

fulfilled in order to make this determination:

(1) The plant pest in question must be determined to be a quarantine pest; and

(2) The taxon of plants for planting must be determined to be a potential host of that quarantine pest.

(e) *Removing a taxon from the list of taxa not authorized pending pest risk analysis.* Any person may request that APHIS remove a taxon from the list of taxa whose importation is not authorized pending pest risk analysis. Persons who submit such a request are encouraged to provide as much information as possible regarding the taxon and any quarantine pests that may be associated with it. APHIS will conduct a pest risk analysis in response to such a request. The pest risk analysis will examine the risk associated with the importation of that taxon.

(1) If the pest risk analysis supports a determination that importation of the taxon be prohibited or allowed subject to special restrictions, such as a systems approach, treatment, or postentry quarantine, APHIS will publish a proposed rule making the pest risk analysis available to the public and proposing to take the action recommended by the pest risk analysis.

(2) If the pest risk analysis supports a determination that importation of the taxon be allowed subject to the general restrictions of this subpart, APHIS will publish a notice announcing our intent to remove the taxon from the NAPPRA list and making the pest risk analysis supporting the taxon's removal available for public review.

(i) APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will be subject only to the general restrictions of this subpart if:

(A) No comments were received on the pest risk analysis;

(B) The comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or

(C) Changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination that the taxon poses a potential risk of introducing a quarantine pest into the United States.

(ii) If information presented by commenters indicates that the pest risk analysis needs to be revised, APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will continue to be listed as not authorized pending pest risk analysis while the information presented by commenters is analyzed and incorporated into the pest

risk analysis. APHIS will subsequently publish a new notice announcing the availability of the revised pest risk analysis.

#### § 319.37–5 [Amended]

7. In § 319.37–5, paragraph (i) introductory text is amended by removing the words “plant diseases” and adding the words “quarantine pests” in their place.

#### § 319.37–7 [Amended]

8. Section 319.37–7 is amended as follows:

a. In paragraph (c)(2)(iii), by removing the words “exotic pests” and adding the words “quarantine pests” in their place.

b. In paragraph (c)(2)(iv), by removing the words “plant pests that are not known to exist in the United States” and adding the words “quarantine pests” in their place.

c. In paragraph (d)(5), by removing the words “injurious plant disease, injurious insect pest, or other plant pest” and adding the words “quarantine pest” in their place.

d. In paragraphs (f)(1) and (f)(2), by removing the words “plant pests” each time they occur and adding the words “quarantine pests” in their place.

e. In paragraphs (f)(1) and (f)(2), by removing the words “plant pest(s)” each time they occur and adding the words “quarantine pest(s)” in their place.

#### § 319.37–8 [Amended]

9. Section 319.37–8 is amended as follows:

a. In paragraph (e)(2) introductory text, by removing the words “disease and pests” and adding the words “quarantine pests” in their place.

b. In paragraph (e)(2)(ii), by removing the words “plant pests and diseases” and adding the words “quarantine pests” in their place; and by removing the words “injurious plant diseases, injurious insect pests, and other plant pests” and adding the words “quarantine pests” in their place.

c. In paragraph (e)(2)(iv)(B), by adding the word “quarantine” before the word “pests.”

d. In paragraph (e)(2)(vii), by removing the words “plant pests” and adding the words “quarantine pests” in their place.

e. In paragraph (e)(2)(viii), by removing the words “plant pests and diseases” and adding the words “quarantine pests” in their place.

f. In paragraph (e)(2)(xi)(B) introductory text, by removing the words “plant pests” and adding the words “quarantine pests” in their place.

g. In paragraphs (f)(3)(i), (f)(3)(vii), (f)(3)(viii), and (f)(4), by removing the

words “injurious plant diseases, injurious insect pests, and other plant pests” and adding the words “quarantine pests” in their place.

10. Section 319.37–12 is revised to read as follows:

§ 319.37–12 Prohibited articles and articles whose importation is not authorized pending pest risk analysis accompanying restricted articles.

A restricted article for importation into the United States may not be packed in the same container as an article whose importation into the United States is prohibited by this subpart or in the same container as an article whose importation is not authorized pending pest risk analysis under § 319.37–2a of this subpart.

#### § 319.37–13 [Amended]

11. Section 319.37–13 is amended as follows:

a. In paragraph (b), by removing the words “injurious plant disease, injurious insect pest, or other plant pest, new to or not theretofore known to be widely prevalent or distributed within and throughout the United States” and adding the words “quarantine pests” in their place; and by removing the words “injurious plant diseases, injurious insect pests, or other plant pests” and adding the words “quarantine pests” in their place.

b. In paragraph (c), by removing the words “pests and Federal noxious weeds” and adding the words “quarantine pests” in their place.

Done in Washington, DC, this 17th day of July 2009.

**Cindy Smith,**

*Acting Deputy Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. E9–17535 Filed 7–22–09; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**14 CFR Parts 21, 119, 121, 125, 135, 141, 142, and 145**

**[Docket No. FAA–2009–0671; Notice No. 09–06]**

**RIN 2120–AJ15**

### Safety Management System

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

**ACTION:** Advance notice of proposed rulemaking (ANPRM), request for comments.

**SUMMARY:** This ANPRM solicits public comments on a potential rulemaking

requiring certain 14 CFR part 21, 119, 121, 125, 135, 141, 142, and 145 certificate holders, product manufacturers, applicants, and employers (hereafter “product/service providers”) to develop a Safety Management System (SMS). SMS is a comprehensive, process-oriented approach to managing safety throughout an organization. An SMS includes an organization-wide safety policy, formal methods of identifying hazards, mitigating and continually assessing risk, and promotion of a safety culture. SMS stresses not only compliance with technical standards but increased emphasis on the organizational aspects and processes that ensure risk management and safety assurance.

**DATES:** Send your comments on or before October 21, 2009.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2009–0671 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.
- *Hand Delivery:* Bring comments to Docket Operations in Room W12–140 of the West Building (Ground Floor) at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <http://DocketsInfo.dot.gov>.

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to Docket Operations in Room W12–140 of the West Building Ground Floor

at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Scott Van Buren, SMS Chief System Engineer, Office of Aviation Safety Analytical Services (ASA), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 494–8417; facsimile: (202) 267–3992; e-mail: [scott.vanburen@faa.gov](mailto:scott.vanburen@faa.gov). For legal questions, contact Anne Bechdolt, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7230; facsimile: (202) 267–7971; e-mail: [anne.bechdolt@faa.gov](mailto:anne.bechdolt@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites interested persons to participate in this request for comments by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result if an SMS rule is established. The most helpful comments will reference a specific question in the notice, and provide detailed explanations of any recommendations, including supporting data when applicable. We ask that you send us only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this notice.

##### **Proprietary or Confidential Business Information**

Do not submit information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

When we are aware of proprietary information submitted with a comment, we will not place it in the docket. See 14 CFR 11.35(b). We will keep proprietary information in a separate

file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act. See 5 U.S.C. 552. We process such a request under the DOT procedures found in 49 CFR part 7.

##### **Availability of Rulemaking Documents**

You can get an electronic copy of the rulemaking documents using the Internet by:

- (1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;
- (2) Visiting the FAA’s Regulations and Policies Web page at [http://www.faa.gov/regulations\\_policies/](http://www.faa.gov/regulations_policies/); or
- (3) Accessing the Government Printing Office’s Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

##### *Purpose*

This ANPRM requests written comments in response to the questions presented. We also welcome any additional information that may be helpful in considering an SMS regulatory framework for providers of aviation products/services under 14 CFR parts 21, 119, 121, 125, 135, 141, 142, and 145. The FAA is not proposing any specific regulatory changes in this ANPRM. The FAA intends to establish an Aviation Rulemaking Committee (ARC) to assess comments resulting from this ANPRM and to provide recommendations for any SMS rulemaking effort. After review of all of the comments submitted in response to this ANPRM, and review of the ARC recommendations, the FAA may issue a notice of proposed rulemaking (NPRM) proposing specific regulations or regulatory amendments to create an SMS rule. Interested persons will have the opportunity to comment on proposed changes prior to the adoption of any final rule regarding SMS.

##### *What Is a Safety Management System?*

A Safety Management System (SMS) is a structured, risk-based approach to managing safety. The International Civil Aviation Organization (ICAO) has defined SMS as a “systematic approach to managing safety, including the necessary organizational structures,

accountabilities, policies, and procedures." See ICAO, *Safety Management Manual*, at 1.4.2, ICAO Doc. 9859-AN/460 (1st ed. 2006). An SMS provides a set of decision-making processes and procedures that a product/service provider would use to plan, organize, direct, and control its business activities in a manner that enhances safety and ensures compliance with regulatory standards. An SMS incorporates these procedures into normal, day-to-day business processes. SMS requires a proactive approach to discovering and correcting problems before there are safety consequences. An SMS also includes processes that seek to identify potential organizational breakdowns and necessary process improvements allowing management to address a safety issue before a noncompliant or unsafe condition results. However, using 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.

The FAA, in continuing to develop a comprehensive and integrated framework for safety management, is considering an SMS rule to provide product/service providers with a standardized set of requirements for an SMS. The FAA Aviation Safety Organization (AVS) describes an SMS as containing four key components: Safety Policy, Safety Risk Management (SRM), Safety Assurance (SA), and Safety Promotion.

**Safety Policy.** Safety policy outlines the methods and processes the organization's SMS will use to achieve the desired safety outcomes. The policy establishes senior management's commitment on behalf of the organization to incorporate and continually improve safety in all aspects of its business. Senior management would develop measurable and attainable company-wide safety objectives, procedures, and processes. The safety policy establishes and promotes safety culture throughout all levels of an organization.

**Safety Risk Management (SRM).** SRM processes are used to assess system design and verify that the system adequately controls risk. A formal SRM process describes a system, identifies hazards, analyzes those hazards to identify risk, and establishes controls to manage those risks.

**Safety Assurance (SA).** SA processes are used to ensure risk controls developed under SRM achieve their intended objectives throughout the life cycle of a system. The SA process may reveal hazards not previously identified

during the SRM process. The SA process may also allow the product/service provider to identify or assess the need for new risk controls, as well as the need to eliminate or modify existing controls. These SA monitoring activities apply to an SMS whether the operations are accomplished internally or outsourced. The SA processes include: information acquisition, analysis, system assessment, and development of preventive/corrective action for nonconformance.

**Safety Promotion.** Safety promotion requires creating an environment where safety objectives can be achieved. Safety promotion encourages a positive safety culture. A positive safety culture is characterized by an adequate knowledge base, competency, implementation tools, effective communications, ongoing training, and information sharing. Senior management must provide the leadership to promote and ensure a positive safety culture throughout an organization. A positive safety culture is the product of individual and group values, attitudes, and behavior, all committed to the organization's safety programs.

In addition to the four components described above, another important element of a product/service provider's SMS is the ability of the SMS to interface with other product/service providers, as well as the regulator. Such interfacing allows product/service providers to address issues of mutual concern and allows the regulator to evaluate the performance of the product/service provider's SMS.

#### *International Civil Aviation Organization (ICAO) and Safety Management Systems*

In March 2006, ICAO amended Annex 6—which addresses requirements for the operation of aircraft, commercial air transport operators, and helicopter operators—requiring member states to mandate that their Annex 6 operators establish an SMS. The March 2006 amendments require member states to initiate compliance by January 1, 2009.

On December 7, 2007, ICAO proposed incorporating Annex 6 SMS requirements into Annex 1 (medical licensing) and Annex 8, (airworthiness of aircraft), specifically aircraft and aircraft component manufacturers, as well as maintenance facilities. These proposals, if adopted, would extend the compliance date for Annex 6 amendments that were adopted in March 2006 to November 19, 2009, and require all member states to initiate compliance with the Annex 1 and Annex 8 amendments by November 18, 2010. Additional information regarding

these amendments, as well as ICAO's guidance on establishing an SMS framework, may be found at <http://www.icao.int/anb/safetymanagement/>.

The United States has endorsed the December 7, 2007, ICAO proposal to require product/service providers under Annex 1, 6, and 8 to develop an SMS. Such a requirement would be consistent with recent National Transportation Safety Board (NTSB) recommendations that the FAA requires all part 121 operators to establish SMS programs. See NTSB Recommendation A-07-10 (January 23, 2007).

#### **FAA Policy and Guidance Materials**

In an effort to develop SMS policy and guidance material, the FAA reviewed ICAO requirements and surveyed SMS programs and development efforts around the world. The FAA followed SMS developments in Canada, New Zealand, Australia, and Britain for program details, best practices, and lessons learned. We also examined third-party systems developed by user organizations including the International Air Transport Association (IATA), the Medallion Foundation, and the International Business Aviation Council (IBAC).

As a result, the FAA has developed policy and guidance material for establishing an SMS framework within the FAA, as well as recommendations for industry product/service providers in developing their own SMSs. Advisory Circular (AC) 120-92, Introduction to Safety Management Systems for Air Operators, issued June 22, 2006, provides a voluntary framework by which air operators may establish an SMS. Some 14 CFR part 91, 121, and 135 operators and some part 145 maintenance organizations have used this AC for voluntary SMS development.

The AC provides background and introductory material on SMS processes and interfaces with the certificate holder's SMS and the FAA oversight system. Compliance with the AC is voluntary because there are not, at present, any SMS regulatory requirements in the United States. In addition, in May 2008, the FAA's Aviation Safety organization issued Order VS 8000.367, Aviation Safety (AVS) Safety Management System Requirements, prescribing what criteria AVS services and offices must follow in implementing an SMS within AVS. Appendix B of this order provides specific guidance for product/service provider SMS development. The FAA encourages the public to read these documents to help build an

understanding of SMS principles before responding to the questions below. Copies of these documents have been placed in the docket for this notice.

#### Request for Information

The FAA seeks input from the public on the following questions. In your comments please refer to the number of the specific question(s) you are responding to. Please do not hesitate to provide additional information regarding SMS not addressed by these questions if you believe it would be helpful in understanding the implications of imposing an SMS regulatory requirement. We do not expect that every commenter will be able to answer every question. Please respond to those questions you feel able to answer, or that address your particular issue.

1. Please tell us about your organization, including what products/services are provided, what FAA certificates you hold, approximate number of employees, and your approximate annual gross revenue.
2. Has your organization implemented an SMS or components of an SMS based on any of the guidance materials below? Please describe your implementation experience.
  - a. FAA Order VS8000.367, *AVSSMS Requirements*, Appendix B.
  - b. AC-120-92, *Introduction to Safety Management Systems for Air Operators*.
  - c. FAA-sponsored regulatory or voluntary programs (e.g., Continuing Analysis and Surveillance Systems (CASS), Internal Evaluation Programs (IEP), Aviation Safety Action Programs (ASAP), etc.).
  - d. Foreign civil aviation authorities' SMS development material (e.g., Transport Canada, Civil Aviation Authority of Singapore (CAAS), Australia Civil Aviation Safety Authority (CASA), U.K. Civil Aviation Authority (CAA)—please specify).
3. Please comment on the sufficiency of the following SMS guidance material, and what, if any, additional information you would need to implement an SMS.
  - a. FAA Order 8000.367, *AVSSMS Requirements*, Appendix B.
  - b. AC-120-92, *Introduction to Safety Management Systems for Air Operators*.
  - c. Foreign civil aviation authorities' SMS development material.
  - d. Third party material (e.g., IATA Operational Safety Audit (IOSA), International Standard for Business Aircraft Operations (IS-BAO), Regional Air Cargo Carriers Association (RACCA), Air Cargo Safety Foundation (ACSF)).
  - e. Other (please specify).

4. Do you currently have a quality management system (QMS) that meets some accepted standard (e.g., ISO-9000, Six-Sigma, Baldrige)? How would you envision your existing system operating in an SMS framework?

5. If you have voluntarily developed, or are in the process of developing an SMS, what impact has SMS had on your organization in terms of enhanced safety and compliance with existing CFRs?

6. Which types of product/service providers should be required to have an SMS and which, if any, should not? Please explain the reasoning for your opinion.

7. If you have implemented an SMS and conducted cost and benefits analyses, please describe your findings.

8. What are your main concerns and recommendations in making the transition to an SMS regarding the following?

a. Documentation requirements (e.g., developing or updating manuals, policies, procedures, standard operating procedures).

b. Recordkeeping requirements (e.g., hazard identification data, risk assessment data, corrective actions).

c. Collection, sharing, and management of safety information (e.g., protection of and access to personally identifiable information, proprietary information).

9. What are the initial and recurrent costs of establishing and maintaining SMS processes (e.g., internal auditing and evaluation, data collection, employee training, computer software, personnel hiring and training)?

10. What impact has SMS had on your organization in terms of the resources necessary to implement and maintain the system?

11. What new knowledge, skills, and abilities would your organization need, if any, to operate successfully within an SMS?

12. Please give us your thoughts about the current processes for procuring and using voluntarily submitted safety data through FAA programs such as Aviation Safety Action Program (ASAP) and how these programs would fit within an SMS framework.

13. What areas of the current regulations do you believe already incorporate SMS principles (e.g., continuing analysis and surveillance system (CASS) under 14 CFR 121.373; quality or inspection system requirements under 14 CFR 21.143 and 21.303)? How would you suggest the FAA avoid any duplicative requirements in any SMS rulemaking effort?

14. What concerns and recommendations do you have about

setting objective standards for the evaluation of SMS processes (e.g., evaluating SMS effectiveness, defining scope of hazards, establishing acceptable levels of risk)?

15. What are practical ways a small business could apply the elements of an SMS?

16. What are your concerns and recommendations regarding the FAA making the transition to requiring SMS of product/service providers (e.g., schedule for implementation, FAA acceptance and approval procedures, oversight)?

17. Please provide any additional information you think is pertinent.

Issued in Washington, DC, on July 20, 2009.

**John Hickey,**

*Deputy Associate Administrator for Aviation Safety.*

[FR Doc. E9-17553 Filed 7-22-09; 8:45 am]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2009-0655; Directorate Identifier 2008-NM-192-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 747-200F, 747-200C, 747-400, 747-400D, and 747-400F Series Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

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**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all Boeing Model 747-200F, 747-200C, 747-400, 747-400D, and 747-400F series airplanes. The existing AD currently requires repetitive inspections for cracking of certain fuselage internal structure (i.e., Sections 42 and 46 fuselage frames, upper deck floor beams, electronic bay access door cutout, nose wheel well, and main entry doors and door cutouts), and repair if necessary. This proposed AD would require additional repetitive inspections for cracking of certain fuselage structure (i.e., Section 41 fuselage frames where they connect to upper deck floor beams, and section 41 fuselage frames between stringer (S-8 and S-12), and related investigative/corrective actions if necessary. This proposed AD would