

April 5th, 2021

Mr. Rick Domingo
Executive Director, Flight Standards Service
FAA National Headquarters
800 Independence Ave SW
Washington, DC 20591

RE: Part 135 Safety Management Systems Rulemaking Initiative

Dear Mr. Domingo,

The National Business Aviation Association (NBAA) represents the interests of organizations that operate aircraft in furtherance of a business, including aircraft operated under 14 CFR Part 135. NBAA holds safety as a core value, which results in regular voluntary contributions to industry and government sponsored safety efforts, such as ASIAs, the Air Charter Safety Foundation, and promotion of the International Standard for Business Aircraft Operations (IS-BAO). It is with the intent of promoting the highest safety standard that we write to you today, encouraging the development of a practical solution, addressing both FAA and industry concerns, for the rulemaking effort to require Safety Management System (SMS) for operations conducted under 14 CFR Part 135.

NBAA believes in the implementation of a Safety Management System (SMS) for Part 135 operators. Part 5 of Title 14 of the Code of Federal Regulations defines the basic components of a complete Safety Management System and the regulatory requirements for acceptance. NBAA supports the core framework of SMS for business aviation operators. However, we recognize the industry recommendation report for this rulemaking effort is more than a decade old, and we remain concerned with support for existing safety cultures, scalability, and oversight.

NBAA believes that any new regulatory requirements must not disrupt existing safety cultures. Many operators have been utilizing a Safety Management System for 15 years or more and, as such, have a strong safety culture well embedded within their operations. In fact, nearly 150 Part 135 operators meet the IS-BAO standard, which relies heavily on SMS practices in line with ICAO Phase 4 standards at all stages. In Stage III, the IS-BAO standard helps the safety culture address all departments of the operation, not just flight and maintenance. Each program is verified by outside auditors for evidence that all processes and procedures have been documented and implemented. Other foreign aviation regulatory agencies also accept the IS-BAO Standard to substantiate compliance with SMS requirements. For example, EASA accepts IS-BAO as proof of an SMS for TCO authorization.

NBAA believes that any new regulatory requirements should be easily scalable. As you are aware, the Part 135 on-demand charter business consists of many single-pilot, single aircraft operators with limited personnel and budgets. To raise the level of safety within the industry, new regulations should be feasible for these operations as well as large on-demand carriers which all have significantly different size, scope, and resources than most Part 121 air carriers. Prior experience shows that a properly constructed SMS program, such as IS-BAO, can be easily scalable and tailored to the intended operation. While the FAA Voluntary Safety Management System Program (VSMSP) has been established for many years, as of October 2020, only 23 of the 222 Part 135 operators who have applied to the program are fully in compliance. In speaking directly with operators, the long, burdensome approval process was a principal barrier to entry, as the program was not appropriately scaled from the regulation governing Part 121 air carriers.

The use of Flight Data Monitoring (FDM) or Flight Operational Quality Assurance (FOQA) program is already in use by some Part 135 operators due to an existing EASA Third-Country Operator (TCO) requirement for aircraft weighing over 27,000 kg (45,500 lbs). While FDM is viewed as an industry best practice, the cost to equip aircraft and implement the program are not economically feasible for most operators. Such a requirement should be scaled appropriately, as they have the potential to add such costs to smaller operators with older aircraft that they would likely leave the 135 industry, removing them from the FAA's oversight.

NBAA believes the FAA must strategically manage oversight for operators' SMS programs. There is a concern with having a Principal Operations Inspector accept a program for which he/she has no operational experience, especially when the SMS includes departments outside of flight operations and maintenance (i.e. information technology and finance). Other areas of concern include privacy and fear of retribution by FAA inspectors. Hazard reports often include personally identifying information, proprietary information, or information that inspectors could use for enforcement action. It is imperative to an SMS's success that sensitive information be kept confidential and ineligible for use as evidence in enforcement cases.

NBAA agrees with the agency that a properly implemented SMS is an invaluable tool to mitigate risks. NBAA requests any requirement result in a scalable SMS program that is easily implemented without additional requirements, such as flight data monitoring. Over the last two decades, the Part 135 community has created and implemented many SMS best practices that are currently integrated into each company's culture. A mechanism to verify an operator's existing program would be part of an ideal solution, especially if the program has already been audited under IS-BAO or a similar standard. Lastly, oversight should be sensitive to the breadth and impact of robust SMS programs. Together, we can ensure not only a smooth execution, but also an active and engaged program that adds true safety value for the industry. We remain available to further discuss these comments or the impact of an SMS rule.

Sincerely,



Brian Koester
Director, Flight Operations & Regulations
National Business Aviation Association

CC: Brandon Roberts, Executive Director, Office of Rulemaking
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