

AAAE WEBINAR

SMS: WHAT AIRPORTS NEED TO KNOW NOW

August 18, 2016



Peter J. Kirsch

KAPLAN KIRSCH ROCKWELL

Status update

- SMS for air carriers
- SMS for FAA ATO (internal)
- SMS for FAA Airports (internal)
- SMS for airport proprietors
 - ~~- Proposal (2010)~~
 - Revised proposal (2016)
 - Probable implementation (2017)

Reality Check

- SMS for airports is coming
- Proposal is just that – think *productively* how to make the requirements better, easier, more practical (*not how to oppose the proposal!*)
- We are all learning this together – *including FAA*
- Comments:
 - AAAE, ACI-NA preparing comments
 - *Comments by individual airport sponsors are critical* (what is unique about your airport environment)
 - Due September 12 – *no extension of time*

Revisions since 2010

- About half of Part 139 airports (268 airports)
 - Small, medium, large hubs
 - CBP qualified
 - Over 100,000 annual ops
- Revised implementation schedule
 - 12 months for implementation plan
 - 24 months to implement
- Reduced training requirement

New Regulatory Framework

- Regulation by objective vs. prescriptive regulation: new territory and approach for FAA inspectors
- Beyond scope of existing Part 139 responsibilities (non-movement areas)
- Increased proprietor *proactive* responsibility on airfield (especially non-movement areas)
- (Perhaps) new standard of care for liability purposes

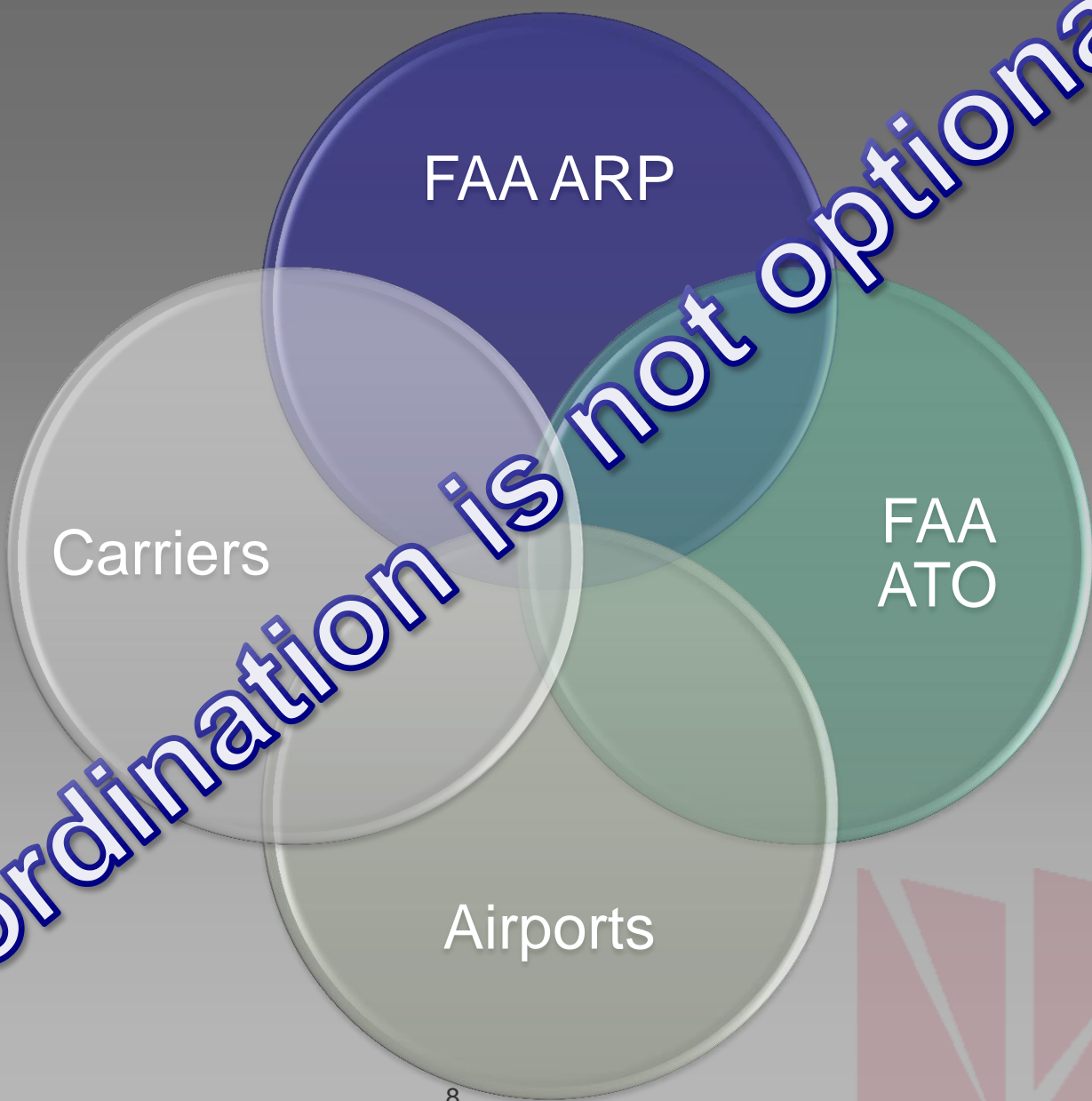
Issues to Consider - Liability

- Standard of care now varies state-to-state
 - SMS may create a new, uniform approach to standard of care
- Check state law immunity
- Risk matrix (disclosure, ranking of risks)
- Liability for safety on leaseholds (proprietor acceptance of responsibility)
- Personal liability of “Accountable Executive”
- Self reporting (no immunity?)

Issues to Consider - Coordination

- “Interoperability” with carriers, FAA staff
- Coordination with airfield users
 - Tenants
 - Contractors
 - Employees of third parties
- Data interconnection with carriers, ATC

Coordination is not optional



Issues to Consider - Personnel

- Accountable Executive: top-down approach
 - Who (Airport Director)
 - Fit into personnel and administrative structure
 - Compare to Japanese quality control model
 - Qualifications, liability
- Creation of consolidated safety function
 - Within existing organization
- Enforcement hierarchy

Legal Issues to Consider - Data

- Collect highly sensitive information
 - Not SSI under TSA regulations
 - Not protected under most existing laws
- May not be able protect under open records laws, FOIA
 - Check state law
 - Documentation is a public record under FOIA
- Safety reports, scorecard as sources of public scrutiny (and lawyers' scrutiny!)
- Self reporting implications

Legal Issues to Consider - Tenants

- Non-movement areas
- Responsibility to police leasehold property
- Authority to direct tenant to take action
 - Check leases, agreements
 - Revise Minimum Standards/ Rules-Regs

Possible Topics for Comments

- Special airport circumstances
 - Non-movement areas
 - Authority over leaseholds
- Open records/ data protection
- Authority of Accountable Executive
- Implementation mechanics
 - Cost
 - Timing
- FAA role in implementation

Questions?



Peter J. Kirsch

KAPLAN KIRSCH ROCKWELL

pkirsch@kaplankirsch.com

(202) 596 -1112