



**FAA**  
**Office of Airports**

# **FAA Responses to Clarifying Questions**

## **About Proposed Rulemaking for Safety Management System for Certificated Airports**

*For Docket Number FAA-2010-0997*

# Table of Contents

|   |           |
|---|-----------|
| <b>Background .....</b>   | <b>3</b>  |
| <b>Technical Questions.....</b>                                     | <b>3</b>  |
| Applicability .....   | 4         |
| Safety Policy .....   | 6         |
| Safety Risk Management.....   | 7         |
| Safety Assurance .....  | 13        |
| Safety Promotion.....   | 14        |
| Compliance .....  | 15        |
| Regulatory Oversight .....  | 19        |
| Integration .....   | 26        |
| National Database.....  | 27        |
| <b>Legal Questions .....</b>  | <b>28</b> |
| <b>Regulatory Evaluation Questions .....</b>                        | <b>31</b> |
| <b>Airport Improvement Program (AIP) Eligibility.....</b>           | <b>34</b> |
| <b>Questions Outside Scope of NPRM .....</b>                        | <b>36</b> |
| General Aviation Airports .....                                     | 36        |
| FAA Office of Airports SMS .....                                    | 36        |
| Safety Enhancements Proposal.....                                   | 37        |
| <b>Appendix A – List of Organizations Submitting Questions.....</b> | <b>39</b> |

## **Background**

On October 7, 2010, the Federal Aviation Administration (FAA) published a Notice of Proposed Rulemaking (NPRM) in the Federal Register titled “Safety Management System for Certificated Airports” (75 FR 62008). The proposal would require each holder of an Airport Operating Certificate issued under 14 CFR Part 139 to establish a safety management system (SMS) for its entire airfield environment (including movement and non-movement areas) to improve safety at airports hosting air carrier operations. As stated in the preamble, “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.”

Interested parties or individuals originally had until January 5, 2011, to submit comments to the docket. However, after receiving numerous requests for additional time to comment, the FAA extended the comment period to March 7, 2011. The American Association of Airport Executives (AAAE) and Airports Council International – North America (ACI-NA) requested the FAA provide additional information supporting the proposed rule and again extend the comment period to allow more time for the public to analyze and comment on that information. In response, the FAA extended the comment period to July 5, 2011, and committed to publishing a summary report on several FAA SMS pilot studies. Also, the FAA established a procedure for handling clarifying questions to the proposed rule.

This document addresses clarifying questions submitted about the above-referenced NPRM. This document does not represent a final agency decision on any aspect of the proposal. Additionally, the clarifications provided in this document apply only to the NPRM and not to any final rule. The FAA expects the final rule may vary significantly from the proposal, and the agency remains open to all comments by interested parties.

The FAA received questions from ten organizations or individuals (see Appendix A). The FAA has grouped its responses to the request for clarification. Many parties submitting clarification requests submitted substantially similar questions. Accordingly, this document responds generally to the questions asked but may not identify the requestor or use the same wording because the FAA has decided this is the most efficient and effective way to respond to the requests.

## **Technical Questions**

The majority of submissions were technical questions related to the proposal. The FAA analyzed each question for relevance, subject matter, and response. The technical questions are answered based on subject matter in the proposal.

## Applicability

1. *If it is a requirement of the proposal to incorporate an SMS within the next few months, why is it not appropriate to simply state as an element in the table (see page 62011) a requirement to maintain a Safety Management System? (ACI-NA, Austin)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

2. *What does the FAA intend by the term "prescribe" in its Discussion of the Proposal "(2) a new 139.402 that would prescribe the components of an airport SMS." Is the intent to provide airports with general guidelines or as the NPRM mentions later on page 62011, flexible, adaptable, scalable, general framework of SMS and maximum amount of flexibility or does the FAA anticipate structured guidelines? (Landry/Fleet)*

The FAA prescribes the components and basic elements required within the four components. Hence, an approved airport SMS must include those prescribed components and elements. How a certificate holder implements those prescribed elements and components is left to its discretion so it can tailor the SMS to its unique operating environment. The FAA does not anticipate structured guidelines.

3. *In the discussion of the Minimum Elements of SMS, it is suggested that the SMS "is scalable to the size and complexity of the certificate holder." It is clear that it is not the intent of the proposal that an airport of smaller or less complexity could leave out certain elements of the SMS. How then is the program scalable? (ACI-NA, Austin)*

As stated in the NPRM preamble, the FAA envisions an SMS as an adaptable and scalable system. An organization can develop an SMS to meet its unique operating environment. For those reasons, this proposal would allow an airport the maximum amount of flexibility to develop and achieve its safety goals. Throughout the preamble, the FAA provides examples for how the SMS requirements are scalable based on the airport's operating environment.

4. *Will the FAA be providing specific guidance on how military joint-use airports will be expected to implement the requirements of the NPRM? Will the FAA provide assistance and guidance in working with the Department of Defense (DOD) in this matter? (AAAE, Fairbanks)*

The NPRM does not apply to DOD facilities at joint-use airports, but the certificate holder may invite the military facility to participate in SMS activities.

5. *Will general aviation areas at airports owned or operated by a part 139 airport be included in the certificate holder's SMS requirements? (AAAE, ACI-NA, Fairbanks)*

The proposal requires the certificate holder to have an approved SMS that encompasses "aircraft operations in the movement area, aircraft operations in the non-movement area, and other airport operations addressed in this part." The proposal gives the certificate holder flexibility to scale the implementation of the proposed requirements to its unique operations.

6. *Would the non-movement area subject to SMS include paved portions of the airfield that are not accessible to aircraft? Would the non-movement area include the interior of hangars or other structures? Does the non-movement area definition/description delineate between exclusive use, leased ramps, and airport-operated areas? Will the FAA hold airports responsible for implementing SMS in areas leased to others? Will the airport's SMS apply to areas leased exclusively by an air carrier with an SMS? How will the airport assert control and regulate areas leased to and controlled by third parties, such as airlines or ground handlers? (AAAE, ACI-NA, Fairbanks, Maryland Aviation Administration)*

The FAA proposes that the non-movement area be defined as locations for "loading, unloading, parking, and movement of aircraft on the airside of the airport (including without limitation, ramps, apron areas, and on-airport fuel farms.)" This definition does not include the interior of hangars.

The definition would apply to the entire non-movement area regardless of lease arrangements. The proposal includes broad requirements meant to give the airport flexibility to implement an SMS for its unique operating environment. There is the potential for an airport to update its airport rules and regulations, revise clauses in lease agreements at their next renewal cycle, and renegotiate lease agreements where appropriate. This proposal does not require airport tenants to have a separate SMS; it is applicable to Airport Operating Certificate holders only. Each airport would have to assess what actions it will have to take to comply with the proposed rule.

7. *What is the intended scope of SMS within the non-movement area? In other words, is SMS intended to address only aircraft safety or is it intended to address safety that is unrelated, or only nominally related, to aircraft? Would it, for example, encompass the safety of workers on and around aircraft? Ground vehicle safety? Passenger safety? (AAAE)*

The FAA has concluded that ensuring safety in air transportation requires that an SMS applies to any place that can affect safety during aircraft operations. An airport's SMS would apply to any safety issues including employee safety, ground vehicle safety, and passenger safety to the extent they are related to aircraft operations.

8. *Is the FAA's intent to continue to expand its regulatory authority into the non-movement area and setting other standards beyond the application of the SMS program? (ACI-NA, Austin)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this

document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

9. *Airports are seeking consistent terms through FAA regulatory documentation and guidance. Can airports assume the terms "components" is the official reference to describe Policy, Risk Assurance, and Promotion? (Landry/Fleet)*

As stated in the NPRM, "the FAA would require each airport SMS include the four SMS components: Safety Policy, SRM, Safety Assurance, and Safety Promotion. These components are equivalent to the International Civil Aviation Organization's (ICAO) SMS pillars." The use of "components" is consistent with the FAA's internal SMS efforts (including the Office of Airports, Air Traffic Organization, and Aviation Safety) and the part 121 SMS NPRM.

### **Safety Policy**

10. *What was the FAA's intent behind requiring the airport operator to identify an accountable executive? Is there any particular job description that complies with this definition? How will a publicly owned airport with human and budget resource policies controlled by publicly elected officials comply with the proposed definition? (ACI-NA, LRAA, AAEE, Maryland Aviation Administration, Austin)*

One of the key tenants to SMS is to actively engage airport management in airfield safety. SMS is a "management" system, and as such, it must have management commitment and responsibility. Identifying an accountable executive and defining that person's responsibilities is one way of ensuring this commitment.

As stated in the preamble, "[the] proposal would require an airport to identify an accountable executive. The FAA understands that airport operations and organizational structures vary widely. Accordingly, the FAA would not prescribe a particular job title. Nevertheless, the accountable executive must be a high-level manager who can influence safety-related decisions and has authority to approve operational decisions and changes because an effective SMS requires high-level management involvement in safety decisionmaking. Accordingly, the FAA proposes the international standard definition for an accountable executive (i.e., requiring the accountable executive to be an individual with ultimate responsibility and accountability, full control of the human and financial resources required to maintain the SMS, and final authority over operations and safety issues.)"

In the preamble, the FAA acknowledged that "it may be difficult for U.S. airports to identify an accountable executive meeting the international standard" and invited comments concerning the definition of accountable executive for certificated airports. While the FAA proposes the definition of accountable executive, it is the airport's decision, based on its unique operating environment, how to comply with the requirement.

11. *How does the FAA intend to guide, inspect, or review the concept of acceptable level of safety as required under the SMS Safety Policy component? (Landry/Fleet)*

The proposal would require the certificate holder to “establish[s] and maintain[s] safety objectives and the certificate holder’s acceptable level of safety.” The certificate holder would include these safety objectives in its approved Airport Certification Manual (ACM) and/or SMS Manual. During the approval process or subsequent inspection, the FAA would confirm the certificate holder has established safety objectives and an acceptable level of safety and verify that the acceptable level of safety does not fall below other part 139 requirements.

12. *Can the FAA define “employees” in its reference under Safety Policy “the statement typically would contain the following (i) the encouragement for employees to report safety issues without fear of reprisal.” (Landry/Fleet)*

The proposal uses the term “employees” to encompass those individuals working in the movement and non-movement area that could identify safety hazards and report those through the airport’s hazard reporting system.” Throughout the NPRM, the FAA invites comments on the use of the term, the proposed requirements, and their impacts.

### **Safety Risk Management**

13. *In the NPRM, the FAA proposes a definition of hazard that “means any existing or potential condition that can lead to injury, illness, death, or damage to or loss of a system, equipment, or property.” Would an alternative definition of hazard such as the inclusion of assumptions, statements, and actions aid in understandability? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

14. *Will the FAA provide guidelines for developing SRM risk matrices? Will airport operators be required to use a standard risk matrix such as the one included in the proposal? Whose SRM risk matrix (or SRM processes) is used if a panel of subject matter experts is used to conduct SRM? How will FAA ensure continuity of Likelihood and Severity criteria between certificated airports? (ACI-NA, Seattle, AAE, LRAA)*

The proposal would require airport operators to “establish a systematic process to analyze hazards and their associated risks by (i) describing the system; (ii) identifying hazards; (iii) analyzing the risk of identified hazards and/or proposed mitigations; (iv) assessing the level of risk associated with identified hazards; and, (v) mitigating the risks of identified hazards, when appropriate.”

To properly analyze the risk of identified hazards, an airport would need to define its levels of likelihood and severity, the two parts to determining safety risk. The FAA’s proposal does not

prescribe categories or levels of likelihood or severity. Rather, the FAA states “a certificate holder should develop tables commensurate with its operational needs and complexity.” While the FAA provides one example of likelihood and severity categories, the proposal allows for scalability based on the certificate holder’s unique operating environment.

The proposal also does not require the use of a predictive risk matrix. Rather, it requires the assessment of risk through comparison of the hazard’s severity and likelihood to the organization’s acceptable levels of risk. The NPRM provides the use of a predictive risk matrix as a technique for performing risk analysis. Just like in the proposal, the FAA will include examples and guidelines for developing a risk matrix in its Advisory Circular guidance.

When a panel of subject matter experts is used to analyze hazards and safety risks, the FAA envisions the SRM processes (e.g., severity and likelihood definitions, or risk levels) of the FAA line of business, airport, air carrier, or other organization responsible for the operational procedure or change would be used. For cases where FAA policies specifically require the FAA to lead the SRM process, the FAA’s SRM processes would be used.

*15. Who has the responsibility and authority to not only determine the final risk, but also to rate and prioritize expenditure of resources for implementation or corrective action? (LRAA)*

For an airport-initiated or led SRM process, the determination of final risk for any given hazard, mitigation, or implementation of mitigation would be left to the discretion of the certificate holder. The procedures and policies for these items should be included in the ACM and/or SMS Manual, where applicable.

*16. What is FAA’s role in the airport’s SRM process? Will FAA judge the success of the program based on SRM findings and/or the effectiveness of mitigations? Does the FAA intend only to regulate the framework of an SRM process to ensure it is functioning in accordance with the submitted and approved ACM and/or SMS Manual? (LRAA, AAAE)*

The proposal “would require a certificate holder to establish an SRM process to identify hazards and their associated risks, within the airport’s operations.” As stated in the preamble, “the FAA intends [its] review as an evaluation of whether a certificate holder’s SMS is functioning as it is intended to function rather than as a means to second guess a certificate holder’s decisions.” The FAA reserves the right to take appropriate action, however, “if during the course of an inspection, these processes are determined to have failed in discovering discrepancies with part 139 or have created new discrepancies.”

*17. Is the FAA’s intent for an airport to employ the SRM process to address every hazard? Will the FAA provide a means for airports to manage nuisance hazard reports submitted through the airport’s hazard reporting system? (ACI-NA, Fairbanks, Austin)*

The proposal would require the certificate holder to establish SRM “processes and procedures for identifying hazards and their associated risks within airport operations and for changes to those

operations covered by this part.” The FAA concedes in the preamble that “many airports already have hazard identification processes in place to ensure part 139 compliance.”

The airport would analyze all identified hazards associated with airport operations or changes in airport operations and within the scope of their approved ACM and/or SMS Manual. However, the extent of that analysis and the procedure for conducting that analysis is left to the airport’s discretion.

Furthermore, how the certificate holder analyzes nuisance hazard reports is left to its discretion. As the airport sets up procedures for its hazard reporting system, it should account for the intake and processing of these types of hazards.

*18. The SRM process seems to suggest a consensus decision on SRM processes that use a subject matter expert panel format for hazard analysis. Clarify the FAA’s participation in, and management of, SRM processes (airport-led SRM panels). What role if any will FAA Airport Certification Safety Inspectors (ACSIs) play and in what level will their decisionmaking weigh in as part of an airport’s SRM process? Is the FAA committed to have the resources to participate in these SRM processes? Who will initiate these SRM processes? Who will facilitate? Who will approve? If the FAA does not participate in the SRM process, will the findings be deemed valid? Will the FAA accept the recommendations of airport-led SRM panels? (Fairbanks, LRAA, Seattle)*

The proposal requires the airport to establish “Safety Risk Management processes and procedures for identifying hazards and their associated risks within airport operations and for changes to those operations covered under this part...” The preamble clarifies that for those operational changes that overlap with FAA SRM requirements<sup>1</sup> (i.e., approval of Construction Safety Phasing Plans), “the FAA expects that the certificate holder would participate in the FAA’s risk analysis instead of performing an independent risk analysis under its SMS.”

When and how an airport’s SRM processes are triggered will be determined by the airport and explained in their ACM and/or SMS Manual. How the analysis is conducted (e.g., whether a panel of experts is convened or an airport employee conducts the analysis) and who approves the analysis would all be identified in the ACM and/or SMS Manual.

If requested, the FAA will participate as time and resources permit. Furthermore, the preamble clearly explains that “the FAA intends its review as an evaluation of whether a certificate holder’s SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder’s decisions.”

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<sup>1</sup> See FAA Order 8000.369, FAA Order 5200.11, FAA ATO SMS Manual v.2.1.

19. *Given the current federal budget climate, how will airports be assured that the FAA will participate in airport-led and initiated SRM processes with possibly limited staff? (AAAE)*

The FAA will participate when requested as time and resources permit.

20. *On page 62015, regarding SRM, the FAA states “Ultimately, the certificate holder would formally accept the risk or approve the mitigation plan as required by its SMS.” Does the FAA intend for this statement to be the case for those SRM processes performed by the FAA Air Traffic Organization? Will the FAA further clarify who accepts the residual risk(s) and mitigation plan? Does the FAA intend for all organizations (management) who participate in mitigation plans to accept the residual risk? (Landry/Fleet)*

The FAA intended the quoted language would apply to airport-led and initiated SRM processes. Regardless of who leads the SRM Panel, any panel member who accepts to implement a mitigation, would accept residual risk.

21. *What guidance will the FAA give airports on how to establish a baseline if they do not have an archive of baseline data? (AAAE)*

The FAA will include guidance on baselining in its Advisory Circular guidance.

22. *Is it the intent that the “accountable executive” be aware of and approve all efforts to address a hazard observation or report? (ACI-NA)*

The proposal requires the certificate holder to “report pertinent safety information and data on a regular basis to the accountable executive. Reportable data includes without limitation...status of ongoing mitigations required under the airport’s safety risk management processes.” The proposal does not include a requirement for the accountable executive to approve all efforts to address a hazard observation or report.

23. *Does the FAA intend to develop specific criteria by which it would determine whether specific risk mitigations are adequate? (ACI-NA)*

The proposal would require a certificate holder to “provide a means for monitoring safety performance.” Accordingly, the airport’s safety assurance component should have methods and procedures to assess whether risk mitigations performed under SRM are having their intended effect. When inspecting, “the FAA intends its review as an evaluation of whether a certificate holder’s SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder’s decisions.”

24. *How does the FAA anticipate managing differing SRM outcomes as a result of differing tolerances for acceptable risk throughout the industry? (ACI-NA, AAEE)*

When inspecting, "the FAA intends its review as an evaluation of whether a certificate holder's SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder's decisions." The FAA does not intend to compare SRM findings or outcomes from one airport to another.

25. *Can an airport utilize the SRM findings from another airport of similar change or project in lieu of performing its own assessment? Can an airport perform an abbreviated SRM process to consider only local, site specific issues and utilize findings/mitigation measures for another airport's assessment as the substantive finding? Can an airport use an existing assessment from an airline or other tenant's SMS? (Seattle, Fairbanks)*

There may be circumstances when a certificate holder could use the SRM findings from another organization's SRM processes, provided airport-specific conditions and hazards are considered in the analysis by persons with operational expertise. Many airports may find using another organization's analysis challenging because that SMS may include different definitions of acceptable levels of risk, severity, likelihood, and SRM processes.

26. *On page 62008, under Background, the FAA states "as the demand for air transportation increases, the impacts of additional air traffic and surface operations, changes in air traffic procedures, and airport construction can heighten the risks of aircraft operations." This statement implies the FAA is only considering changes to the airport and airport system. Will the FAA provide direction that only changes should be considered for SRM processes after a certain date (e.g. like FAA Air Traffic Organization did with changes to the NAS)? (Landry/Fleet)*

The airport's SRM processes would detail methods and procedures for identifying hazards and their associated risks within existing airport operations and changes to operations from the effective date of the final rule. If an airport discovers an existing hazard after the effective date, it would be required to follow its SRM processes as detailed in the approved ACM and/or SMS Manual.

27. *Will the FAA provide examples, templates, or other informational guides to assist airport with the SRM requirements? (Landry/Fleet)*

As stated in the preamble, "the FAA intends to publish any accompanying Advisory Circulars prior to the final rule." The Advisory Circular will provide guidance material to help certificate holders comply with part 139. The FAA expects to include examples, templates, and other information to assist certificate holders where applicable.

28. *Would it be beneficial for airports to have a standardized template for conducting the SRM process through safety risk assessments, especially if assessments relate to coordination with other FAA lines of business such as the FAA's Air Traffic Organization? (Landry/Fleet)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

29. *Would a longer retention period for mitigations provide better trending and analysis of data? This may be useful for mitigations that include changes in process or practices to determine if institutionalization of the change results in improved safety. (Landry/Fleet)*

The proposal includes a records retention of SRM process documents for the longer of "thirty-six consecutive calendar months after the risk analysis of identified hazards...has been completed or twelve consecutive calendar months after mitigations...have been implemented." An airport could choose to implement a record retention policy longer than any FAA requirement.

30. *Does the FAA intend to use the term Safety Risk Assessment (SRA) as a standard for the process of assessing or analyzing risk? This question relates to the FAA Air Traffic Organization's use of the term Safety Risk Management Document (SRMD) and Safety Risk Management Decision Memo (SRMDM) which are similar processes yet employ different terms? (Landry/Fleet)*

Under this proposal, the FAA uses the term SRM and SRM processes.<sup>2</sup>

31. *Under § 139.402, Components of Airport Safety Management System, (b) Safety Risk Management, (1) Establish a system for identifying safety hazard, is this intended to say "hazards"? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

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<sup>2</sup> FAA's Office of Airports is proposing the term "Safety Risk Assessment" to describe the process and documentation associated with its own internal SRM processes (See FAA Order 5200.11). FAA's Air Traffic Organization (ATO) uses the terms SRMD and SRMDM for documentation associated with its SRM processes.

## **Safety Assurance**

32. *Does the FAA intend to provide qualified staff or guidelines for staff qualifications to conduct audits relating to quality assurance programs? Could airports conduct audits of each other? (Landry/Fleet)*

The NPRM does not require third party audits or audits relating to quality assurance programs.

33. *It appears that record retention and reporting are considered important aspects of promotion; therefore, how does the FAA anticipate the use of technology to support promotion without allocated funding? (Landry/Fleet)*

The NPRM proposes a general framework. How the certificate holder retains records is left to its discretion.

34. *How will the FAA incorporate into airport SMS data from other sources such as NASA, and make this information available to airports? (Seattle)*

Under the proposal, the FAA does not prescribe what data sources an airport must use as part of its SRM processes. An airport may find it useful to gather data or information from databases such as NASA's Aviation Safety Reporting System (ASRS) and FAA's Aviation Safety Information Analysis and Sharing System (ASIAS).

35. *What does the term "process management functions" mean? Is there a clearer way of saying this? Shouldn't all the internal inspections, audits, and tests that an airport does to ensure that it is operating in conformance with its ACM be included here? Isn't non-compliance with a standard operating procedure or regulation by definition a hazard that, therefore, would come under the purview of safety assurance in an SMS? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

36. *See 139.401(b), General Requirements, "and other airport operations addressed in this part." Is this intended to mean "and other activities in the airport environment that generate hazards and reduce the level of safety of the airport operating environment?" Where else would they be reported if not to the airport SMS hazard reporting channels? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

37. *In the NPRM, “(3) Provide for regular assessment”, isn’t this more appropriately placed in (c) Safety Assurance? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

38. *In the NPRM, under 139.401(c), Safety Assurance, “(2) establish and maintain a hazard reporting system,” shouldn’t this be in (b) Safety Risk Management? (USC)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

### **Safety Promotion**

39. *Would airports be permitted under the proposed rule to delegate training and recordkeeping responsibility to, for example, their tenants? (AAAE)*

These proposed requirements are similar to existing recordkeeping and training requirements under part 139. Provided the certificate holder has access to those records and the training is being provided according to the approved ACM and/or SMS Manual, compliance is met.

40. *What is the proposed scope of the training requirement in the proposal? What are the proposed definitions of “employee” and “tenant”? (AAAE)*

As stated in the preamble, “the SMS training requirement would apply to airport employees based on information obtained during the pilot studies.” The FAA “believes greater benefits may be achieved if that training requirement were applied to all individuals with access to the movement and non-movement areas, and it is considering that broader SMS training requirement.” The FAA invited comment on the practical and economic implication of the broader requirement.

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

41. *Clarify specific SMS training requirements for FAA Airport Certification Safety Inspectors (ACSIs), airport staff, airlines, ground handlers, AOA drivers, and persons having access to the AOA. (Seattle)*

As stated in the preamble, “part 139 currently prescribes numerous training and communications requirements that can be used in developing an SMS. Under an SMS, these requirements would

be enhanced and extended to more individuals operating on the airport because everyone has a role in promoting safety.” As an example, “instead of just training those airport employees on part 139 technical requirements (such as airfield driver training), an airport would ensure that all employees with access to the movement and non-movement areas receive training on operational safety and on the airport’s SMS.”

The training of FAA ACSIs will be substantially different than that for airport employees since the FAA is a regulator and not an operator. The FAA’s plans for inspector training are explained in other responses within this document.

As for the training requirements for specific positions on the airport, the FAA’s proposal is broad enough to allow flexibility and scalability based on the airport’s operating structure. The proposal would require the airport to have “safety promotion processes and procedures to foster an airport operating environment that encourages safety.” Under safety promotion, the airport would “provide formal safety training to each employee and tenant with access to airport areas regulated under this part that is appropriate to the individual’s role.”

## **Compliance**

*42. Will SMS be a part of the ACM or a separate program? (Fairbanks)*

The proposal allows flexibility for airport operators to either maintain a separate SMS Manual in addition to the ACM or maintain the SMS policy documentation directly in the ACM. As stated in the proposal, "if a certificate holder develops a separate manual, it would cross-reference the SMS requirements in its FAA-approved ACM."

*43. How soon after approval of an airport’s ACM and/or SMS Manual does the airport’s SMS program need to be operational? What are the timelines for implementation after SMS approval? (AAAE, ACI-NA, Fairbanks)*

As stated in the NPRM, the FAA proposes implementation for Class I certificate holders no later than 18 months after effective date of the final rule and 24 months after effective date for Class II, III, and IV certificate holders. The FAA expects that the airport's Implementation Plan, which is also required, would detail how the airport would achieve meeting these dates for implementation. The FAA did not propose any more detailed requirements because it believes the individual airport is in the best position to know how to implement SMS for its own organization.

*44. How did the FAA determine 6 months was an appropriate timeline to develop an SMS plan when only limited pilot study data has been made available? Most airports will require 8-12 months to program funding into their budget and another 3-6 months to develop a Request for Proposals and execute the contract. Was this taken into consideration when developing the NPRM? (AAAE, ACI-NA)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this

document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

*45. How did the FAA determine 18 months was an appropriate implementation timeline for Class I certificate holders when implementation pilot studies have yet to be completed? (AAAE, ACI-NA)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

*46. Can the FAA provide its definition of the term "phased implementation" as it is used in the NPRM? (ACI-NA, Landry/Fleet)*

The proposal does not take a phased approach. The preamble states "Based on findings from the pilot study, the FAA has determined that all components of an SMS are interrelated and must be implemented at the same time for an SMS to be effective. The FAA requests comments on the proposed implementation requirements and timeframes. If you believe the FAA should adopt a phased-in approach for the SMS components, please provide specific recommendations for how the requirements could be phased in and analysis of the effect on implementation costs and corresponding postponement of safety benefits."

*47. How is an SMS scalable, as stated in the NPRM, if an airport of smaller size or less complexity must include all minimum elements in its SMS? (ACI-NA, Austin)*

As for implementation, the FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

*48. How did the FAA come to the conclusion that a phased implementation is not appropriate for this program? If lessons learned from the currently active part 139 SMS Implementation Study reflect that a longer implementation period is revealed or recommended, will the FAA consider changing the timelines proposed under implementation? Would the FAA entertain phasing in the operational components of an airport SMS? Would the FAA consider a phased implementation using current budgeted available labor hours until additional positions could be funded and filled? Would the FAA consider implementing SMS for employees of the airport operator first and, once the system is running smoothly, incorporate airport employees of tenants and airlines at a later date? (ACI-NA, Austin, AAAE, Landry/Fleet)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

49. *In the past, the FAA has used the term “harmonize” with ICAO. Has the FAA’s position changed? Will the FAA consider allowing a phased approach to implementation of the components of SMS as ICAO has? (Landry/Fleet)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

50. *Where does the SMS program fit in relationship to FAA advisory circulars, other federal regulations (e.g., OSHA, NEPA, TSA), state regulations, and ordinances? How will SMS provide benefits beyond other regulatory and/or industry standards, state regulations, local ordinances, etc.? (LRAA)*

As stated in the preamble, “the FAA intends to publish any accompanying Advisory Circulars prior to the final rule.” Advisory Circulars provide guidance material to help airport operators comply with part 139. The FAA cannot promulgate rules or guidance for issues outside its legal authority.

TSA, OSHA, and EPA do not have regulatory authority over aviation safety. The National Fire Protection Association and the insurance industry are not regulators. State and local government regulations may or may not cover aviation safety issues covered under SMS. The FAA expects a certificate holder would develop and implement an SMS that complies with a final rule and fits in with its other regulatory requirements.

51. *The NPRM anticipates each airport’s SMS to be scalable and adaptable. LRAA has reviewed two pilot study airport SMS Manuals that appear to share striking similarities and appear nearly cookie cutter. The FAA should better define “scalable and adaptable” and relate these terms to overall agency expectations. How is the agency going to accomplish this in the regulation? Again, airport operator flexibility is important in that self-imposed industry standards will vary based on a myriad of factors. (LRAA)*

As stated in the NPRM preamble, the FAA envisions an SMS as an adaptable and scalable system. A certificate holder can develop an SMS to meet its unique operating environment. For those reasons, this proposal would allow an airport the maximum amount of flexibility to develop and achieve its safety goals. Throughout the preamble, the FAA provides examples for how the SMS requirements are scalable based on the airport’s operating environment.

52. *With regard to implementing the four components of SMS, how does this differ from meeting FAA safety standards and compliance requirements? (LRAA)*

In the preamble, FAA states "an SMS is not a substitute for compliance with FAA regulations or FAA oversight activities...an SMS would ensure compliance with safety-related statutory and regulatory requirements." Also, "SMS enhances the FAA's ability to understand the safety of

airport operations throughout the year, and not just when an FAA inspector is physically on the airfield."

*53. What measurable value is provided by exceeding FAA safety standards and what is the cost-benefit test? (LRAA)*

As stated in the NPRM, the FAA believes "an SMS is not a substitute for compliance with FAA regulations or FAA oversight activities.... An SMS enhances the FAA's ability to understand the safety of airport operations throughout the year and not just when an FAA inspector is physically on the airfield." The FAA proposes requiring the general SMS framework, leaving a certificate holder with flexibility for developing and implementing its SMS. Cost and benefit data for the proposal can be found in the NPRM and Regulatory Evaluation, both published to FAA Docket Number 2010-0997 on [www.regulations.gov](http://www.regulations.gov).

*54. What statement of commitment is strong enough for compliance? Does the FAA mean "the highest" or among the highest in its discussion of safety policy statement when it says "the statement typically would contain the following...(iii) a commitment to make safety the highest priority." (LRAA, Landry/Fleet)*

This proposal would require the certificate holder to establish a safety policy statement. The safety policy statement is similar to a corporate mission statement. It is an aspirational statement relating to safety at that airport.

*55. What is the proper method of employee encouragement to report safety-related issues (allegations)? (LRAA)*

The proposal requires training and communication and does not propose any encouragement or incentives beyond training and communication. An airport could choose to go beyond these requirements. The FAA believes that communication is encouragement in that it promotes a participative environment.

*56. What does a commitment to provide resources mean? What level of resources? Who determines sufficiency of resources? How does someone budget based on the probable unknown (proactive analysis)? What constitutes making safety the highest priority and how is that to be measured? How will FAA view the lack of consistency? (LRAA)*

The NRPM proposes a general SMS framework. How a certificate holder meets those requirements is left to its discretion. The FAA believes a certificate holder is in the best position to determine the amount of resources it requires to comply with a final rule.

57. *How much flexibility will exist for the manual and implementation plan and its verbiage, and is having an approved SMS Manual and implementation plan required to maintain compliance with part 139, grant assurances, Advisory Circulars, etc.? (LRAA)*

The NPRM does not propose an “approved” Implementation Plan. An Implementation Plan is a certificate holder’s unique plan to implement SMS, including airport-specific dates for rolling-out the various requirements for SMS compliance. The NPRM does require an approved SMS either through the update of the airport’s approved ACM or through a separate approved SMS Manual. Whatever is required in a final rule would need to be implemented by a certificate holder within the prescribed timelines to remain compliant with part 139.

### **Regulatory Oversight**

58. *Will the airport’s SMS program be “accepted” by the FAA or more formally “approved” by the FAA? (ACI-NA, Fairbanks)*

The NPRM proposes in §139.401, General Requirements, “Each certificate holder, or applicant for an Airport Operating Certificate, must develop and maintain an Airport Safety Management System that is approved by the Administrator.”

59. *The NPRM states that the FAA Certification Safety Inspector (ACSI) would review an airport operator’s SMS implementation plan, records, and follow-up actions to ensure compliance. How does the FAA propose to conduct inspections and review SMS programs in conjunction with an airport’s current ACM and inspection? Does the FAA expect any changes to the annual certification inspection related to SMS implementation? How will the system be tested to ensure consistency? Will the FAA provide guidance to FAA ACSIs that airports may design and employ a different matrix than the example presented in AC 150/5200-37, Introduction to Safety Management Systems for Airport Operators? How does the FAA intend to audit, inspect, or review SRM processes especially if it is anticipated that the acceptable level of risk will vary from airport to airport? (ACI-NA, Landry/Fleet, Maryland Aviation Administration, LRAA)*

Under SMS, FAA ACSIs will use similar means for inspecting and ensuring compliance with the approved ACM and, if applicable, the airport’s SMS Manual as they do currently for the ACM. The FAA intends to develop Advisory Circular guidance providing minimum standards for developing airport SMS. Further, the FAA intends to update its ACSI guidance materials and internal Orders and train all members of the inspector cadre before implementation.

The proposal would require certificate holders to “establish a systematic process to analyze hazards and their associated risks by (i) describing the system; (ii) identifying hazards; (iii) analyzing the risk of identified hazards and/or proposed mitigations; (iv) assessing the level of risk associated with identified hazards; and, (v) mitigating the risks of identified hazards, when appropriate.” To properly analyze the risk of identified hazards and their associated risks, a certificate holder would need to define acceptable levels of risk. The FAA’s proposal does not

prescribe categories or levels of risk. The FAA provides one example in the NPRM showing three levels of risk (high, medium, and low risk). The proposal allows for scalability based on the airport's unique operating and governing conditions. Therefore, the FAA would not compare acceptable levels of risk from airport to airport.

*60. The FAA has indicated it will update Advisory Circular guidance in conjunction with its rulemaking activities. Provide clarification on timing, format, and content of the update. Will the FAA take into consideration pilot study findings as it revises the Advisory Circular? How many and what topic areas are planned for the Advisory Circular? Will the final rule provide prescriptive requirements and the Advisory Circular more detail and structure for airports to allow for flexibility? (Landry/Fleet)*

The FAA addressed this question in its response to industry requests for more information. In Federal Register Notice (76 FR 12300) dated March 7, 2011, the FAA stated:

"In the NPRM, the FAA stated that it would develop and make available an Advisory Circular (AC) on SMS prior to issuance of the final rule. The FAA currently is developing that document. The FAA also is conducting a third pilot study on the implementation of SMS, which began after the NPRM was published. The purpose of the pilot study and AC is to facilitate implementation of the proposed rule and to provide additional examples of how an airport could develop and implement its SMS. The AC likely will provide multiple means to comply with the regulation, some which are outlined in the NPRM preamble, but the AC is not a substitute for the regulation nor does it provide the only means of compliance.

Additionally, the FAA does not anticipate the AC will expand the "scope and scale" of SMS from what is discussed in the NPRM and Initial Regulatory Evaluation. The FAA also does not anticipate the third pilot study or AC would result in significant changes to the proposed rule. Of course the FAA may change the rule after careful consideration of comments to the proposal.

Nevertheless, the FAA intends, as it routinely does, to publish a draft AC in advance of publication of any final rule. There will be opportunity for the public to comment on that draft AC, for the FAA to carefully consider those comments, and for the FAA to respond to those comments either before or simultaneously with publication of a final rule."

*61. Who approves: the accountable executive definitions, the safety policy and procedures, the SMS communications plan, the line of responsibility, establishment of objectives, and acceptable level of safety? If the answer is the FAA, how does the FAA reconcile its role as a participant versus a regulator with overarching approval of an SMS plan, process, and outcome? (LRAA)*

The certificate holder defines its own accountable executive, safety policy and procedures, communications, lines of responsibility, safety objectives, and acceptable level of safety. These

definitions will then be included in the airport's SMS Manual or directly in the ACM. The FAA will then approve the ACM and/or SMS Manual.

*62. Is the FAA planning on auditing airport standard operating procedures as part of the SMS program review? (Seattle, Landry/Fleet)*

The FAA will include as part of its inspection a review of the airport's approved ACM and, if applicable, the SMS Manual. The FAA ACSI will verify through airport records, interviews, and other means that the SMS is being communicated, training is being provided, and senior management is actively engaged in the management and oversight of the SMS.

*63. What is the FAA's definition of nonconformance? What are some examples of possible nonconformance elements associated with an SMS program (Seattle, Landry/Fleet)*

The FAA's use of the term "nonconformance" in the proposal refers to an airport's actions or documentation not conforming to the processes, procedures, or documentation approved in its ACM and/or SMS Manual.

As stated in the preamble, the FAA ACSI would verify through things like airport records, interviews, and other means that the SMS is being communicated, training is being provided, senior management is actively engaged in the management and oversight of the SMS, and the airport is complying with its FAA-approved ACM and, if applicable SMS Manual. For example, if the airport's approved ACM/SMS Manual includes the requirement that the hazard tracking system is used to track all hazard identified through SRM, and the airport is not using the hazard tracking system, that may be an area of "nonconformance" documented by the FAA ACSI.

*64. Regarding FAA ACSIs, when and how will they be trained on the SMS requirements? What type of technical training will they receive? (AAAE, Maryland Aviation Administration, Fairbanks)*

FAA ACSIs will receive training and guidance before implementation. This training and guidance will ensure they have the necessary tools to approve SMS-related submissions and inspect an airport's SMS.

*65. How will the FAA ensure consistency in program regulation throughout all regions? How will the FAA ensure new ACSIs will not overturn programs and processes that have been approved by other ACSIs? (AAAE, ACI-NA)*

ACSIs will receive training and guidance before implementation. This training and guidance will ensure they have the necessary tools to approve SMS-related submissions and inspect an airport's SMS.

66. *How will the FAA ensure adequate government resources are available to review and approve SMS program submittals and participate in all SRM processes? Has the FAA conducted any analysis to determine whether there will be sufficient trained staff resources available to review SMS Implementation Plans and SMS Manuals/ACM updates incorporating SMS? If so, can these be posted to the docket? (AAAE, ACI-NA)*

The FAA recognizes that safety is a high priority. The FAA has and continues to analyze resource impacts for the proposed rule. The FAA will review documents and participate in airport-initiated and led SRM panels as needed.

FAA ACSIs will receive training and guidance before implementation. This training and guidance will ensure they have the necessary tools to approve SMS-related submissions and inspect an airport's SMS.

67. *Is the FAA's position going to be to allow each airport's SRM findings to stand on its own or does it intend to measure airports against one another and mandate changes that occur at one facility to apply across a broader spectrum? How will the FAA ensure continuity of SMS findings and software (data collection) between airports and regions? How will the FAA share and accept SRM findings from one airport to another? (Seattle, Fairbanks, LRAA)*

The preamble explains that "the FAA intends its review as an evaluation of whether a certificate holder's SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder's decisions." The FAA does not intend to compare the SRM findings from one airport with another. FAA ACSIs, as part of their inspections, will review SRM documentation to verify whether the airport is applying procedures approved in its ACM and/or SMS Manual.

The FAA does not intend to compare the SRM findings, software, or other program elements from one airport with another. FAA ACSIs, as part of their inspections, will review SRM documentation to verify whether the airport is applying procedures approved in its ACM and/or SMS Manual.

68. *Does the FAA intend to regulate only the framework of an SMS program and SRM process to ensure it is functioning in accordance with the submitted and approved SMS program? Or will the FAA reserve the right to overturn collaborative SRM processes and modify the program components through the part 139 certification inspection process? (ACI-NA)*

Under SMS, ACSIs will use similar means for inspecting and ensuring compliance with the approved ACM and, if applicable, the SMS Manual as they do today for the ACM. FAA ACSIs, as part of their inspections, will review SRM documentation to verify whether the airport is applying procedures approved in its ACM and/or SMS Manual.

69. *How will the FAA address compliance and regulatory standards with regard to the variety and diversity of airports if each airport has the ability to manage its own SMS program in its own way? (Seattle, Landry/Fleet)*

The NPRM proposes broad requirements allowing certificate holders flexibility in developing and implementing an SMS scalable to their operating environments. As stated in the preamble, “an SMS is not a substitute for compliance with FAA regulations or FAA oversight activities. Rather, an SMS would ensure compliance with safety-related statutory and regulatory requirements. An SMS enhances the FAA’s ability to understand the safety of airport operations throughout the year, not just when an FAA inspector is physically on the airport [during periodic inspection.]” “The FAA intends this review as an evaluation of whether a certificate holder’s SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder’s decisions. However, if during the course of an inspection, these processes are determined to have failed in discovering discrepancies with part 139 or have created new discrepancies, the FAA would take appropriate action to ensure the airport corrects these non-compliance conditions.”

70. *In the NPRM, the FAA commits to not second guess airport SMS decisions. Can this be stated more explicitly in the final rule? (AAAE, ACI-NA)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal’s clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

71. *Is it the FAA’s intent to restrict a certificate holder’s ability to investigate and punish for grossly negligent, reckless, or intentional conduct? (ACI-NA, Austin, Landry/Fleet)*

The NPRM does not propose a non-punitive reporting system. Rather, it proposes a confidential reporting system. The proposal is not intended to restrict a certificate holder’s ability to enforce its rules and regulations.

72. *On page 62012 of the NPRM, under Safety Risk Management, the FAA says “there are many ways to accomplish this hazard identification, but all must use the following four elements: (1) Operational expertise; (2) Training in SMS (and, if possible, hazard analysis techniques); (3) A simple, but well-defined, hazard analysis tool; and (4) Adequate documentation of the process.” How does the FAA plan to review this particular requirement? (Landry/Fleet)*

The certificate holder should include how it intends to meet this standard in its ACM and/or SMS Manual. When reviewing the SRM documentation as part of the annual inspection, the FAA ACSI will verify whether the airport is applying procedures approved in its ACM and/or SMS Manual.

73. *Many airports participate in voluntary safety improvement programs for their facilities. Their programs are administered by organizations such as Underwriters Labs, Chubb Companies, and FM Global. It seems that making these types of facility recommendations subject to SRM analysis would be extremely redundant and could run counter to best industry practices. How does the FAA plan to address this situation? Will safety decisions agreed to by an airport operator to enhance insurability be subject to SRM as long as the FAA and/or industry standards are adhered to? (LRAA)*

Insurability is outside the scope of this NPRM. These programs appear to be very similar to elements within an SMS and may dovetail with the proposed rule. The certificate holder may be able to adapt a voluntary reporting system for one voluntary program to meet its SMS requirements proposed under this rule.

74. *Will the FAA assume it has access to third-party or internal audit reports? If so, how does the FAA plan on inspecting or reviewing this audit portion of the SMS program? (Landry/Fleet)*

The NPRM does not require third-party audits.

75. *Relating to audit reports, if an unmitigated high risk (or possible discrepancy) is discovered and documented as part of an internal or third-party report, will the FAA take a non-punitive approach to the finding if its is discovered during an FAA inspection? (Landry/Fleet)*

The NPRM does not require third-party audits. However, as stated in the NPRM, “if during the course of an inspection, these processes are determined to have failed in discovering discrepancies with part 139 or have created new discrepancies, the FAA would take appropriate action to ensure the airport corrects these non-compliant conditions.”

76. *How are airports expected to “demonstrate commitment to safety promotion in several ways...an airport could allocate sufficient resources for the initial and recurrent training of its staff,” if funding resources are limited or nonexistent? (Landry/Fleet)*

Throughout the preamble, the FAA provided examples of ways in which a certificate holder can use existing programs to serve as a foundation for developing its SMS. For example, the proposal would require the airport to have a hazard reporting system. The FAA states in the NPRM, “for some airports, the required data tracking, data reporting, and assessment programs already exist in other formats....Many airport have functional occupational safety programs in place with reporting, inspection, and training requirements. An airport can use these programs to build its operational SMS.”

77. *Clarify and explain the compliance and standards aspects of SMS with regard to the FAA’s part 139 oversight and certification program. (Seattle, Landry/Fleet)*

As stated in the NPRM, “an SMS is not a substitute for compliance with FAA regulations or FAA oversight activities.... SMS enhances the FAA’s ability to understand the safety of airport

operations throughout the year and not just when an FAA inspector is physically on the airfield.” The FAA will continue to conduct its part 139 safety inspections and proposes to include review of an approved SMS in its certification and inspection program.

*78. If airport operators decide at their location to implement SMS throughout the airport environment (including landside and terminal operations), will the FAA provide guidance on how FAA certification will address this issue, beyond what is described later in the NPRM? Will the FAA provide guidance to the certificate holder on how documentation of these areas should be managed (for ease of inspection and data management)? (Landry/Fleet)*

The proposal allows the certificate holder flexibility to develop an airport-wide SMS if it desires. However, the FAA proposed requirement and inspection authority would only extend to the movement and non-movement areas of the airport's airfield environment. The FAA intends to address the documentation of such an all-encompassing program in its Advisory Circular guidance.

*79. On page 62017 of the NPRM, under FAA's Role and Oversight, the FAA states "However, if during the course of an inspection, these processes are determined to have failed in discovering discrepancies with part 139 or have created new discrepancies..." Will the FAA define "failed"? Does failed constitute, one, two, or three identified discrepancies? Will the failed discrepancies be ranked, such that physical (lights, pavement, signage) reflect a higher indication of system failure than an administrative error in record keeping? Is the FAA intending to review and correct these discrepancies in a non-punitive manner? (Landry/Fleet)*

If an FAA ACSI finds a discrepancy with part 139, then the inspector would question whether the airport's SMS is functioning as it is intended to function because the proposed SMS requirements are intended to assist airports in identifying hazards rather than assist in complying in part 139.

The preamble explains "During an airport's periodic inspection, the FAA envisions an inspector reviewing the certificate holder's ACM to ensure that the SMS requirements are clearly identified and detailed in the ACM or referenced SMS Manual. The inspector would verify through airport records, interviews, and other means that the SMS is being communicated, training is being provided, and senior management is actively engaged in the management and oversight of the SMS." The FAA "intends this review as an evaluation of whether a certificate holder's SMS is functioning as it is intended to function rather than as a means for us to second guess a certificate holder's decisions. However, if during the course of an inspection, these processes are determined to have failed in discovering discrepancies with part 139 or have created new discrepancies, the FAA would take appropriate action to ensure the airport corrects these non-compliant conditions."

## Integration

*80. Would the airport be in compliance with the proposed rule if a hazard is reported through an air carrier's hazard or employee reporting system? Would the airport be in compliance if the risks associated with an identified hazard are evaluated through an air carrier's safety risk management processes rather than an airport's SRM processes? (AAAE)*

A certificate holder could comply with the hazard reporting requirement as long as the airport has policies, procedures, or agreements in place to ensure that the air carrier's reporting system shares airport-related information with the airport's hazard reporting system. The certificate holder may still need to have a separate hazard reporting system for airport employees and other tenants on the airport. Furthermore, the airport should be aware that the hazard reporting system is not the only way it can become aware of new hazards and, therefore should be able to analyze other hazards, not just those that may be sent through a tenant's hazard reporting system.

*81. How will the FAA compel airlines or ground handlers to report hazards/incidents/accidents into an airport hazard reporting system? (Seattle)*

The proposal would require a certificate holder to establish a hazard reporting system. However, the FAA does not propose to require an individual to report to the hazard reporting system. Through its safety promotion activities, the airport would inform tenants of its availability and encourage its use.

*82. How will the part 139 change interface with the part 121 change regarding SMS? How does the FAA intend to integrate SMS programs among the regulated parties and among FAA lines of business, organizations, and offices? (Austin, AAEE, Seattle)*

Under the proposal, a certificate holder would put in place policies, processes, and procedures to comply with the requirement. Implementation of that general framework is left largely to the certificate holder's discretion. However, in many instances, the certificate holder would have to work closely with its tenants, including part 121 carriers, to ensure that employees with access to the movement and non-movement areas of the airport have proper training and understand what issues should be reported to the airports hazard reporting system (and/or the air carrier's reporting system).

FAA lines of business are working cooperatively to integrate SMS components and elements where appropriate and maintain interoperable systems. The FAA has developed an agency-wide SMS Order, FAA Order 8000.369 and an FAA SMS Committee to harmonize requirements and ensure discrepancies between agency efforts are addressed while maintaining a safe aviation system. Many efforts are underway to address integrated risk between lines of business. The Office of Airports through FAA Order 5200.11, explains the roles and responsibilities for Headquarters, Regional, and Field Offices under its SMS.

83. *Can the FAA clarify how the proposed airport SMS would be required to function in an environment containing multiple SMS programs? (AAAE, ACI-NA, Fairbanks)*

While on their face, SMS programs may overlap, an airport's safety risk management and safety assurance activities would be specific to its operational jurisdiction or control. For example, under the proposal, a certificate holder would have procedures in place to examine safety risks associated with changes on the airport. An air carrier may have similar requirements under other rules. However, an airport would remain responsible for analyzing the hazards and safety risks associated with airport-specific operations.

84. *How will airports interact with tenants that do not have an SMS program? (Maryland Aviation Administration)*

There is no requirement in this proposal for a certificate holder to interact with another SMS. Regardless of whether a tenant has an SMS, the airport would still have to do some sort of outreach on reporting hazards and ensure training of those employees with access to the movement and non-movement areas.

85. *Who will determine the lead on SRM panels? Who has jurisdiction and why? Whose findings and/or recommendation take precedence? (Landry/Fleet, Seattle)*

Unless specifically excluded by FAA Order 8000.369, FAA Order 5200.11, or FAA's Air Traffic Organization SMS Manual, the certificate holder would be responsible for initiating and leading SRM activities related to airport operations or changes to operations on the airport. The certificate holder would identify these policies and procedures in its approved ACM and/or SMS Manual.

For those operational changes that overlap with FAA SRM requirements<sup>3</sup> (i.e., approval of Construction Safety Phasing Plans), "the FAA expects that the certificate holder would participate in the FAA's risk analysis instead of performing an independent risk analysis under its SMS."

## **National Database**

86. *Will the FAA establish a data repository for airport SMS decisions to track trends and data and/or to issue guidance based upon data collected? If not, does the FAA foresee another mechanism to notify airports of hazards identified by other airports? (ACI-NA, Fairbanks)*

The proposal does not require certificate holders to submit individual SRM results to the FAA. The FAA plans to use existing regulatory oversight processes to ensure that systemic or national compliance issues are reported when appropriate.<sup>4</sup>

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<sup>3</sup> See FAA Order 8000.369, FAA Order 5200.11, FAA ATO SMS Manual.

<sup>4</sup> The FAA will adopt a hazard tracking system for SRM activities conducted in compliance with FAA Order 5200.11. These actions are outside the scope of this proposal.

## Legal Questions

*87. Does the FAA plan to seek legislative protection to address data protection issues? How will the FAA ensure data protection and anonymity of hazard reporting parties, airline names, etc.? Does the FAA intend to protect confidentiality of program data to promote participation and minimize litigation for the airport industry and any third-party participants? Has the FAA considered the impact on SMS if the data collected under the auspices of an SMS program is not kept confidential? (AAAE, ACI-NA, Austin, LRAA, Fairbanks)*

Several respondents to the request for clarifying questions seemed to be interested in the ability to protect SMS data from public disclosure. Although no respondent clearly stated such, the questions seemed to concern two different types of disclosure: (1) public disclosure of SMS information submitted to the FAA; and (2) public disclosure of SMS information maintained by the airport. One respondent inquired why the proposal does not include data protection. Related to this issue, one respondent asked what level of SMS program participation by third-party stakeholders, who may not be able to protect their data from public records requests, the FAA expects.

The FAA does not propose to require submission to the FAA of SMS information, which means there should be no implications under federal disclosure requirements. Accordingly, the FAA determined there was no need for specific public disclosure protection. Nevertheless, the issues of SMS data protection and civil liability are being considered by Congress as part of the FAA Reauthorization Bill. Section 337 of R. 658 (112th Congress) exempts from disclosure SMS information voluntarily submitted to the FAA, subject to the existing requirements of 49 U.S.C. sec. 40123. Likewise, section 554 of S. 223 (112th Congress) also provides for protections for certain types of SMS data, information, and reports. While the FAA has not taken an official policy position on these provisions, the agency has worked with Congress to develop and refine these provisions as they move towards final enactment.

The FAA acknowledges that most certificated U.S. airports are owned by a state, owned by a subdivision of a state, or owned by a local government body, and these airports may be subject to state freedom of information or sunshine laws. The FAA believes that airports are best situated to understand and comply with their state laws.

The FAA cannot speculate on a third party's decision-making with respect to an airport's SMS program. However, the proposal does not include a requirement for third parties to turn over their SMS data to an airport. It would, however, require airports to establish a confidential reporting system for hazard identification. The FAA expects that airports would implement an SMS program that would comply with the proposed rule and encourage participation by third-party stakeholders. The FAA believes an SMS program could be structured in such a way as to realize safety benefits while limiting the public release of confidential third-party information.

*88. Has the FAA considered whether airports may be exposed to greater liability upon implementing SMS that would result in higher insurance premiums? Will an airport harbor liability under an SMS if a tenant employee is injured in an exclusively leased tenant area? Does the FAA plan to seek legislative protection to limit civil tort liability of airports resulting from maintaining SMS information? Has the FAA conducted any evaluations of how liability issues may impact the way airports structure their SMSs? (AAAE, ACI-NA, Fairbanks)*

The proposed airport SMS rule is federal regulation, which would be enforced by the FAA, and does not create a private right of action. A potentially unsafe airport condition or action poses a risk of tort liability regardless of whether the airport has an SMS. The FAA intends an SMS would assist in uncovering and mitigating these unsafe conditions or actions.

All information regarding insurance that the FAA has been able to collect and review has demonstrated that implementing an SMS should decrease insurance claims because an SMS enhances safety (by identifying hazards and mitigating risk).

The FAA does not intend the proposed airport SMS rule to create or change state tort liability law. Furthermore, the FAA does not believe tort liability concerns should impact the way an airport would structure its SMS. The proposed rule would require an airport to implement an SMS and then follow the SMS processes and procedures the airport establishes. The FAA invites comment on any additional liability issues it should consider in developing a final rule.

The issues of SMS data protection and civil liability are being considered by Congress as part of the FAA Reauthorization Bill. Section 337 of H.R. 658 (112th Congress) limits the use of SMS information in a judicial proceeding. Likewise, section 554 of S. 223 (112th Congress) also provides for protections for certain types of SMS data, information, and reports from discovery. While the FAA has not taken an official policy position on these provisions, the agency has worked with Congress to develop and refine these provisions as they move towards final enactment.

*89. If the FAA chooses not to fund airport-identified risk mitigation projects as a result of a safety risk assessment, does the FAA share liability in the event of an incident or accident associated with the identified hazard? (ACI-NA, AAAE, Fairbanks)*

Availability of Airport Improvement Program grants does not affect the liability for hazards on the airport property. The FAA expects a certificate holder would use its available resources where the greatest risk mitigation benefits exist.

*90. How does the FAA propose to protect the accountable executive from litigation associated with responsibilities the FAA is assigning them under the proposal? Has the FAA conducted any evaluations of the liability implications associated with naming an accountable executive? (AAAE, ACI-NA)*

The FAA proposes to define the accountable executive as “a single identifiable person, who, irrespective of other functions, has ultimate responsibility and accountability, on behalf of the

certificate holder, for the implementation and maintenance of the Airport Safety Management System.” With this definition, the FAA intends that the accountable executive is an agent of the airport and is the contact person for the airport’s SMS. The FAA does not propose this individual would have personal liability to the FAA (through either certificate action or civil penalty) and does not intend this individual would have personal liability to any third party.

*91. Will the FAA provide a legal right for an airport to audit tenant records and safety programs? (AAAE, ACI-NA, Fairbanks)*

The proposed SMS rule does not require a certificate holder to audit tenant records or safety programs. If the proposed rule is adopted, a certificate holder may establish local rules and regulations or negotiate lease agreement provisions to ensure its SMS program is effective and in compliance with the adopted regulation.

*92. Which individuals (airport employees, tenants, or both) must be trained on SMS and operational safety under the proposed rule? (Landry/Fleet)*

As stated in the preamble, the FAA proposes the training requirement would apply to only airport employees and would be appropriate to that individual’s role. The FAA is considering a broader SMS training requirement that would encompass all individuals (airport employees, contractors, and tenants) accessing the movement and non-movement areas. The FAA invites comments about the practical and economic implications of applying the training requirements to all individuals.

*93. Is the FAA planning to seek an amendment to the 1958 Act because the FAA’s proposed requirement for “airports to be self-policing, safety facilitators” goes beyond the FAA’s legal authority to promulgate, enact, and enforce necessary regulations? (LRAA)*

The FAA is not seeking an amendment to its statutory authority because such an amendment is not necessary. As stated in the NPRM:

“The FAA is issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44706, “Airport operating certificates.” Under that section, Congress charges the FAA with issuing airport operating certificates that contain terms that the Administrator finds necessary to ensure safety in air transportation. This proposed rule is within the scope of that authority because it requires all holders of an airport operating certificate to develop, implement, and maintain an SMS. The development and implementation of an SMS ensures safety in air transportation by assisting airports in proactively identifying and mitigating safety hazards.”

## Regulatory Evaluation Questions

94. *It appears the gate keeper of SMS initiatives and study efforts should be knowledgeable of many regulations which could trump SMS studies or run counter to SRM findings. Most airport operators do not have one person on staff with this deep level of regulatory understanding and rely on various staff members or consultants to support this role. Consolidating these requirements would have significant cost impacts on an ongoing basis. Has the FAA considered this in their cost impacts and to what degree and cost benefit outcome? (LRAA)*

The FAA believes this request expresses a general substantive concern with the proposal rather than addressing the proposal's clarity. The FAA is not responding to the concern in this document and invites the submission of a comment to the NPRM. The FAA will consider this comment when developing a final rule.

95. *The summary (preamble) indicates a negative cost benefit outcome. Is this interpretation correct? (LRAA)*

In terms of present value, quantitative costs do exceed benefits. However, in nominal dollars, quantitative benefits exceed costs. Coupled with the qualitative benefits, the FAA found this rule to be cost-beneficial. Total benefits range between \$180,294,000 (\$110,604,400 present value) up to \$270,441,000 (\$170,874,600 present value), and cost to airports was estimated at \$248 million dollars over 10 years (\$171.791 million present value). The FAA also found that many accidents and incidents that would be mitigated under SMS are not currently publicly reported, especially in the non-movement area. The FAA provided detailed independent examples of such accidents in the regulatory evaluations. With these accidents forming a qualitative benefit basis and the quantitative benefits, the FAA concluded that the benefits exceeded costs.

96. *Describe how estimated costs were drawn for SMS implementation at airports without existing data and SMS programs. Are estimated costs based upon pilot studies? If so, describe any correlation. (Fairbanks)*

Costs were derived from the pilot studies. The regulatory evaluation posted to [www.regulations.gov](http://www.regulations.gov) for FAA Docket Number 2010-0997 contains detailed discussion about how the FAA derived its cost and benefit data for this proposal.

97. *How did the FAA estimate SMS implementation costs when few if any airport SMS programs have been fully implemented in the United States? (AAAE, ACI-NA, Seattle)*

The FAA used information available from pilot study participants and asked further clarifying questions related to cost and benefit data.

98. *Why didn't the FAA consider international SMS implementation, where more empirical cost data may be available? (AAAE, ACI-NA)*

Due to different regulatory approaches and policies, it would be very difficult to compare international SMS cost data to the proposal. Further, the consideration of costs of non-U.S. airports is outside the scope of the regulatory evaluation.

99. *What criteria were used to select the accidents included in the FAA's benefit-cost analysis? (ACI-NA)*

The FAA used National Transportation Safety Board (NTSB), insurance claims, and Occupational Safety and Health Administration (OSHA) accidents that affected part 139 airports where multiple incidents were reported that would have been noticed through tracking under SMS. For example, in NTSB accident number DEN071A069 at Denver International Airport, an aircraft's windshield was fractured due to impact with foreign object debris (FOD). However, it was discovered that during the course of the afternoon, at that same airport, 14 other airplanes experienced 26 similar fractured windshields. The examination revealed that the impact markings on all 26 windshields were the result of impact with FOD. This accident, and especially some of the 14 others that afternoon, may have been prevented through an airport's safety assurance and SRM processes and procedures. Under SMS, the airport would have established a hazard reporting system and enhanced communication networks for reporting immediate safety issues by tenants, pilots, employees, or air traffic controllers. Under the airport's safety assurance and SRM processes and procedures, multiple reports would have triggered airport personnel to identify the airfield hazard and put mitigations in place possibly preventing FOD damage to more aircraft.

100. *Did each accident occur at a part 139 certificated airport? Did the FAA (or NTSB) conclude that, in each case, the accident would have been prevented through a functioning airport SMS or through some other SMS (e.g. air carrier, service provider)? How many accidents did the FAA (or NTSB) determine would have been avoided by a functioning airport SMS? (AAAE)*

All accidents occurred at part 139 certificated airports. The FAA determined that all may have been prevented through a functioning SMS at a part 139 certificated airport, through the accident description and possible resolutions.

101. *How do the results of the FAA's analysis change if non-movement areas are excluded from consideration? (AAAE, ACI-NA)*

The FAA evaluated the costs and benefits based on the entirety of the proposal, not the individual parts.

102. *How did the FAA derive true costs related to implementing SMS? (AAAE)*

The FAA used information available from pilot study participants and asked further clarifying questions related to cost and benefit data.

103. Does the FAA have any basis, other than the one example, for its finding that SMS may reduce an airport's insurance costs? Has the FAA attempted to quantify this potential benefit? Can the FAA provide data to substantiate this claim? For example, what percent of an insurance premium has been saved by implementing an SMS and what has been the direct and indirect cost of SMS implementation? (AAAE, ACI-NA, Austin)

The regulatory evaluation does not mention reduced cost of insurance as a benefit, just reduced insurance claims from averted accidents. The example is simply relayed in the preamble to explain experiences of some pilot study airports.

104. Has the FAA considered or investigated whether the insurance industry would require insurance premiums for certificated airports when/if the FAA requires SMS for all such airports (as opposed to the one example in which an airport went above and beyond current regulatory requirements)? (AAAE)

The regulatory evaluation does not mention reduced cost of insurance as a benefit, just reduced insurance claims from averted accidents. The example is simply relayed in the preamble to explain experiences of some pilot study airports.

105. What specific feedback has the FAA received from pilot study airports about their implementation and operation and maintenance costs to substantiate the cost-benefit analysis? (AAAE, ACI-NA)

The FAA used information available from the pilot study participants and asked further clarifying questions related to cost and benefit data. Cost data used from the pilot studies are in the appendix to the regulatory evaluation.

106. In the proposal, the FAA states "Accordingly, certificated airports could realize similar SMS benefits as aircraft operators [SMS]." What are the anticipated benefits? Will the FAA provide expected benefits to certificate holders? (Landry/Fleet)

Benefits are discussed and quantified in the regulatory evaluation, which is posted at [www.regulations.gov](http://www.regulations.gov) under FAA Docket Number 2010-0997.

107. In the proposal, the FAA states "Over the 10-year period of analysis, the potential benefits of potentially averted accidents range from \$170 to \$250 million." Are these costs relevant to airport operators or airline operators? (Landry/Fleet)

The averted accidents are societal benefits and therefore are relevant to both airport operators and airline operators.

*108. In the proposal, the "Initial Burden" attempts to quantify the annual additional record-keeping burden that contributes to downside cost associated with SMS documentation. However, the cost of safety risk analysis directed at determining risk mitigation is not accounted for. What does the FAA estimate for the cost of labor to accomplish safety risk analysis? (Austin)*

The regulatory evaluation provided this cost for additional staff that would identify, collect, track, and analyze data plus audit their progress and promote safety. The 25th percentile wage was used to account for the lack of experience and the newness of the positions, thereby giving annual average salaries of \$67,230 for managers and \$30,130 for support staff. The burden of an additional staff was also added to the salaries and was established from data reported by the Bureau of Labor Statistics for a total cost of \$130,800 per SMS manager and \$58,600 for support staff.

*109. Were the second pilot study results (for smaller certificated airports) reviewed specifically when making the regulatory flexibility determination? (Landry/Fleet)*

In making an impact determination to small businesses determination, the FAA determined which airports would be considered small entities and then, from the information provided through the pilot studies (both initial and second pilot studies) that would be applicable to small airports, determined the impact.

## **Airport Improvement Program (AIP) Eligibility**

*110. Will the development of the SMS Manual and/or update of the ACM be eligible for federal financial assistance under the AIP? Will the costs associated with implementing the SMS be AIP eligible (e.g., hazard tracking software)? Will AIP funding be made available to cover the costs of mitigations identified through SRM? How will the FAA prioritize funding for airports that have identified hazards that must be mitigated to an acceptable level? Does the FAA have AIP funding available to support a six-month implementation process? Has the FAA identified funding mechanisms to support both the program implementation costs and the ongoing system operating and maintenance costs? (AAAE, ACI-NA, Maryland Aviation Administration, Seattle, Landry/Fleet)*

These questions all appear to ask how much AIP funding the FAA is prepared to provide (and over what timeframe) to cover the costs associated with these requirements. In order to respond to these questions, we have to address the scope, costs, eligibility, justification, and availability of funds.

The FAA is proposing a handful of processes and procedures that would be required by certificated airports. The level of effort and resources required will depend in large measure on the size and complexity of the airport or airport system involved.

The FAA has made a determination that the development of an SMS Manual is eligible under the AIP because it represents planning as defined by regulation prescribed by the Secretary. Costs involved in developing the implementation plan (which should be little more than a schedule and outline of how the manual will be developed and SMS implemented) is an airport management function and are therefore not AIP eligible. Similarly, modifications to the ACM are an airport operational function and are therefore not AIP-eligible.

The FAA is not prescribing any requirements that should involve major expenditures in new systems, including hazard reporting systems. The FAA has examined this issue as part of the pilot studies, and based on the results of those pilot studies, the FAA now believes that many airports should be readily able to manage the associated steps, processes, and data using existing off-the-shelf, end-user spreadsheet or database software. Purchase, licensing, or other acquisition of specialized software for managing SMS are not AIP-eligible nor are costs associated with staffing, training, or safety promotion.

Federally-obligated airports are already required under AIP Grant Assurance #19 to operate "...at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal, state and local agencies for maintenance and operation." This includes identifying and mitigating hazards.

Therefore, although the FAA will continue to provide AIP funding for eligible improvements to airport safety whenever possible, it has always been (and remains) the airport operator's responsibility to mitigate risks regardless of whether federal funding is available. Eligible and justified improvements are generally physical improvements to the configuration of airfield geometry (i.e., physical layout of runways, taxiways, and appurtenant facilities) as well as associated signage, marking, and lighting. For AIP-eligible projects requiring safety risk management review by the FAA<sup>5</sup>, the associated costs of convening a panel may be included as allowable costs under an AIP grant.

As always, when an airport sponsor requests AIP funding, the FAA reserves the right to review the existing conditions, the available alternatives, and the criteria by which the sponsor has concluded that a particular solution is the preferred course of action.

As to the FAA's internal resources, it is true that the current budget environment has raised questions about internal resources (staffing and budgets). The FAA is working with a number of industry stakeholders to ensure that all parties understand the importance of supporting SMS. The FAA remains committed to supporting these efforts as a critical priority.

*111. How is the airport expected to fund the cost of third-party audits? (Landry/Fleet)*

The proposal does not require third-party audits.

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<sup>5</sup> See FAA Order 8000.369, FAA Order 5200.11, and FAA ATO SMS Manual v.2.1.

## Questions Outside Scope of NPRM

There were a number of questions submitted that were outside the scope of the proposal for airport SMS. Some questions confused the proposed requirements with the FAA's efforts to integrate safety risk management policies internally. Others asked questions related to other ongoing rulemaking activities.

### General Aviation Airports

*112. What is the general aviation airport operator required to do under the proposal? Will the FAA expect the "SMS plan" to be different for general aviation airports versus part 139 certificated airports? Is "SMS plan" development eligible for Airport Improvement Program funding? (LRAA)*

The proposed rule does not apply to non-certificated airports.<sup>6</sup>

*113. Who does the FAA plan to require to be the "Accountable Executive" when many general aviation airports do not have any airport operator employees? Does the FAA anticipate requiring a board member accept the responsibility recognizing most board members serve as volunteers? (LRAA)*

The proposed rule does not apply to non-certificated airports.

### FAA Office of Airports SMS

*114. How will SMS and SRM be applied to a master plan process that spans multiple years and can include numerous alternatives? How will the SRM process on a master plan dovetail with the SRM process on an Environmental Impact Statement or Environmental Assessment of the same master plan? Will the standard airspace review currently conducted by the FAA be absorbed in the SRM process for a master plan or remain a separate process? If it is to remain separate, how does the FAA propose to resolve conflicts and overlaps? (AAAE, Seattle)*

These questions relate to the FAA's efforts to integrate SRM policies into FAA approval actions and are unrelated to the proposal. As stated in the preamble, where an operational change on the airport overlaps with SRM requirements under FAA SMS efforts, the "FAA expects that the

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<sup>6</sup> The FAA plans to apply the concepts of SMS to its organization and operations. Beginning in June 2011, certain FAA approvals such as Airport Layout Plans, airspace determinations, and the development of standards will require safety risk assessment before the agency aspects of the safety assessment will be considered eligible for Airport Improvement Program (AIP) assistance, such as procuring facilitation assistance. Again, non-certificated airports are not required to develop an SMS program like the one proposed in the NPRM.

certificate holder would participate in the FAA's risk analysis instead of performing an independent risk analysis under its SMS."

The FAA will communicate directly to these questioners outside the docket so that these issues can remain separate from the rulemaking effort.

*115. Which FAA offices or lines of business will participate in the master plan SRM process and at what point in the process will they engage? If multiple offices are participating, which office will be the sole voice for the FAA throughout the process? (AAAE, Seattle)*

This question relates to the FAA's efforts to integrate SRM policies into its approval actions and is unrelated to the proposal. As stated in the preamble, where an operational change on the airport overlaps with SRM requirements under FAA SMS efforts, the "FAA expects that the certificate holder would participate in the FAA's risk analysis instead of performing an independent risk analysis under its SMS."

The FAA will communicate directly to this questioner outside the docket so that this issue can remain separate from the rulemaking effort.

*116. Does the FAA have the necessary staff hours to commit to SRM review of a master plan from start to finish? (Seattle)*

This question relates to the FAA's efforts to integrate SRM policies into its approval actions and is unrelated to the proposal. As stated in the preamble, where an operational change on the airport overlaps with SRM requirements under FAA SMS efforts, the "FAA expects that the certificate holder would participate in the FAA's risk analysis instead of performing an independent risk analysis under its SMS."

The FAA will communicate directly to this questioner outside the docket so that this issue can remain separate from the rulemaking effort.

## **Safety Enhancements Proposal**

*117. Provide clarification on the proposal for Safety Enhancements Part 139 Certificated Airports (page 5510, Summary) requirements to "establish minimum standards for training of personnel who access the airport non-movement area (ramp and apron) to help prevent accidents and incidents in that area" and its relationship to the proposed SMS training initiative. How does the statement related to SMS and staff training correspond to the statement in the Safety Enhancements proposal: "A person would complete this training prior to accessing the non-movement area and at least yearly thereafter. The FAA intends to make this requirement effective one year after publication of the final rule to allow certificate holders time to develop a training program and complete training for all personnel accessing the non-movement area. After the effective date of this proposal, if adopted, all persons would complete the training prior to accessing the non-movement area, unless escorted by a trained individual"? (Landry/Fleet)*

As stated in the preamble, the FAA proposes that the training requirement would apply to only airport employees and would be appropriate to that individual's role. The FAA is considering a broader SMS training requirement that would encompass all individuals (airport employees, contractors, and tenants) accessing the movement and non-movement areas. The FAA invites comments about the practical and economic implications of applying the training requirements to all individuals.

*118. Does the recent proposal regarding Safety Enhancements Part 139, FAA Docket Number 2010-0247, foreshadow an FAA decision regarding expansion of training requirements to all individuals (rather than just airport employees) accessing the movement and non-movement area? (Landry/Fleet)*

As stated in the preamble, the FAA proposes that the training requirement would apply to only airport employees and would be appropriate to that individual's role. The FAA is considering a broader SMS training requirement that would encompass all individuals (airport employees, contractors, and tenants) accessing the movement and non-movement areas. The FAA invites comments about the practical and economic implications of applying the training requirements to all individuals.

## **Appendix A – List of Organizations Submitting Questions**

American Association of Airport Executives (AAAE)  
Airports Council International – North America (ACI-NA)  
City of Austin (Austin)  
Fairbanks International Airport, Operations (Fairbanks)  
Fresno Yosemite International Airport (Fresno)  
Landry/Fleet Consulting/Dave Fleet Consulting (Landry/Fleet)  
Louisville Regional Airport Authority (LRAA)  
Maryland Aviation Administration  
Port of Seattle (Seattle)  
University of Southern California (USC)