



THE VIEW FROM WASHINGTON

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SMS: 'Sadly Misguided Strategy' Revisited

Last year, the AEA's chairman of the board, Barry Aylward, wrote an editorial about Transport Canada Civil Aviation's approach to safety management systems (SMS). He referred to SMS as the "sadly misguided strategy" of the Canadian government. In the article, he was critical of the process and approach to this business tool.

While Aylward and I will debate many things from time to time, he likely was more correct than not in his writings. This sadly misguided government mandate has cost both Bombardier and Gulfstream more than a million dollars each to implement, and neither manufacturer is remotely near completion of its implementation of SMS.

What is most concerning about this costly mandate is, not one government agency has offered any tangible safety benefit to the typical AEA small business avionics shop.

In each briefing I have attended regarding SMS — and I have attended dozens in the past few years — no one has ever quantified an improvement in aviation safety. There is an emotional "feel-good" benefit, but no one has come up with any tangible, defensible aviation safety benefit. SMS does seem to help "fix" other toothless safety and quality mandates the

authorities currently can't seem to enforce. SMS does seem to help in the short-term, but any new program fixes defunct mandates in the short-term while they are fresh and new.

The final SMS rule for Canada is to be introduced in September, and it is to be finalized by the first of the year. Australia currently has its proposal out for comment. Europe still is drafting its proposal. And the United States is asking industry for advanced input on this misguided government mandate.

It is a very complicated program. The technical elements of risk identification, management and mitigation are all appropriate; however, there are so many different SMS programs being implemented today in every sector of aviation that herding these different approaches into a cohesive process might be completely impossible. This is an administratively burdensome process with little tangible regulatory benefit for small avionics businesses.

In late July, the FAA issued an advanced notice of proposed rulemaking. Pay attention to it — do not ignore it. You already should have received an AEA Regulatory Update about this or read the notice on the AEA website. It is up to you to ask the hard questions of your government. The advanced notice of proposed rulemaking

will be available for comment for a very short 90-day period, with a closing date about the third week of October.

The issue of SMS is two-fold: the product and the regulatory process. And then, SMS as a product also is two-fold: the business (all-encompassing SMS), which is quite valuable for large, multi-tiered corporations; and the regulatory SMS — an SMS within the scope of the Civil Aviation Act.

I like the premises of risk management, risk mitigation and corporate leadership SMS promotes. I think these are valuable business tools that can bring added value to business decisions for even the smallest companies. When adopting the total SMS package (aviation safety, industrial safety, environmental management and corporate governance) into decision-making, business leaders can make better decisions.

However, I do not support the manipulation of this process by the civil aviation authorities to "justify" this business tool as a regulatory tool.

First, the civil aviation authorities must limit their arguments to their delegated authority under their civil aviation laws. Their mandate is aviation safety, not labor relations, environmental management, industrial safety or efficient business practices.

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*During the AEA Regional Meetings

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Secondly, who are the civil aviation authorities to tell industry how to run cost-effective businesses? As I have said often, you don't find many Fortune 500 CEOs managing FAA offices. Don't get me wrong, they are good at their jobs, but their jobs are not necessarily building and running successful businesses. Their mandate is ultimate safety without regard to cost.

Fortunately, Congress has provided protections against overzealous government regulations to ensure the aviation regulations are "reasonable." This proposal is not reasonable.

Does SMS contain processes that would benefit aviation safety? Absolutely. Should it be a standalone process for a maintenance organization? Absolutely not. At least not for maintenance and manufacturing businesses.

SMS on its own will never pass the hurdles of rulemaking in any of the AEA membership domains. Each major demographic has small business protections. So, how did this theory gain so much momentum? Simple: through the International Civil Aviation Organization (ICAO).

Does it make sense for airlines? Absolutely. The fractured regulatory structure of our aviation regulations allows for divided corporate leadership, which both insulates the senior leadership and allows one division of a company to make decisions impacting other departments without any mandate for corporate oversight.

The European Aviation Safety Agency (EASA) is correcting this by proposing a complete redesign of the aviation regulations so there is a single certificate for a multi-faceted company. Under EASA's

proposal, a single certificate could cover everything from flight training and air operations to maintenance and manufacturing.

In the U.S., Canada and Australia, which use the legacy regulatory structure, the civil aviation authorities only option is to create this overarching "umbrella" requirement to bring each of the certificates under the same management level.

Does a regulatory SMS make sense for a single-tiered company? Absolutely not. However, the regulations could benefit from some of the elements of SMS.

During the Aviation Rulemaking Committee I attended in late July, Dan Maurino from ICAO said the tools and guidance ICAO developed were intended for ICAO Annex 6 operators (international commercial operators) and their maintenance organizations. He said the SARP and guidance was not written with any consideration of its application to independent maintenance organizations or manufacturers.

He did not reject SMS for maintenance and manufacturing. He simply said the ICAO tools were not developed specifically for maintenance and manufacturing; they were developed for operators, and as such, a different approach might be more appropriate.

What might be a different approach? Perhaps incorporating risk identification, management and mitigation into the basic repair station regulations? Most risks in a repair station are outside the scope of the repair station to mitigate.

What is the authority going to do with the identified risks outside of the authority of the repair station? Will SMS create

a new reporting requirement for repair stations?

How will the CAA link the repair station risks to CAA personnel issues, OEM manuals or operator decisions? Will the CAA have a mandate to actually act upon the reports made by the repair stations? Will it be transparent with the CAA reporting back to the repair station with the CAA's mitigating action? SMS simply cannot work without communication, action and reaction.

What is the protocol when the risk identified by a repair station must be mitigated by another certificate holder? Will the OEM or operator be "required" to mitigate any suspected risk? Once reported, what is the responsibility of the independent repair station?

And what about maintenance mandates that are only suggested for Part 91 operators? Or what about SMS mandates that must be mitigated by non-SMS organizations, such as individual aircraft owners?

For years, the FAA has deprived the public of its right to implement SMS through "voluntary" compliance without the due regulatory process mandated by Congress and the White House for this costly experiment.

This sadly misguided mandate will cost repair stations thousands of dollars in administrative burden even if nothing physically changes in the repair station operation.

The FAA is asking for your questions today. Don't hold back. Make sure your voice is heard loud and clear.

The advanced notice of proposed rulemaking for SMS is available on the AEA website at www.aea.net. □