

ACI-AAAE Workshop

Implementing SMS At Your Airport

SMS Liability and Risk Management

March 21, 2011

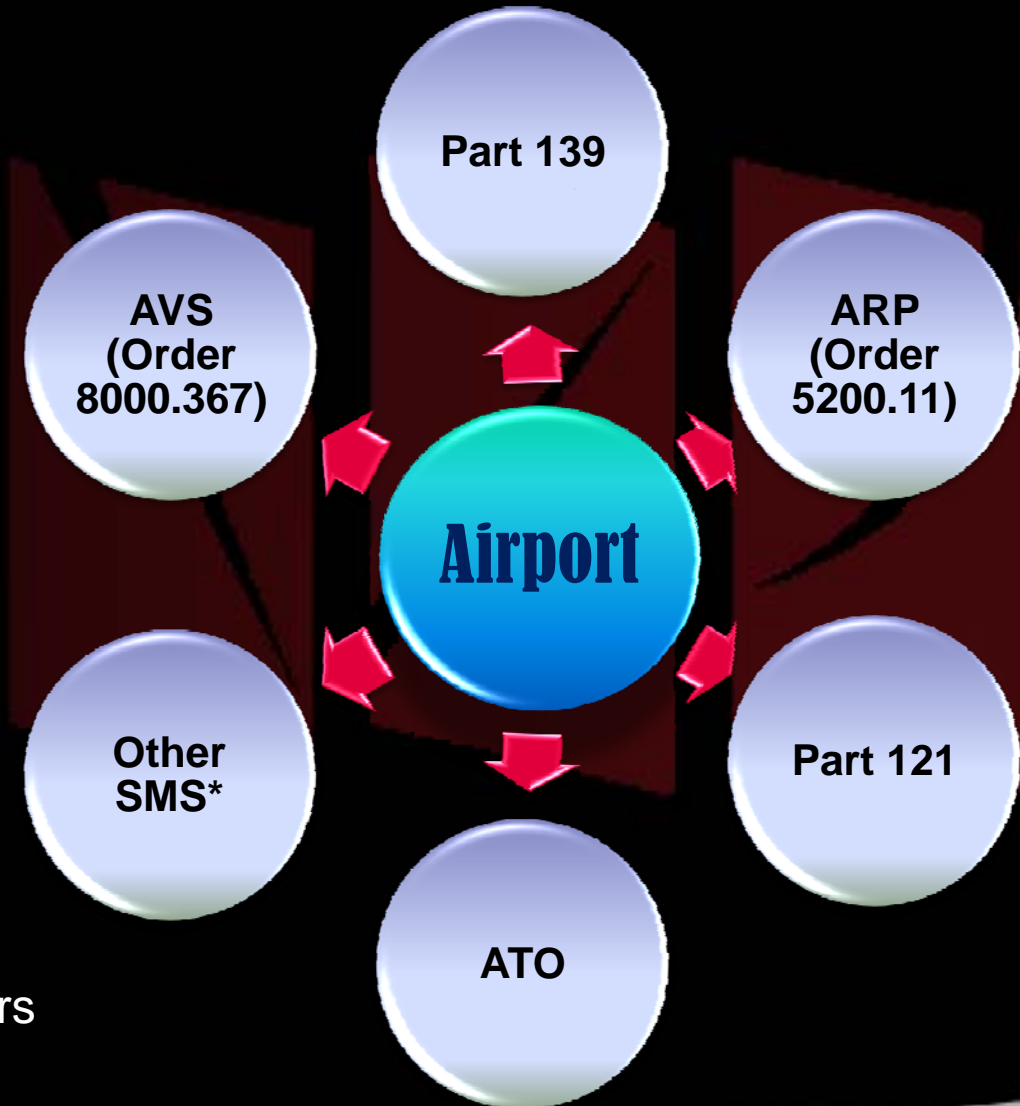
Peter J. Kirsch



KAPLAN KIRSCH ROCKWELL



The World of SMS



* Service Providers

Why Airports Should Care: Introduction

- David explained why SMS presents a *paradigm shift* for proprietors:
 - Liability exposure
 - Legal responsibility
 - Administrative burdens
 - Public disclosure of safety information
- This presentation: Implementation planning can help manage *some of* those risks



Preparing for SMS

Uncertainties

- When Part 139 regulations will be finalized
- Precise proprietor obligations under Part 139
- Implementation schedule

Certainties

- SMS
- Increased proprietor obligations
- Coordination and integration needed among SMSs
- Changed proprietor legal responsibilities

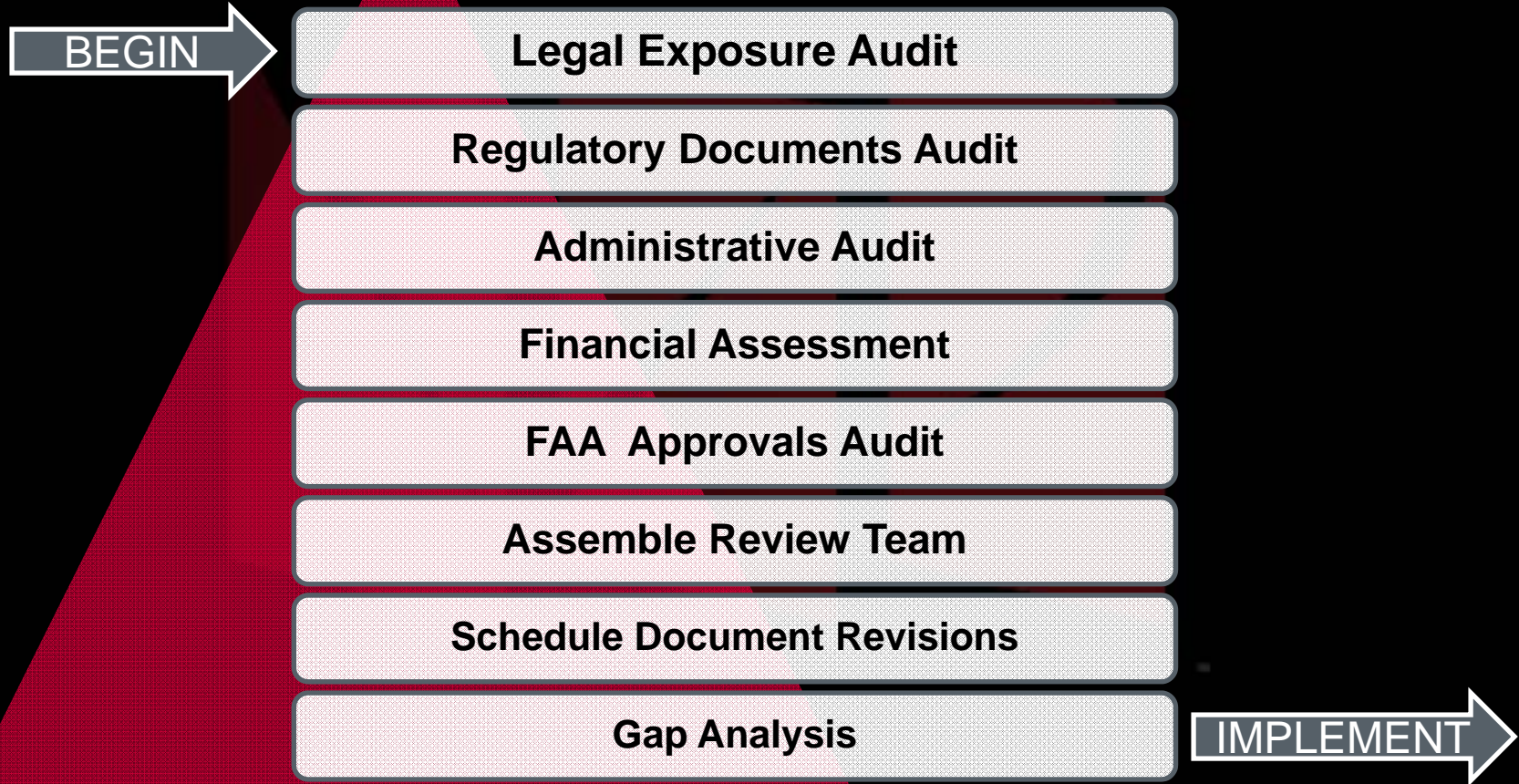


Implementation Planning

- Early implementation planning can:
 - Help manage risks
 - Reduce costs
 - Increase certainty
 - Minimize legal errors
 - Manage legal liability exposure
 - Allow for coordination
 - Increase proprietor control



Implementation Planning to Control Legal Exposure



1. Legal Exposure Audit

- Identify legal exposure under state law:
 - Airport proprietor generally
 - Accountable Executive
 - For airfield activities (movement and non-movement)
 - On tenant leaseholds
- Recordkeeping, information disclosure requirements
- State law opportunities to control legal exposure



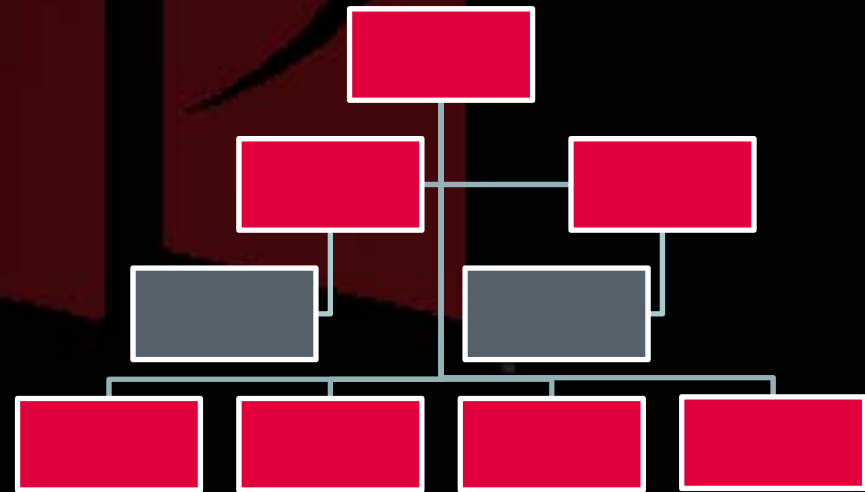
2. Regulatory Documents Audit

- Identify needed changes to key documents to accommodate SMS:
 - Minimum Standards
 - Rules and Regulations
 - Ordinances
 - Personnel policies, practices
 - Whistleblower protections
 - Standard lease terms
 - Document retention policies
- Responsibility and timing for revisions



3. Administrative Audit

- Personnel structure and hierarchy
- Recordkeeping mechanics
- Decision-making and reporting
- Job descriptions
- Process for changing personnel documents



4. Financial Assessment

- Capital costs of implementation
- AIP and other grant eligibility
- Technology needs:
 - Recordkeeping
 - Data tracking
 - Communications
- Consultant costs:
 - SMS Manual
 - Gap analysis
- Personnel and training



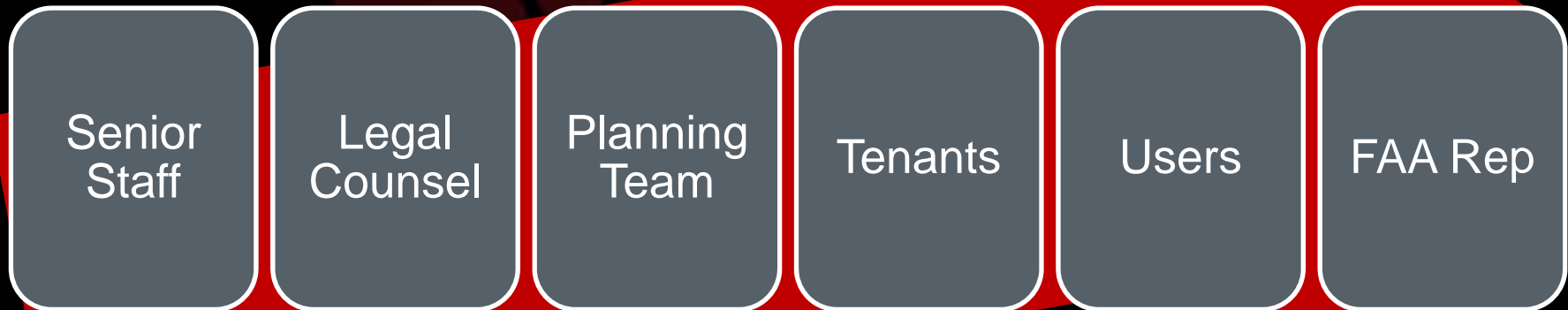
5. FAA Approvals Audit

- Plans initiated prior to June 1, 2011
- Facility changes to accommodate SMS
- ALP revisions (before 5200.11 or Part 139)
- Internal process changes for 5200.11 safety assessments
- AIP needs



6. Assemble SMS Planning Team

- Oversight of implementation planning process
- Help develop RFP, etc. for SMS implementation team



7. Prepare Schedule for Revision of Key Documents

- List documents that need revision
- Identify review and approval timeline, sequence and process:
 - Internal / administrative
 - Tenants / users / interested parties
 - State and local law mandates
- Governing body approval



8. Gap/Benchmark Analysis

- Also first implementation step
- Substantive review of safety needs
- Use attorney privileges to assure maximum protection from disclosure:
 - Candid
 - Analytical
 - Non-punitive



Conclusions

- Liability exposure *will change* under SMS
- Relationships on the airfield will change
- Many parties will be affected by these changes!
- Appropriate *early* planning can help control liability and reduce unnecessary exposure



Discussion

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