

This Frequently Asked Question (FAQ) document (Revision 5, dated May 30, 2024) is meant to assist in communicating frequently asked questions related to the changes to the Part 5 rule, published on April 26, 2024. This document does not supersede federal aviation regulations nor any FAA policies. This document will be updated with new questions regularly, when received.

PART 5 FAQ: FROM INDUSTRY

1) Will the changes to Part 5 apply to me and my operation?

A: The new changes to the Part 5 rule were published on April 26, 2024, and became effective on May 28, 2024. The rule focuses on organizations that are paid for aviation services. Specifically, it extends Safety Management Systems (SMS) requirements (in Part 5) to on-demand and commuter operators (Part 135), commercial air tours (Part 91.147), and major aircraft manufacturers (certain Part 21 organizations) while also adding new requirements for airlines (Part 121) and SMS Voluntary Program (SMSVP) participants not required to have an SMS by regulation.

2) How have the changes in Part 5 affected the SMS Voluntary Program (SMSVP)?

A: The SMSVP will align with Part 5 and is outlined in [FAA Notice N8900.700, Interim Guidance Based on the Amendments to Title 14 of the Code of Federal Regulations Part 5](#). Participation in the SMSVP now includes Part 61 Flight Schools, Part 91 Living History Flight Experience (LHFE), Part 91 Banner Towing, Part 91 subpart K (Part 91K), Part 91 Executive Corporate Operators, Part 105 Parachute operations, Part 107, as well as Part 137 Unmanned Aircraft System (UAS).

The SMSVP will continue to be available to Part 125, Part 133, Part 141, Part 142, Part 145, and Part 147 service providers.

3) I'm a Part 135 operator with an accepted SMSVP, what do I need to do to keep my SMSVP letter current?

A: The SMSVP letters for existing Part 135 certificate holders will continue to be valid. Part 135 certificate holders with an SMSVP letter will have until May 28, 2027 (36 months from the effective date of the rule) to meet the new Part 5 requirements. The other organizations in the SMSVP (i.e., Part 145, Part 125, etc.) will have until May 28, 2025 (12 months from the effective date of the rule) to update their SMS to comply with the new Part 5 requirements. The FAA's SMS Program Office (SMSPO) will be sending out letters to all SMSVP participants informing them of the changes.

4) I operate under Part 135 as a single pilot operator. How does the Part 5 rule affect me?

A: Single pilot Part 135 certificate holders with multiple employees must meet all applicable Part 5 requirements. Single pilot Part 135 certificate holders where the single pilot is the sole individual responsible for the safe operation of the aircraft will be able to apply the excepted sections defined in § 5.9(e). These excepted sections primarily focus on internal communications and management duties and responsibilities.

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5) I operate under Part 91.147 as a single pilot air tour operator. How do the changes in Part 5 affect me?

A: Single pilot air tour operations conducting flights under Part 91.147 Letters of Authorization (LOA) that have multiple employees must meet all applicable Part 5 requirements. Single pilot air tour LOA holders where the single pilot is the sole individual responsible for the safe operation of the aircraft will be able to apply the excepted sections defined in § 5.9(e). These excepted sections primarily focus on internal communications and management duties and responsibilities.

6) What changes to my operation am I required to make related to the new Part 5 changes?

A: Current Part 135 certificate holders and Part 91.147 air tour LOA holders will need to develop and implement SMS and are required to meet Part 5 requirements by May 28, 2027 (36 months from the effective date of the rule).

Additionally, current Part 121 operators will have until May 28, 2025 (12 months from the effective date of the rule) to update their SMS to meet the new requirements. Changes include updating the definition of “hazard,” adding a code of ethics to the safety policy and updating the system analysis required in § 5.53 to consider any interfaces. A new section in safety risk management (SRM) adds a requirement in § 5.57 requiring a process for hazard information sharing and a process for hazard information sharing that the organization receives is required by § 5.71(a)(8). Confidential employee reporting has been updated to add the statement “without concern of reprisal for reporting.” Finally, a requirement to retain records of hazard information sharing was added to § 5.97(d).

Lastly, SMSVP participants not required to have an SMS by regulation (i.e., Part 145, Part 125, etc.) will have until May 28, 2025 (12 months from the effective date of the rule) to update their SMS to remain in the SMSVP.

7) How much time do I have to implement the changes in Part 5?

A: Part 135 certificate holders and Part 91.147 air tour LOA holders are required to meet updated Part 5 requirements by May 28, 2027 (within 36 months of the effective date of the rule). Once the service providers have developed and implemented an SMS in their organization, they will need to submit a declaration of compliance to their local FAA office on or prior to May 28, 2027.

Part 121 certificate holders have until May 28, 2025 (within 12 months of the effective date of the rule) to update their SMS to meet the new requirements.

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SMSVP participants not required to have an SMS by regulation have until May 28, 2025 (within 12 months of the effective date of the rule) to update their SMS to remain in the SMSVP.

8) I understand there will be SMS requirements under an upcoming revision to the EASA MAG. What are those changes and how could it apply to my Part 145 repair station?

A: The FAA anticipates increased Part 145 certificate holder participation in the SMSVP because of impending bi-lateral agreement changes to EASA Maintenance Annex Agreement (MAG).

Specifically, EASA proposed to change Annex II of the EU-U.S. Aviation Safety Agreement (new special condition). This draft is ready and the target is to sign the amendment by June 2024. The current proposed draft provides recognition and acceptance of FAA SMSVP as a means of compliance. The cutoff date for applicability to U.S. organizations (existing/valid approvals) is December 31, 2025.

All initial and suspended organizations are expected to have to comply with the new special condition from the date of signature of the Annex II amendment.

9) I'm still working through the certification process to become a certificate holder under Part 135. How will the changes to Part 5 affect me and my operation?

A: If you are a pending applicant in the certification process, you will have until May 28, 2027, (within 36 months of the effective date of the rule) to develop and implement an SMS that meets Part 5 requirements in your organization and submit a declaration of compliance.

The determination of a pending applicant is defined by Figure 1 of the New Applicant Readiness Process found in [FAA Notice 8900.687, Determine Applicant Readiness for Certification](#). Part 135 applicants who are on the Applicant List or are In-Progress, as defined by the notice, with a date prior to May 28, 2024, are pending applicants.

10) I submitted my application to become a certificate holder under Part 135 after May 28, 2024. How will the changes to Part 5 affect me?

A: Part 5 requires new Part 135 applicants who submit their applications on and after May 28, 2024, to have an SMS as part of the certification process. The organizations SMS will be validated during certification.

11) I applied to become an air tour operator under Part 91.147, but my LOAs haven't been issued yet. How will the changes to Part 5 affect me and my operation?

A: New applicants who submit their applications for Part 91.147 air tour LOAs on and after May 28, 2024, must meet the requirements listed in § 91.147(b) at the time of application.

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Applicants who submitted applications for Part 91.147 air tour LOAs prior to May 28, 2024, and existing Part 91.147 LOA holders will have until May 28, 2027 (within 36 months of the effective date of the rule) to develop and implement an SMS that meets Part 5 requirements in their organization and submit a declaration of compliance to their local FAA office.

12) I'm an affected stakeholder who needs to start developing my SMS. Where do I begin?

A: That's a great question. The FAA suggests affected aviation organizations to read the published Final Rule preamble text and the revised [Advisory Circular \(AC\) 120-92D, Safety Management Systems for Aviation Service Providers](#). The Final Rule includes FAA rationale explaining how the final language was developed and the AC will provide useful information and discussion on how to develop and implement an SMS. Third party SMS providers may be a good source of information and assistance as well. The updated AC was published on May 21, 2024, and can be found on www.drs.faa.gov.

13) When can I expect the local FAA office and/or my assigned inspectors to conduct outreach to me and my operation related to the changes to Part 5?

A: Affected aviation organizations may or may not receive specific contact from their local FAA offices related to the new Part 5 requirements. Under the new Part 5 rule, it is up to the aviation organizations to develop, implement and then submit a declaration of compliance once they have an SMS that meets Part 5 requirements. Once the declaration has been received by the applicable FAA certificate management team (CMT), they will update the organization's vitals in the Safety Assurance System (SAS) oversight tracking system and add the surveillance questions to the organization's oversight data collection tools (DCT). It is possible the first communication that organizations may receive pertaining to SMS is when their CMT requests a copy of their SMS processes and procedures to review prior to conducting surveillance of the organization's SMS.

The FAA is working on outreach and videos to aid organizations in development and implementation of their SMS. These will be released when available on FAA websites.

14) Will the FSDO and/or my assigned inspectors review my SMS before I implement it?

A: No, once you have developed and implemented your Part 5 compliant SMS and have validated your organization's compliance with Part 5, you will submit a declaration of compliance to your local FAA office.

The SMS will be validated as a part of scheduled surveillance by your CMT.

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15) You have mentioned a declaration of compliance several times. What is it and what information does it contain?

A: A declaration of compliance is a legal document that states the aviation organization has developed and implemented an SMS that meets the Part 5 requirements.

A declaration of compliance must contain the following information:

- The name of the aviation organization and its certificate number (if applicable).
- The physical address of the aviation organization.
- A statement that the aviation organization has developed and implemented an SMS that meets the requirements of Part 5.
- The declaration of compliance must be signed by the accountable executive or another senior member of management.

Once the FAA receives the declaration of compliance, your CMT will update your organization's status in an internal FAA database noting you have an SMS or a voluntary SMS that meets Part 5 requirements.

16) What additional resources are available to me to assist in the development and implementation of SMS?

A: Aviation organizations affected by the Part 5 changes should read the published Final Rule preamble text and the revised [Advisory Circular \(AC\) 120-92D, Safety Management Systems for Aviation Service Providers](#). The Final Rule includes FAA rationale explaining how the final language was developed and the AC will provide organizations with useful information and discussion on how to develop and implement SMS. Organizations may also find third party SMS providers a good source of information and assistance as well.

Affected aviation organizations should start the process of developing and implementing their SMS as soon as practical and shouldn't wait for any additional contact from local FAA offices.

The FAA is working on outreach and videos to aid organizations in development and implementation of their SMS. These will be released when available on FAA websites.

17) My company holds both a Part 135 certificate and Part 91.147 air tour LOAs. Do I have to develop and implement two SMS, one for each, or can I have one SMS covering both?

A: As Part 5 is appropriate for both Part 135 certificate holders and Part 91.147 LOA holders, you only need to develop, implement, and submit a declaration of compliance that encompasses both operations. Your CMT will conduct routine surveillance of your SMS.

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18) If my company holds Part 135 and Part 145 certificates, do I have to submit two SMS programs, one for the Part 135 and the other for Part 145 under the voluntary program, or can I have one SMS covering both?

A: To facilitate ease of development and implementation of your SMS, the FAA has aligned the voluntary SMS and Part 5 requirements so they are now exactly the same. Organizations that have a regulatory SMS under Part 5 and voluntary SMS need to notify their CMT when they meet Part 5 requirements by submitting a declaration of compliance. Your CMT will update an internal FAA database and routine surveillance of your SMS will be accomplished during regular oversight.