4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 5, 21, 91, and 119

[Docket No.: FAA-2021-0419; Amdt. No. XX]

RIN 2120–AL60

Safety Management Systems

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FAA is updating requirements for safety management systems and requiring certain certificate holders and commercial air tour operators to develop and implement a safety management system (SMS). This rule extends the requirement for an SMS to all certificate holders operating under the rules for commuter and on-demand operations, commercial air tour operators, production certificate holders that are holders or licensees of a type certificate for the same product, and holders of a type certificate that license out that type certificate for production. The FAA is publishing this rule in part to address a Congressional mandate as well as recommendations from the National Transportation Safety Board and two aviation rulemaking committees. Additionally, the rule more closely aligns the United States with Annex 19 to the Convention on International Civil Aviation. This rule will improve aviation safety by requiring organizations to implement a proactive approach to managing safety.

Despite an overall reduction in accidents, the FAA determined that many of the accidents involving Part 135 and 91.147 operators could have been effectively mitigated by the presence of an SMS.

These accidents highlight the systemic improvement opportunities to safety, which are described in the Regulatory Impact Analysis (RIA) for this rulemaking.

According to NTSB data, from 2015 to 2019, there were 215 accidents involving Part 135 operators, with a total of 121 fatalities, as well as 33 accidents involving air tour operators operating under 91.147, with a total of 16 fatalities.[9]

Of these accidents, the FAA identified 35 involving Part 135 operators and four involving 91.147 operators that resulted in fatalities and serious injuries that could have been mitigated had those operators implemented an SMS

An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.

An SMS must include the following four components: Safety Policy and Objectives, Safety Risk Management, Safety Assurance, and Safety Promotion.

The FAA concludes that all commercial operators authorized under Part 135 or 91.147 can benefit from implementing an SMS because it increases safety by supporting a proactive, predictive method of managing safety to identify and address problems before they result in an incident or accident.

In the final rule, the FAA has increased the compliance timeframe from the proposed 24 months to 36 months for Part 135 operators and LOA holders under 91.147 in response to comments received.

In addition, the FAA is changing the title of the document to be submitted for existing Part 135 certificate holders as well as existing LOA holders under 91.147 from "statement of compliance" to "declaration of compliance."

Submitting a declaration of compliance to the FAA serves to document that the aviation organization has developed and implemented an SMS meeting the applicable requirements of Part 5. The FAA will assess the aviation organization's compliance with SMS requirements during routine surveillance.

The FAA is adopting the code of ethics requirement as proposed. The code of ethics must clarify that safety is the aviation organization's highest priority. Having a code of ethics, applicable to all employees of the aviation organization, influences the safety culture of that organization and is beneficial to overall safety.

As a component of an aviation organization's safety policy (5.21(a)(7)), the new requirement helps ensure that every officer, manager, and employee in the organization is aware that safety is a core value for that organization and that safety risk should be reduced to the extent that it is practicable to do so.

The FAA asserts that aviation organizations having an SMS that is certified, approved, or accepted by another entity or through the FAA's voluntary SMS programs does not replace the mandate to meet all applicable Part 5 requirements.
Companies are nonetheless encouraged to leverage existing processes and procedures to help meet Part 5 requirements.

The FAA encourages companies to conduct a gap analysis to identify the areas where their aviation organization complies with Part 5 and where requirements are unmet.

Additional information about conducting gap analyses is available in AC 21-58 and AC 120-92.

Approximately **1,848 Part 119 certificate holders** operating under Part 135 will need to implement SMS under this final rule.

Internal FAA data indicate that all but four of these certificate holders have fewer than 1,500 employees.

Approximately **694 air tour operators** will have to implement SMS under the final rule**.**

Approximately 2,542 in all!

Subpart A—General 5.1 Applicability:

This part applies to all of the following:

(a) Any person that holds or applies for a certificate issued under Part 119 of this chapter authorizing the person to conduct operations under Part 121 of this chapter.

(b) Any person that holds or applies for a certificate issued under Part 119 of this chapter authorizing the person to conduct operations under Part 135 of this chapter.

(c) Any person that holds or applies for a Letter of Authorization issued under 91.147 of this chapter.

(d) Any person that holds both a type certificate and a production certificate issued under Part 21 of this chapter for the same product.

§ 5.9 Requirements for commuter and on-demand operations or passenger-carrying flights for compensation or hire:

(a) Any person authorized to conduct operations under Part 135 of

(b) this chapter or that holds a Letter of Authorization issued under

(c) 91.147 of this chapter before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], must:

(1) Develop and implement an SMS that meets the requirements of this part no later than [INSERT DATE 30 DAYS AND 36 MONTHS AFTER PUBLICATION IN THE FEDERAL REGISTER].

On April 26, 2024, FAA issued the final rule, "Safety Management Systems.

The rule became effective May 28, 2024

The implementation of an SMS, including the Declaration Letter must be complete by May 28, 2027

That's **810 days** from today

285 days have already passed since May 28, 2024 !

ACSF
SAFETY SYMPOSIUM
EMBRY-RIDDLE | DAYTONA BEACH, FL

U.S. Department of Transportation
Federal Aviation Administration

Advisory Circular

Subject: Safety Management Systems for Aviation Service Providers	**Date:** 5/21/24 **AC No:** 120-92D
	Initiated by: AFS-900 **Change:**

This advisory circular (AC) provides information on implementing a Safety Management System (SMS) based on Title 14 of the Code of Federal Regulations (14 CFR) part 5 for aviation service providers operating or applying for a certificate or Letter of Authorization (LOA) to operate under 14 CFR part 91, § 91.147 or part 121 or 135. This AC may also be used by aviation organizations interested in receiving Federal Aviation Administration (FAA) acknowledgement of their voluntary development and implementation of an SMS that meets part 5 requirements. Additionally, part 5 provides organizations with a method to meet the International Civil Aviation Organization (ICAO) Annex 19, Safety Management, framework for an SMS "acceptable to the State."

An SMS is an organization-wide, comprehensive, and preventive approach to ensuring system safety. An SMS includes a safety policy, promotion of a positive safety culture, formal methods for identifying hazards and mitigating risk, and assurance of the overall safety performance of aviation organizations. An SMS is intended to be designed and developed so the aviation organization's employees are able to manage risks as a part of the operations and business decision-making processes. An SMS assists an aviation organization's leadership, management teams, and employees in making effective and informed safety decisions.

Part 5 specifies a basic set of processes integral to an effective SMS but does not specify particular methods for implementing these processes. In other words, it defines what must be accomplished but not how it must be accomplished. This AC provides guidance on how an SMS may be developed to achieve the safety performance objectives outlined by an aviation organization. As is demonstrated by this AC, there is no one-size-fits-all method for complying with the requirements of part 5 or establishing a voluntary SMS. This is intentional because the FAA expects each organization to develop an SMS that works for their unique operation. This AC provides guidance regarding designing, developing, and implementing an SMS and the acceptable methods of compliance with the requirements of part 5 as well as developing a voluntary SMS. However, these methods are not the only means of complying with part 5 or implementing a voluntary SMS.

Hugh Thomas for
Lawrence Fields
Executive Director, Flight Standards Service

CHAPTER 2. SAFETY MANAGEMENT SYSTEM (SMS) FOUNDATIONS

2.1 SMS Fundamentals.

2.1.1 What is an SMS? An SMS is a formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of safety risk controls. It includes systematic procedures, practices, and policies for the management of safety risk. An SMS does not have to be an extensive, expensive, or sophisticated array of techniques to do what it is supposed to do. Rather, an SMS is built by structuring safety management around four components: safety policy, Safety Risk Management (SRM), safety assurance, and safety promotion. A brief description of these components is provided below.

2.1.2 Safety Policy. Safety policy is where an aviation organization sets objectives, assigns responsibilities, and sets standards for the organization and employees. It is also where management conveys its commitment to the safety performance of the organization to its employees. As SRM and safety assurance processes are developed, the aviation organization revisits the safety policy to ensure that the commitments in the policy are being realized and the standards are being upheld.

2.1.3 Safety Risk Management (SRM). The SRM component provides a decision-making process for identifying hazards and mitigating risk based on a thorough understanding of the organization's systems and their operating environment. SRM includes decision making regarding what level of safety risk is acceptable. The SRM component is the organization's way of fulfilling its commitment to consider risk in their operations and to eliminate risk or reduce it to an acceptable level. In that sense, SRM is a design process and a way to incorporate risk controls into processes, products, and services or to redesign controls where existing ones are not meeting the organization's expectations.

2.1.4 Safety Assurance. Safety assurance provides aviation organizations with the necessary processes to promote confidence that the system is meeting defined safety objectives and that implemented mitigations or existing risk controls are working. In safety assurance, the goal is to monitor what is going on and review what has happened to ensure safety objectives are being met. Thus, safety assurance requires monitoring and measuring safety performance of operational processes and continuously improving the level of safety performance. Strong safety assurance processes will yield information used to maintain the integrity of risk controls. Safety assurance processes are thus a means of assuring the safety performance of the organization, keeping it on track, and identifying needs for rethinking (or correcting) existing processes.

2.1.5 Safety Promotion. The last component, safety promotion, is designed to ensure that employees have a solid understanding regarding their safety responsibilities and the aviation organization's safety policies and expectations, reporting procedures, and risk controls. Thus, training and communication are key areas of safety promotion.

2.1.6 Summary. An SMS does not have to be large, complex, or expensive in order to add value. Active involvement of operational leaders, maintaining open lines of

§ 5.9, Requirements for commuter and on-demand operations or passenger-carrying flights for compensation or hire.

(a) Any person authorized to conduct operations under Part 135 of this chapter or that holds a Letter of Authorization issued under 91.147 of this chapter before May 28, 2024, must:

(1) Develop and implement an SMS that meets the requirements of this part no later than May 28, 2027.

(2) Submit to the FAA, a declaration of compliance with this part in a form and manner acceptable to the Administrator no later than May 28, 2027.

(b) Any person applying for authorization to conduct operations under Part 135 of this chapter or a Letter of Authorization under 91.147 of this chapter, or with such application pending on or after May 28, 2024, must develop and implement an SMS that meets the requirements of this part.

(c) Any person required to develop and implement an SMS under this section must maintain the SMS as long as the person is authorized to conduct operations under either Part 135 or 91.147 of this chapter.

(d) Any person required to develop and implement an SMS under this section must make available to the Administrator, upon request, all necessary information and data that demonstrates that the person has an SMS that meets the requirements set forth in this part.

3.2.5.3.2 A declaration of compliance must contain the following information:

1. The name of the aviation organization and its certificate number (if applicable).

2. The physical address of the aviation organization.

3. A statement that the aviation organization has developed and implemented an SMS that meets the requirements of Part 5.

3.2.5.3.3 The declaration of compliance must be signed by the Accountable Executive or another senior member of management.

3.2.5.3.4 Once the FAA receives the declaration of compliance, the CMO will update the organization's status in an internal FAA database noting that they have an SMS or a voluntary SMS that meets Part 5 requirements. Validation of SMS performance will occur as a part of routine surveillance activities. Areas found deficient will be addressed using existing methods for ensuring compliance with the regulatory requirements.

3.2.5.3.7 New Part 135 applicants must meet Part 5 requirements as a part of the certification process. The CPM will brief the new applicants on the SMS requirements during initial meetings.

For guidance on preparation of a compliance statement, see Appendix D. More information on the certification process is contained in the Air Operator and Air Agency Certification and Application Process In Order 8900.1, Volume 2, Chapter 4.

Title 14 —Aeronautics and Space

Chapter I —Federal Aviation Administration, Department of Transportation

Subchapter A —Definitions and General Requirements

Part 5 Safety Management Systems

  Subpart A General

    § 5.1 Applicability.

    § 5.3 General requirements.

    § 5.5 Definitions.

Subpart B Safety Policy

§ 5.21 Safety policy.

§ 5.23 Safety accountability and authority.

§ 5.25 Designation and responsibilities of required safety management personnel.

§ 5.27 Coordination of emergency response planning.

Subpart C Safety Risk Management

§ 5.51 Applicability.

§ 5.53 System analysis and hazard identification.

§ 5.55 Safety risk assessment and control.

Subpart D Safety Assurance

§ 5.71 Safety performance monitoring and measurement.

§ 5.73 Safety performance assessment.

§ 5.75 Continuous improvement.

Subpart E Safety Promotion

§ 5.91   Competencies and training.

§ 5.93   Safety communication.

Subpart F SMS Documentation and Recordkeeping

§ 5.95 SMS documentation.

§ 5.97 SMS records.

Safety performance means realized or actual safety accomplishment relative to the organization's safety objectives.

Safety policy means the certificate holder's documented commitment to safety, which defines its safety objectives and the accountabilities and responsibilities of its employees in regards to safety.

Safety promotion means a combination of training and communication of safety information to support the implementation and operation of an SMS in an organization.

Safety Risk Management means a process within the SMS composed of describing the system, identifying the hazards, and analyzing, assessing and controlling risk.

Subpart B—Safety Policy

§ 5.21 Safety policy.

(a) The certificate holder must have a safety policy that includes at least the following:

  (1) The safety objectives of the certificate holder.

  (2) A commitment of the certificate holder to fulfill the organization's safety objectives.

  (3) A clear statement about the provision of the necessary resources for the implementation of the SMS.

  (4) A safety reporting policy that defines requirements for employee reporting of safety hazards or issues.

  (5) A policy that defines unacceptable behavior and conditions for disciplinary action.

  (6) An emergency response plan that provides for the safe transition from normal to emergency operations in accordance with the requirements of § 5.27.

(b) The safety policy must be signed by the accountable executive described in § 5.25.

(c) The safety policy must be documented and communicated throughout the certificate holder's organization.

(d) The safety policy must be regularly reviewed by the accountable executive to ensure it remains relevant and appropriate to the certificate holder.

§ 5.23 Safety accountability and authority.

(a) The certificate holder must define accountability for safety within the organization's safety policy for the following individuals:

  (1) Accountable executive, as described in § 5.25.

  (2) All members of management in regard to developing, implementing, and maintaining SMS processes within their area of responsibility, including, but not limited to:

    (i) Hazard identification and safety risk assessment.

    (ii) Assuring the effectiveness of safety risk controls.

    (iii) Promoting safety as required in subpart E of this part.

    (iv) Advising the accountable executive on the performance of the SMS and on any need for improvement.

(3)   Employees relative to the certificate holder's safety performance.

(b)   The certificate holder must identify the levels of management with the authority to make decisions regarding safety risk acceptance.

§ 5.25 Designation and responsibilities of required safety management personnel.

(a)   *Designation of the accountable executive.* The certificate holder must identify an accountable executive who, irrespective of other functions, satisfies the following:

(1)   Is the final authority over operations authorized to be conducted under the certificate holder's certificate(s).

(2)   Controls the financial resources required for the operations to be conducted under the certificate holder's certificate(s).

(3)   Controls the human resources required for the operations authorized to be conducted under the certificate holder's certificate(s).

(4)   Retains ultimate responsibility for the safety performance of the operations conducted under the certificate holder's certificate.

(b)   *Responsibilities of the accountable executive.* The accountable executive must accomplish the following:

(1)   Ensure that the SMS is properly implemented and performing in all areas of the certificate holder's organization.

(2)   Develop and sign the safety policy of the certificate holder.

(3)   Communicate the safety policy throughout the certificate holder's organization.

(4)   Regularly review the certificate holder's safety policy to ensure it remains relevant and appropriate to the certificate holder.

(5)   Regularly review the safety performance of the certificate holder's organization and direct actions necessary to address substandard safety performance in accordance with § 5.75.

(c)   *Designation of management personnel.* The accountable executive must designate sufficient management personnel who, on behalf of the accountable executive, are responsible for the following:

(1)   Coordinate implementation, maintenance, and integration of the SMS throughout the certificate holder's organization.

(2)   Facilitate hazard identification and safety risk analysis.

(3)   Monitor the effectiveness of safety risk controls.

(4)   Ensure safety promotion throughout the certificate holder's organization as required in subpart E of this part.

(5)   Regularly report to the accountable executive on the performance of the SMS and on any need for improvement.

§ 5.27 Coordination of emergency response planning.

Where emergency response procedures are necessary, the certificate holder must develop and the accountable executive must approve as part of the safety policy, an emergency response plan that addresses at least the following:

(a) Delegation of emergency authority throughout the certificate holder's organization;

(b) Assignment of employee responsibilities during the emergency; and

(c) Coordination of the certificate holder's emergency response plans with the emergency response plans of other organizations it must interface with during the provision of its services.

Subpart C—Safety Risk Management

§ 5.51 Applicability.

A certificate holder must apply safety risk management to the following:

(a) Implementation of new systems.

(b) Revision of existing systems.

(c) Development of operational procedures.

(d) Identification of hazards or ineffective risk controls through the safety assurance processes in subpart D of this part.

§ 5.53 System analysis and hazard identification.

(a) When applying safety risk management, the certificate holder must analyze the systems identified in § 5.51. Those system analyses must be used to identify hazards under paragraph (c) of this section, and in developing and implementing risk controls related to the system under § 5.55(c).

(b) In conducting the system analysis, the following information must be considered:

(1) Function and purpose of the system.

(2) The system's operating environment.

(3) An outline of the system's processes and procedures.

(4) The personnel, equipment, and facilities necessary for operation of the system.

(c) The certificate holder must develop and maintain processes to identify hazards within the context of the system analysis.

§ 5.55 Safety risk assessment and control.

(a) The certificate holder must develop and maintain processes to analyze safety risk associated with the hazards identified in § 5.53(c).

(b) The certificate holder must define a process for conducting risk assessment that allows for the determination of acceptable safety risk.

(c)　The certificate holder must develop and maintain processes to develop safety risk controls that are necessary as a result of the safety risk assessment process under paragraph (b) of this section.

(d)　The certificate holder must evaluate whether the risk will be acceptable with the proposed safety risk control applied, before the safety risk control is implemented.

Subpart D—Safety Assurance

§ 5.71 Safety performance monitoring and measurement.

(a)　The certificate holder must develop and maintain processes and systems to acquire data with respect to its operations, products, and services to monitor the safety performance of the organization. These processes and systems must include, at a minimum, the following:

(1)　Monitoring of operational processes.

(2)　Monitoring of the operational environment to detect changes.

(3)　Auditing of operational processes and systems.

(4)　Evaluations of the SMS and operational processes and systems.

(5)　Investigations of incidents and accidents.

(6)　Investigations of reports regarding potential non-compliance with regulatory standards or other safety risk controls established by the certificate holder through the safety risk management process established in subpart C of this part.

(7)　A confidential employee reporting system in which employees can report hazards, issues, concerns, occurrences, incidents, as well as propose solutions and safety improvements.

(b)　The certificate holder must develop and maintain processes that analyze the data acquired through the processes and systems identified under paragraph (a) of this section and any other relevant data with respect to its operations, products, and services.

[80 FR 1326, Jan. 8, 2015, as amended at 82 FR 24010, May 25, 2017]

§ 5.73 Safety performance assessment.

(a)　The certificate holder must conduct assessments of its safety performance against its safety objectives, which include reviews by the accountable executive, to:

(1)　Ensure compliance with the safety risk controls established by the certificate holder.

(2)　Evaluate the performance of the SMS.

(3)　Evaluate the effectiveness of the safety risk controls established under § 5.55(c) and identify any ineffective controls.

(4)　Identify changes in the operational environment that may introduce new hazards.

(5)　Identify new hazards.

(b)　Upon completion of the assessment, if ineffective controls or new hazards are identified under paragraphs (a)(2) through (5) of this section, the certificate holder must use the safety risk management process described in subpart C of this part.

§ 5.75 Continuous improvement.

The certificate holder must establish and implement processes to correct safety performance deficiencies identified in the assessments conducted under § 5.73.

Subpart E—Safety Promotion

§ 5.91 Competencies and training.

The certificate holder must provide training to each individual identified in § 5.23 to ensure the individuals attain and maintain the competencies necessary to perform their duties relevant to the operation and performance of the SMS.

§ 5.93 Safety communication.

The certificate holder must develop and maintain means for communicating safety information that, at a minimum:

(a) Ensures that employees are aware of the SMS policies, processes, and tools that are relevant to their responsibilities.

(b) Conveys hazard information relevant to the employee's responsibilities.

(c) Explains why safety actions have been taken.

(d) Explains why safety procedures are introduced or changed.

Subpart F—SMS Documentation and Recordkeeping

§ 5.95 SMS documentation.

The certificate holder must develop and maintain SMS documentation that describes the certificate holder's:

(a) Safety policy.

(b) SMS processes and procedures.

§ 5.97 SMS records.

(a) The certificate holder must maintain records of outputs of safety risk management processes as described in subpart C of this part. Such records must be retained for as long as the control remains relevant to the operation.

(b) The certificate holder must maintain records of outputs of safety assurance processes as described in subpart D of this part. Such records must be retained for a minimum of 5 years.

(c) The certificate holder must maintain a record of all training provided under § 5.91 for each individual. Such records must be retained for as long as the individual is employed by the certificate holder.

(d) The certificate holder must retain records of all communications provided under § 5.93 for a minimum of 24 consecutive calendar months.
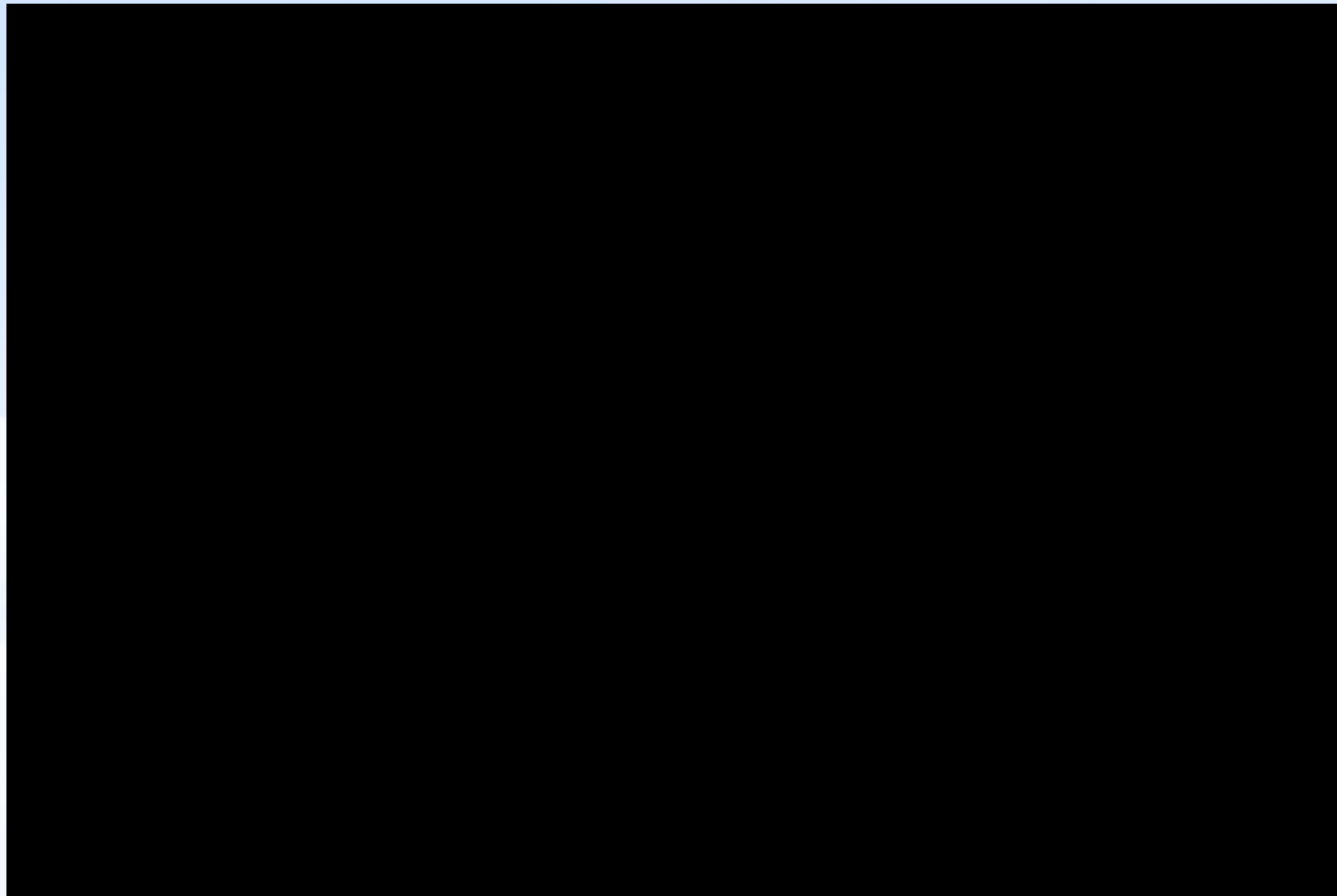
What Are We Going To Do?

1. Setting up an SMS from scratch is time-consuming

2. Get help. This is a case where outside help can save you time and money

3. Earlier is better (FAA would like to see one year's worth of data)
    1. Waiting until the last minute will result in limited data and little time to correct gaps that occur
    2. Waiting will result in delays in being entered into the FAA database as compliant.
    3. Show documentation and implementation for each section of Part 5

4. Get an objective third party to audit you for compliance

ACSF Lite Meets Part 5 Requirements

Designed for smaller operators

Audits for Part 5 compliance

The certificate states, "ACSF auditors found compliance with Part 5

Individualized

Not prescriptive

Scalable

The Gateway to ASAP!

Questions/Discussion?