

SUPPORTING STATEMENT

OMB -2120- 0763 **Safety Management Systems**

Summary

The Federal Aviation Administration (FAA) is amending ICR Reference Number 202107-2120-004 to reflect information collection changes that would result from expanded applicability of 14 Code of Federal Regulations (CFR) part 5 - Safety Management Systems. The expanded applicability requires all certificate holders operating under 14 CFR parts 135, all Letter of Authorization (LOA) holders operating under § 91.147, and certain certificate holders or approval holders under 14 CFR part 21 to develop and implement a safety management system (SMS) that complies with the requirements in 14 CFR part 5. The FAA is also updating the requirements in 14 CFR part 5 for certificate holders operating under part 121.

This amendment also requires changing the title of the referenced ICR from “Safety Management Systems for Part 121 Certificate Holders” to “Safety Management Systems” to accurately reflect the expanded applicability.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

This information collection request is in support of an FAA rule requiring certificate holders operating under 14 CFR part 135, LOA holders operating under § 91.147, and certain certificate holders under 14 CFR part 21 to develop and implement an SMS. The rule expands applicability of 14 CFR part 5 to include these new certificate parts and updates certain existing requirements for part 121 certificate holders.

This rulemaking also addresses a Congressional mandate as well as recommendations from the National Transportation Safety Board (NTSB). Promulgation moves the United States closer to meeting International Civil Aviation Organization (ICAO) Annex 19 (Safety Management) standards and recommended practices.

The Aircraft Certification, Safety, and Accountability Act, (ACSAA), Public Law 116-260, Division V, Title I, sec. 102 (December 27, 2020) requires the FAA to initiate rulemaking to require manufacturers that hold both a type certificate and a production certificate issued pursuant to 49 U.S.C. 44704 have an SMS consistent with standards and recommended practices established by ICAO. In addition, the ACSAA mandates that the regulation require those certificate holders to submit a summary of reports received under a confidential employee reporting system to the Administrator at least twice per year.

The FAA is requesting approval for the information collections shown in Table 1.¹

¹ The applicability of the collections to certificate, approval, and LOA holders is shown in response to Question 12.

Table 1. Information Collections

Information	Section	Description
Organizational system description	§ 5.11(a) § 5.13(b)(1) § 5.15(b)(1) § 5.15(c)(1)	Any person that holds a type certificate or a production certificate issued under part 21 of this chapter must develop and maintain an organizational system description.
Compliance declarations	§ 5.9(a)(2) § 5.9(b)	Submit compliance information in a form and manner acceptable to the Administrator.
Implementation plan	§ 5.11(b) § 5.13(b)(2) § 5.15(b)(2) § 5.15(c)(2)	Submit an implementation plan for FAA approval in a form and manner acceptable to the Administrator.
Safety policy	§ 5.15(c)(1)	Any person required to have an SMS under this part must have a safety policy.
Summary of confidential employee reports	§ 5.71(c)	Any person that holds both a type certificate and a production certificate issued under part 21 for the same product must submit a summary of the confidential employee reports to the Administrator every 6 months.
Notification of hazards to interfacing persons	§ 5.57	If a person required to have an SMS under this part identifies a hazard in the operating environment, the person must provide notice of the hazard to the interfacing person or persons who, to the best of their knowledge, could address the hazard or mitigate the risk.
SMS documentation	§ 5.95	Any person required to have an SMS under this part must develop and maintain the following SMS documentation: (a) Safety policy, (b) SMS processes and procedures.
SMS records	§ 5.97	Any person required to have an SMS under this part must: (a) Maintain records of outputs of safety risk management processes for as long as the control remains relevant to the operation (b) Maintain records of outputs of safety assurance processes for a minimum of 5 years (c) Maintain records of all training provided under § 5.91 for each individual for as long as the individual is employed (d) Retain records of all communications provided under § 5.93 and 5.57 for a minimum of 24 consecutive calendar months.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Information received from the current collection is used to determine part 121 certificate holder's compliance with FAA's SMS regulation, their implementation of the mandatory SMS components, and assess the burden to comply with the 14 CFR part 5. Information from this collection is also used to monitor post-implementation compliance with 14 CFR part 5 as an additional source of information to understand the compliance burden on part 121 air carriers.

The amendments to 14 CFR part 5 require certain certificate holders authorized to conduct operations under parts 21, 121, 135, and § 91.147 to develop and implement an SMS for their aviation safety-related activities and amending ICR Reference Number 202107-2120-004 accordingly.

The organization required to have an SMS will use the data it collects to identify hazards and mitigate risk. The safety policy, outputs of safety risk management and safety assurance processes, and training and communication records will be maintained by the organization and used in its SMS. The hazard notification information will be shared with the person in the best position to address a discovered hazard or mitigate the related risk. The organizational system description, where required, will be used by the organization to delineate its structure, processes, business arrangements, and interfaces that impact the organization's management of aviation safety.

SMS information will also be used by the FAA to determine compliance with the rule, including mandatory SMS components. Information from this proposed collection will also determine ongoing compliance with proposed 14 CFR part 5, post-implementation.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The FAA does not specify how or in what media documents and records are to be collected and maintained, allowing the person to use whatever existing systems and media it deems appropriate.

One hundred percent of the organization's submissions, reviews, and communications can be electronically transmitted to FAA. Any such transmissions must have adequate security provisions.

The information is not public though it could be subpoenaed or subject to discovery. The FAA Chief Counsel's Office has issued a legal interpretation that certain SMS records (6-month summary reports submitted by part 21 certificate holders) is protected by 49 USC § 44735. As a policy matter, FAA contends that protected information encourages honest and accurate reporting of safety issues.

One hundred percent of the rule is available electronically and includes hyperlinking table of content entries directly to the appropriate rule section and associated preamble language.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.

The FAA has reviewed other public-use reports and finds no duplication. No other agency collects this information nor is similar information available from any other sources. The

information collected is particular to each part 21, 121, part 135 certificate holder, and § 91.147 LOA holder. This information is not available from any other source.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

To minimize the burden to small businesses or small entities, the rule does not prescribe how the requirements are to be met, it only prescribes certain capabilities be developed and implemented. This allows for scalability by enabling regulated persons to develop methods, processes, or other means of compliance that are tailored to the size, scope, and complexity of their business, organization, and operations and thus reducing burden to small businesses or small entities.

The FAA has provided guidance on potential methods to comply with part 5. The advisory circulars describe methods of scalability for meeting the requirements based on an organization's size and the services it provides.

The rule also excludes requirements that would not be applicable to certain small entities. See also response to Q.8.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The collection, analysis, and communication of safety information are essential to an SMS. While an SMS has four components (safety policy, safety risk management, safety assurance, safety promotion), evaluation for compliance requires information from the following regulatory requirements: organizational system description, declaration of compliance, implementation plan, safety policy, summary of confidential employee reports, notification of hazards to interfacing persons, SMS documentation, SMS records. These information collections determine compliance with the four SMS components. Without records of certain SMS activities and processes, the FAA will not be able to determine initial and ongoing compliance with the SMS rule.

Additionally, ACSAA, which is a legislative mandate, requires certain certificate holders to submit a summary of reports received under a confidential employee reporting system to the Administrator at least twice per year.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document; requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The rule requires the person to retain certain records for more than three years. Outputs of Safety Risk Management processes are to be retained for as long as the resultant safety risk control remains relevant to the operation. Records of SMS-required training are to be retained for as long as the certificate holder/Letter of Authorization holder employs the individuals who received the training. Outputs of safety assurance processes are to be retained for a minimum of five years.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to recorded, disclosed, or reported.

The FAA is amending ICR Reference Number 202107-2120-004 to reflect information collection changes that result from expanded applicability of 14 CFR part 5 - Safety Management Systems. The FAA published the NPRM for the expanded applicability, soliciting

comments on the information collections, on January 11, 2023, and received two comments in this regard.

Southwest Safaris stated that the requirement for SMS documentation by small businesses goes against the PRA. The individual stated that the FAA did not provide evidence of proven benefit to single person operators for SMS mandates and asserted that the FAA's justification of potential safety gains is a statutorily unacceptable justification for hardship. Wing Aviation LLC suggested that SMS has the capability to be used to reduce the burdensome regulations and paperwork necessary for routine unmanned operations that have already proven themselves to be sustainably safe.

The FAA has taken actions in the final rule in response to concerns regarding paperwork burden for small entities. In an effort to address scalability, the FAA has designed part 5 to allow for flexibility in solutions used to meet the requirements. The FAA is also excluding certain single-pilot operations from SMS components that would not be applicable in organizations of this size. These exclusions will eliminate the reporting and recordkeeping burden associated with the reporting of safety hazards, disciplinary action, and communication under § 5.21 (a)(4) and (5), and the retention of safety communication records under § 5.93 [§ 5.97(d)].

Additionally, in the final rule, the requirement for an organizational system description is only applicable to design and manufacturing organizations under part 21.

The FAA does not intend, however, for SMS requirements to override or alter existing regulatory standards or approval and acceptance processes that already apply to the aviation organization.

9. Explain any decision to provide any payment of gift to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to respondents.

11. Provide additional justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden for the collection of information.

The regulatory impact analysis (RIA) for the proposed rule describes the Agency's estimates of the number of entities (certificate holders under part 21, part 121, and 135, and § 91.147 LOA holders) that will have to comply with the proposed requirements and the estimated costs of the

requirements. The RIA describes the bases for the estimated costs, which include recordkeeping and reporting associated with the information collections. Based on these data, methods, and estimates, Table 2 provides the implied burden hours associated with the different collections.

Table 2. Average Burden Hours per Respondent

Collection	Onetime Hours (Year 1)	Annual Hours (Years 2 and 3)	Total Hours over 3 Years ¹
Organizational system description	8	0	8
Compliance declarations	2	0	2
Implementation plan	32	0	32
Safety policy	4	0	4
Summary of employee reports	8	8	24
Notification of hazards	8	8	24
SMS documentation	32	0	32
SMS records	8	8	24
Source: Based on data and methods described in the RIA for the proposed rule.			
1. Calculated as onetime hours plus two years of annual hours.			

Using the total hours shown in Table 2, Table 3 provides the calculation of total burden hours and costs by category of affected entity for each collection over the three-year period. Table 4 provides a summary of the implied annual responses and burden (total divided by three).

Table 3. Calculation of Total Burden Hours and Costs (3 Years)

Category	Number of Respondents	Frequency of Response ¹	Total Number of Responses	Burden Hours ²	Costs ³
Organizational system description					
Part 21	65	1	65	520	\$48,114
Compliance declarations					
Part 135	1,848	1	1,848	3,696	\$341,982
§ 91.147	715	1	715	1,430	\$132,315
Total	2,563	NA	2,563	5,126	\$474,297
Implementation plan					
Part 21	65	1	65	2,080	\$192,458
Safety policy					
Part 21	65	1	65	260	\$24,057
Part 135	1,848	1	1,848	7,392	\$683,965
§ 91.147	715	1	715	2,860	\$264,629
Total	2,628	NA	2,628	10,512	\$972,651
Summary of employee reports					
Part 21	65	6	390	1,560	\$144,343
Notification of hazards					
Part 21	65	3	195	1,560	\$144,343
Part 135	1,848	3	5,544	44,352	\$4,103,788
§ 91.147	715	3	2,145	17,160	\$1,587,775
Part 121	66	3	198	1,584	\$146,564
Total	2,694	NA	8,082	64,656	\$5,982,470
SMS documentation					
Part 21	65	1	65	2,080	\$192,458
Part 135	1,848	1	1,848	59,136	\$5,471,718

Table 3. Calculation of Total Burden Hours and Costs (3 Years)

Category	Number of Respondents	Frequency of Response ¹	Total Number of Responses	Burden Hours ²	Costs ³
§ 91.147	715	1	715	22,880	\$2,117,034
Total	2,628	NA	2,628	84,096	\$7,781,209
SMS records					
Part 21	65	3	195	1,560	\$144,343
Part 135	1,848	3	5,544	44,352	\$4,103,788
§ 91.147	715	3	2,145	17,160	\$1,587,775
Total	2,628	NA	7,884	63,072	\$5,835,907
Grand total	2,694 ⁴	NA ⁵	24,305	231,622	\$21,431,449
NA = not applicable 1. Frequency over three-year period. 2. Calculated as number of respondents × hours per respondent from Table 2. 3. Calculated as burden hours × average labor rate including benefits. The FAA used an average wage including benefits of \$88.97, which is the mean average wage for aerospace engineers (\$59.12) divided by the percent of total employer costs of employee compensation represented by wages (66%) to account for benefits (34%). Wages and benefits information available at: https://www.bls.gov/oes/current/oes172011.htm and https://www.bls.gov/news.release/eccec.t04.htm#ect_table4.f.1 . 4. Represents total respondents affected across all categories (see Notification of hazards). 5. Depends on category.					

Table 4. Summary of Annual Burden¹

Category	Reporting	Recordkeeping	Disclosure
Organizational system description			
# of respondents	22	NA	NA
# of responses per respondent	1	NA	NA
Time per response (hours)	8	NA	NA
Total # of responses	22	NA	NA
Total burden (hours)	173	NA	NA
Compliance declarations			
# of respondents	854	NA	NA
# of responses per respondent	1	NA	NA
Time per response (hours)	2	NA	NA
Total # of responses	854	NA	NA
Total burden (hours)	1,709	NA	NA
Implementation plan			
# of respondents	22	NA	NA
# of responses per respondent	1	NA	NA
Time per response (hours)	32	NA	NA
Total # of responses	22	NA	NA
Total burden (hours)	693	NA	NA
Safety policy			
# of respondents	NA	876	NA
# of responses per respondent	NA	1	NA
Time per response (hours)	NA	4.0	NA
Total # of responses	NA	876	NA
Total burden (hours)	NA	3,504	NA
Summary of employee reports			

Table 4. Summary of Annual Burden¹

Category	Reporting	Recordkeeping	Disclosure
# of respondents	65	NA	NA
# of responses per respondent	2	NA	NA
Time per response (hours)	4	NA	NA
Total # of responses	130	NA	NA
Total burden (hours)	520	NA	NA
Notification of hazards			
# of respondents	2,694	NA	NA
# of responses per respondent	1	NA	NA
Time per response (hours)	8	NA	NA
Total # of responses	2,694	NA	NA
Total burden (hours)	21,552	NA	NA
SMS documentation			
# of respondents	NA	876	NA
# of responses per respondent	NA	1	NA
Time per response (hours)	NA	32	NA
Total # of responses	NA	876	NA
Total burden (hours)	NA	28,032	NA
SMS records			
# of respondents	NA	2,628	NA
# of responses per respondent	NA	1	NA
Time per response (hours)	NA	8	NA
Total # of responses	NA	2,628	NA
Total burden (hours)	NA	21,024	NA
NA = not applicable			
1. Calculated as total burden from Table 3 divided by 3.			

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

Other than the average hours burden to comply with the information collection activities, the respondents will have no additional capital, start-up, or maintenance cost associated with this collection of information.

14. Provide estimates of annualized cost to the Federal Government.

The FAA developed estimates of changes in internal resource needs associated with the proposed rule based on planned SMS approval/acceptance and surveillance for the different affected parts. The FAA estimated incremental impacts in terms of hours per activity and the labor categories associated with the labor hour (Table 5). The costs relate to effort needed to approve the SMS for part 21 approval holders.

Table 5. Calculation of FAA Costs: Part 21

Number of Entities	Safety Engineer (Hours/Entity)	Safety Inspector (Hours/Entity)	Total Hours/Entity	Total Cost¹
65	16	16	2,016	\$154,264

Table 5. Calculation of FAA Costs: Part 21

Number of Entities	Safety Engineer (Hours/Entity)	Safety Inspector (Hours/Entity)	Total Hours/Entity	Total Cost¹
Source: FAA internal estimates				
1. Calculated as hours multiplied by \$74 per hour, based on a mean J Band salary without locality pay, https://employees.faa.gov/org/staffoffices/ahr/program_policies/policy_guidance/hr_policies/hrpm/comp/comp_ref/media/core_salary_with_conversion.xlsx) escalated by a factor of 1.36 to account for benefits (https://georgewbush-whitehouse.archives.gov/omb/memoranda/fy2008/m08-13.pdf).				

15. Explain the reasons for any program changes or adjustments.

The FAA is proposing amending ICR Reference Number 202107-2120-004 to reflect information collection changes that would result from expanded applicability of 14 Code of Federal Regulations (CFR) part 5 - Safety Management Systems.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results of this information will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

No such approval is being sought.

18. Explain each exception to the certification statement identified in Item 19. "Certification for Paperwork Reduction Act Submissions."

There are no exceptions.