

## **FAA New Rule Extends Requirement for Safety Management Systems (SMS)**

The Federal Aviation Administration (FAA) has issued a final rule updating requirements for safety management systems (SMS) and extending the requirement for an SMS to additional entities such as certificate holders operating under part 135, commercial air tour operators, and certain production certificate holders. The purpose of this new rule is to improve aviation safety by proactively managing safety risks and aligning with international standards.

The rule applies to various certificate holders, including those operating under commuter and on-demand operations, commercial air tour operators, and manufacturing organizations. It requires these organizations to develop and implement an SMS to identify safety hazards, assess and manage safety risks, and ensure the effectiveness of safety controls. The rule is aligned with ICAO Annex 19 and is based on recommendations from industry groups, the NTSB, and aviation rulemaking committees.

The FAA received numerous comments from the industry on the proposed rule, particularly concerning the applicability of SMS requirements to part 135 operators and § 91.147 air tour operators. Some commenters expressed concerns about the burden and impact on small operators, while others supported the expansion of SMS requirements.

In response to the comments, the FAA has decided to apply CFR 14 Part 5 (Safety Management Systems) requirements to all part 135 operators and air tour operators with a LOA issued under §91.147. The rule aims to enhance safety in passenger-carrying and cargo operations, and while recognizing the challenges for small businesses, the FAA emphasizes the importance of all operators ensuring safe operations. The new rule provides flexibility and scalability for organizations to implement SMS based on their size and complexity.

So, the final rule extends SMS requirements to all FAR part 121, Part 135, Part 91.147 tour operators, as well as holders of type and production certificates. One of the FAA's intentions with this new rule is to align with international (ICAO) standards to enhance aviation safety. It emphasizes the responsibility of all operators to ensure safe operations and mitigate risks to prevent incidents and accidents, through proactive risk management.

**\*\*Some Interpretations of FAA's New Rule on Safety Management Systems:\*\***

- The FAA is updating requirements for safety management systems (SMS) in the aviation industry.
- The new rule extends the requirement of an SMS to all certificate holders operating under Part 135 and Part 91.147 commercial air tour operators.
- The implementation of an SMS is intended to proactively manage safety risks in aviation operations.
- The rule aligns with international standards from the International Civil Aviation Organization.
- The rule aims to improve aviation safety by requiring organizations to implement a proactive approach to managing safety.
- The FAA is publishing this rule to address a Congressional mandate and recommendations from the National Transportation Safety Board, industry organizations, and aviation rulemaking committees.
- The rule also applies to organizations involved in design and manufacturing of aircraft.
- The FAA received comments from various stakeholders, both supporting and expressing concerns about the rule's impact on small operators.
- Part 5 of the regulations provides for scalability and flexibility for organizations to implement SMS based on their size and complexity.
- SMS is applicable to all commercial operators in the aviation industry to enhance safety standards.
- The rule aims to identify and mitigate safety hazards to prevent accidents and incidents in aviation operations.
- The FAA is emphasizing the proactive approach of SMS and its importance for ensuring safe operations in all aviation organizations.

**\*\*Some Important Points From the New Rule:\*\***

- 1) The new rule requires all certificate holders operating under Part 121, Part 135, and Part 91.147 commercial air tour operators as well as type certificate and production certificate holders to develop, implement, and maintain an SMS.
- 2) Part 121 Operators that already have an SMS acceptable to the FAA on or before May 28, 2024, must revise its SMS to meet the requirements of this part no later than May 28, 2025.
- 3) Part 135, and part 91.147 commercial air tour operators are required to develop and implement an SMS no later than May 28, 2027.
- 4) Many of the following requirements do not apply to those organizations with *"...a single pilot who is the sole individual performing all necessary functions in the conduct and execution related to, or in direct support of, the safe operation of the aircraft."*

The FAA has chosen to use the title "Person" instead of "Operator", "Certificate Holder" or "Manufacturer". Since we mostly deal with Part 135 and Part 91 Operators, I tend to use the word "Operator" in this paper. The actual FAR uses "Person".

Any person (Operator) required to have an SMS under this part must have a safety policy that includes at least the following:

- Their safety objectives.
- Their commitment to fulfill the safety objectives. Also, 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.
- The safety policy must be documented and communicated throughout the person's organization and must be regularly reviewed by the accountable executive to ensure it remains relevant and appropriate to the person (operator).

An SMS must define in its safety policy the accountability for safety of the following individuals:

- Employees involved in the operator's safety performance.
- The levels of management with the authority to make decisions regarding safety risk acceptance.

An SMS must identify an “Accountable Executive” and provide a definition of Accountable Executive.

Operators must develop, and the accountable executive must approve as part of the SMS, an emergency response plan.

When applying safety risk management, operators must do a system analysis to identify hazards and develop and implement risk controls related to the system, then maintain a process to identify hazards.

- In addition, if an operator identifies a hazard in the operating environment, they must “...provide notice of the hazard to any interfacing person that...could address the hazard or mitigate the risk.”

Operators must develop and maintain processes and systems to acquire data with respect to their operations and to monitor the safety performance of the organization.

- These processes and systems must include, at a minimum, a “confidential employee reporting system in which employees can report hazards, issues, concerns, occurrences, incidents, as well as proposed solutions and safety improvements, without concern of reprisal for reporting.”

Operators must conduct assessments of their safety performance against their safety objectives, which include reviews by the accountable executive, to ensure compliance with the safety risk controls that they have established.

Operators must establish and implement processes to correct safety performance deficiencies identified in such assessments.

Operators must provide training to each individual identified as accountable for safety or with the authority to make decisions regarding safety risk acceptance (Including the Accountable Executive), to ensure the individuals attain and maintain the competencies necessary to perform their duties.

Operators are required to develop and maintain a means for communicating safety information.

Operators must develop and maintain SMS documentation. The required documentation is outlined in the rule.

Operators must maintain records of the outputs of their safety risk management process, their safety assurance process, all SMS required training and all required SMS communications for a specified amount of time.

Please feel free to contact me if you have any questions.

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