Session 14:
Airport Proprietors’ New Safety and Security Obligations

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This morning’s presentation

- Understanding safety responsibilities
- Division of responsibility
- Wildlife hazard management
- Tort liability
- Emerging Safety Management Systems (SMS) issues
- Security (briefly)

Note: Aeronautical areas only
Important terminology

- Snarge
- FOD
- Standard of care
- Scope of authority/ responsibility
- Movement vs non-movement areas
Airport geometry
Unique safety problems
Airfield lighting

Airfield pavement
Runway safety areas

Snow and ice control

Aircraft rescue and fire fighting
Airfield signage
FOD protection
Fueling safety
Obstruction protection and removal
Movement – Non-movement areas

General aviation or FBO ramp

Exclusive use areas
Runway ends

AIRPORT RUNWAY PROTECTION ZONE

Runway safety area

Extended object free area

Source: U.S. Department of Transportation
Runway safety areas

- Cleared areas beyond runway ends
- Undershoots/overruns
- Bring to current standards - 2015 deadline
- Increased FAA enforcement
FAR safety requirements - commercial airports

- Airfield pavement
- Runway safety areas
- Marking, signs and lighting
- Snow and ice control
- Aircraft rescue and firefighting
- Obstructions
- Wildlife hazard management
- Fueling safety
Wildlife Hazard Management

• Rules principally (not exclusively) apply to commercial airports
• Airports “must take immediate action to alleviate wildlife hazards whenever they are detected.”
  – Wildlife Hazard Assessment
  – Wildlife Hazard Management Plan
Proprietors’ tort liability

- Part 139 and Advisory Circulars provide mandatory obligations
- Can form basis for tort liability
- Precise extent depends on state law
  - sovereign immunity
  - tort law
Safety Management Systems
Historic Responsibility for Airport Safety

- SAFETY
- FAA
- Pilots
- Airlines/Operators
What is SMS?

“A formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.”
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**Safety Risk Matrix**

- **High Risk**
- **Medium Risk**
- **Low Risk**
The Regulatory World of SMS

Part 139

AVS Order 8000.367

ARP Order 5200.11

Part 121

Other SMS*

ATO

*MID 2017

* Service Providers
Proposed SMS applicability

• Part 139
  – 100,000 operations or more
  – CBP- qualified
  – Small, mid or large hub

About half of all Part 139 airports

List:
Why Airports Should Care?

- A *paradigm shift* for proprietors:
  - Liability exposure
  - Legal responsibility
  - Administrative burdens
  - Public disclosure of safety information
NEW STANDARD OF CARE

Policing of lease-holds and non-movement areas

Regulation by objective vs. prescriptive regulation

Beyond scope of Part 139 obligations

New standard of care
NEW STANDARD OF CARE

POLICING OF LEASE-HOLDS AND NON-MOVEMENT AREAS

REGULATION BY OBJECTIVE VS. PRESCRIPTIVE REGULATION

BEYOND SCOPE OF PART 139 OBLIGATIONS

PROACTIVE PROPRIETOR RESPONSIBILITY
SMS – liability

- State law immunity unchanged
- May create a new, uniform standard of care
- Liability for safety on leaseholds
- Personal liability of “accountable executive”
- Self reporting (no immunity?)
- Inconsistency among airports
Personnel

• Accountable executive: top-down approach
  – Who
  – Fit into personnel and administrative structure
  – Compare to Japanese quality control model
  – Qualifications, liability

• Creation of safety function

• Enforcement hierarchy
Information/ IT

- Collect highly sensitive information
- May not be able protect under open records laws
- Documentation submitted to FAA
- Safety reports, scorecard as sources of public scrutiny
- Self reporting implications
Tenants

- Non-movement areas
- Need to police leasehold property
- Need authority to direct tenant to take action (check leases)
- Need for revisions to standard leases, minimum standards, rules/regulations
Implementation planning for lawyers

BEGIN

Legal Exposure Audit

Regulatory Documents Audit

Administrative Audit

Financial Assessment

FAA Approvals Audit

Assemble Review Team

Schedule Document Revisions

Gap Analysis

IMPLEMENT
Security
Who’s in charge?

Transportation Security Administration

Los Angeles Police Department

Los Angeles World Airports

Los Angeles County Sheriff

Forthcoming security issues

- TSA mission creep
- Exit lanes
- General aviation aircraft security
- LEO – TSA relations
Homework
Homework questions

• Protection of airfield safety
• Plan for SMS
  – Liability
  – Personnel
  – Information/ IT
• Understand scope of immunity under state law