapsulation of what SMS is. We are attempting to learn from the past, so that the future is brighter. The new beginning starts the moment your organization embraces the new way of SMS

On Short Final...



On a more serious note, Please contact us if you would like to discuss the new FAA NPRM regarding SMS—who it applies to, how it can be implemented, and what we can do to help you.

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UPCOMING COURSES

Feb 14 to Feb 16, 2023—PROS Course

Virtual ICAT Training (ICAT)

Denver, CO

Feb 20 to Feb 24, 2023—PROS Course

Aviation Lead Auditor Training (ALAT)

Denver, CO

March 28 to March 30, 2023—PRISM Course

Safety Management System (SMS)

Denver, CO

May 15 to May 19, 2023—PROS Course

Aviation Lead Auditor Training (ALAT)

Denver, CO

Aug 21 to Aug 25, 2023—PROS Course

Aviation Lead Auditor Training (ALAT)

Denver, CO

Sep 26 to Sep 28, 2023—PRISM Course

Safety Management System (SMS)

Denver, CO

Oct 30 to Nov 3, 2023—PROS Course

Aviation Lead Auditor Training (ALAT)

Denver, CO

Go to [Upcoming Training Classes](#) to register.

