To amend title 49, United States Code, to establish certain rules relating to unmanned aircraft systems and operations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER (for himself and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 49, United States Code, to establish certain rules relating to unmanned aircraft systems and operations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Increasing Competitiveness for American Drones Act of 2023”.

SEC. 2. BEYOND VISUAL LINE OF SIGHT OPERATIONS FOR UNMANNED AIRCRAFT SYSTEMS.

Chapter 448 of title 49, United States Code, is amended by adding at the end the following:
SEC. 44811. BEYOND VISUAL LINE OF SIGHT OPERATIONS FOR UNMANNED AIRCRAFT SYSTEMS.

(a) In General.—Not later than 6 months after the date of enactment of this section, the Administrator of the Federal Aviation Administration (in this section referred to as the ‘Administrator’) shall issue a notice of proposed rulemaking establishing a regulatory pathway for certification or approval of unmanned aircraft systems to enable commercial beyond visual line of sight (in this section referred to as ‘BVLOS’) operations.

(b) Consultation.—

(1) In General.—Subject to paragraph (2), in promulgating the rule under subsection (a), the Administrator shall implement the final report and recommendations of the Beyond Visual Line of Sight Aviation Rulemaking Committee which were submitted to the Administrator on March 10, 2022.

(2) Exception.—If the Administrator determines not to implement 1 or more of the recommendations described in paragraph (1), the Administrator shall provide to the appropriate committees of Congress a statement of explanation for such determination.

(c) Final Rule.—

(1) In General.—Not later than 2 years after the date of enactment of this section, the Ad-
ministrator shall issue a final rule establishing a reg-
ulatory pathway for certification or approval of un-
manned aircraft systems to enable commercial
BVLOS operations.

“(2) REQUIREMENTS.—The final rule described
in paragraph (1) shall, at a minimum, do the fol-
lowing:

“(A) Establish an applicable risk assess-
ment methodology for the authorization of
BVLOS unmanned aircraft system operations
that includes quantified measures of accept-
ability which sufficiently account for the total
air and ground risks associated with such oper-
ations and the means for mitigating such risks,
taking into account an aircraft’s size, weight,
speed, kinetic energy, operational capability,
proximity to airports and populated areas, oper-
ation over people, and operation beyond the vis-
ual line of sight, or operation during the day or
night, including consideration of unmanned air-
craft using an approved or accepted detect and
avoid system appropriate for the class and type
of airspace in which the operation is being con-
ducted.
“(B) Establish remote pilot certification standards for remote pilots for BVLOS operations, taking into account varying levels of automated control and management of unmanned aircraft system flights.

“(C) Establish an airworthiness process for small unmanned aircraft systems that requires a manufacturer’s declaration of compliance to a Federal Aviation Administration accepted means of compliance, which shall not require type or production certification or the issuance of a special airworthiness certificate.

“(D) Establish a special airworthiness certificate to be issued upon a manufacturer’s declaration of compliance to a Federal Aviation Administration accepted means of compliance, which—

“(i) shall not require type or production certification;

“(ii) shall, at least, govern airworthiness of any unmanned aircraft system that—

“(I) is not—

“(aa) a small unmanned aircraft system; and
“(bb) appropriate for the process described in subparagraph (C), as determined by the Administrator;

“(II) has a maximum gross weight of not more than 1,320 lbs; and

“(III) has a maximum speed of 100 miles per hour; and

“(iii) may require unmanned aircraft systems subject to the certificate to operate in the national airspace system at altitudes below at least—

“(I) 400 feet above ground level;

or

“(II) with respect to an unmanned aircraft system flown within a 400-foot radius of a structure, 400 feet above the structure’s immediate uppermost limit.

“(E) Amend the Code of Federal Regulations to establish generally applicable standards for the type certification of unmanned aircraft systems that the Administrator determines pose higher air or ground risks such that those un-
manned aircraft systems are not appropriate
for approvals under the processes described in
subparagraph (C) or (D).

“(F) Establish operating rules for—

“(i) the operation of the unmanned
aircraft systems described in subpara-
graphs (C), (D), or (E); and

“(ii) certain unmanned aircraft sys-
tems to enable lower-risk BVLOS oper-
ations without airworthiness requirements
in a manner consistent with the final re-
port and recommendations of the Beyond
Visual Line of Sight Aviation Rulemaking
Committee described in subsection (b)(1).

“(3) RULE OF CONSTRUCTION.—Nothing in
this section shall prohibit the use of the manufac-
turer declarations of compliance required under
paragraph (2)(C) for other unmanned aircraft sys-
tems.”.

SEC. 3. ESTABLISHMENT OF ASSOCIATE ADMINISTRATOR
OF UAS INTEGRATION.

Section 106 of title 49, United States Code, is
amended by adding at the end the following new sub-
section:
“(u) Office of the Associate Administrator of UAS Integration.—

“(1) Establishment.—There is established in the Federal Aviation Administration the Office of Associate Administrator of UAS Integration (in this subsection referred to as the ‘Office’).

“(2) Associate Administrator.—The Office shall be headed by an Associate Administrator, who shall—

“(A) be appointed by the Administrator, in consultation with the Secretary of Transportation; and

“(B) report directly to the Administrator.

“(3) Purposes.—The purposes of the Office are to—

“(A) ensure and oversee the safe integration of UASs into the national airspace system;

“(B) encourage and facilitate a commercially viable UAS industry and the leadership of the United States in UAS;

“(C) increase overall safety of the transportation system on a mode-neutral basis;

“(D) promote the global leadership of the United States in advanced aviation; and

“(E) manage the UAS Integration Office.
“(4) DUTIES.—The Associate Administrator shall—

“(A) conduct rulemaking proceedings with respect to UASs;

“(B) review submissions under the processes established in subparagraphs (C) through (E) of section 44811(c)(2) and, as appropriate, grant certifications and other operational approvals;

“(C) review, modify, accept, or approve industry-developed standards, means of compliance, and declarations of compliance;

“(D) consult and coordinate with subject matter experts from all relevant lines of business and staff offices in carrying out the duties described in this paragraph in a timely and efficient manner;

“(E) hire full time equivalent employees, as appropriate, to build expertise within the Office in assessing new technologies and novel risk mitigations;

“(F) manage the UAS Certification Unit (as described in subsection (v)); and

“(G) engage in any other activities deemed necessary by the Associate Administrator to
carry out the purposes described in paragraph (3).

“(5) DEFINITIONS.—In this subsection:

“(A) BEYOND VISUAL LINE OF SIGHT; BVLOS.—The terms ‘beyond visual line of sight’ or ‘BVLOS’ mean the operation of a UAS beyond the capability of the flightcrew members to see the UAS with vision unaided by any device other than corrective lenses (such as spectacles or contact lenses).

“(B) UAS.—The term ‘UAS’ has the meaning given the term ‘unmanned aircraft system’ in section 44801.”.

SEC. 4. ESTABLISHMENT OF UAS CERTIFICATION UNIT.

Section 106 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following new subsection:

“(v) UAS Certification Unit.—

“(1) ESTABLISHMENT.—There is established in the Office of Associate Administrator of UAS Integration (as established in subsection (u)) the UAS Certification Unit (in this subsection referred to as the ‘Unit’).

“(2) MEMBERSHIP.—
“(A) **Employees.—** The Unit shall include not less than 1 employee from each relevant line of business of the Federal Aviation Administration, including the UAS Integration Office, the Aircraft Certification Service, the Flight Standards Service, Air Traffic Control, the Office of Chief Counsel, the Office of Environment and Energy, and any other office deemed appropriate by the Associate Administrator.

“(B) **Leadership.—** Out of the employees described in subparagraph (A), the Associate Administrator of the Office of Associate Administrator of UAS Integration may designate a director and steering committee to lead the Unit, which shall consist of not less than 1 employee from each line of business participating in the Unit.

“(3) **Duties.—** The Unit shall develop and implement the unmanned aircraft system certification or approval processes described in section 44811 by—

“(A) reviewing and accepting industry-based airworthiness standards and means of compliance;
“(B) engaging with applicants on the certification or approval process;

“(C) providing clear and consistent guidance to industry standards organizations, including setting either a target level of safety or an acceptable level of risk;

“(D) promptly responding to questions from any person seeking an approval described in subparagraphs (C) through (D) of section 44811(c)(2); and

“(E) taking all necessary steps to move the unmanned aircraft system certification and acceptance processes forward without avoidable delay.

“(4) UAS SPECIAL AIRWORTHINESS CERTIFICATE APPROVALS.—The Associate Administrator shall have the authority to grant or deny an application for any approval described in section 44811, upon review of the recommendations of the Unit and after consultation with the managers of the Aircraft Certification Service and Flight Standards Service, if either manager requests consultation.”.
SEC. 5. USE OF MODELING AND SIMULATION TOOLS IN UNMANNED AIRCRAFT TEST RANGES; PROGRAM EXTENSION.

(a) Use of Modeling and Simulation Tools.—Section 44803(b) of title 49, United States Code, is amended—

(1) in paragraph (11), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following new paragraph:

“(12) use modeling and simulation tools to assist in the testing, evaluation, verification, and validation of unmanned aircraft systems.”.

(b) Program Extension.—Section 44803(h) of title 49, United States Code, is amended by striking “September 30, 2023” and inserting “September 30, 2028”.

SEC. 6. EXTENSION OF SPECIAL AUTHORITY FOR UNMANNED AIRCRAFT SYSTEMS.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the lack of appropriate certification standards, rules, and processes set by the Federal Aviation Administration for airworthiness determinations and operational approvals of unmanned aircraft systems (as defined in section 44801 of title 49, United States Code) puts the United States at a disadvan-
tage in global competitiveness and delays the integration of promising new technology into communities in the United States;

(2) this lack of progress on a standardized airworthiness and operational approvals approach compels the extension of authority to issue exemptions under section 44807 of such title 49; and

(3) such section 44807—

(A) should continue to use a risk-based approach to authorize operations that do not fit within part 107 of title 14, Code of Federal Regulations; and

(B) should not be limited to type certificate applicants.

(b) EXTENSION.—Section 44807(d) of title 49, United States Code, is amended by striking “September 30, 2023” and inserting “on the date the rules described in section 44811 take effect”.

(c) CLARIFICATION.—Section 44807(a) of title 49, United States Code, is amended by inserting “or chapter 447” after “Notwithstanding any other requirement of this chapter”.

(d) EXPEDITED EXEMPTIONS.—In exercising authority under section 44807 of title 49, United States Code (as amended by subsection (b)), the Administrator of the
Federal Aviation Administration shall, taking into account the statutory mandate to ensure safe and efficient use of the national airspace system and without requiring a rule-making or imposing the requirements of part 11 of title 14, Code of Federal Regulations, grant exemptions to enable—

(1) low-risk beyond visual line of sight operations, such as certain package delivery operations or shielded operations within 100 feet of the ground or a structure; or

(2) extended visual line of sight operations that rely on visual observers to keep the aircraft or airspace within view.

(e) Clarification of Status of Previously Issued Rulemakings and Exemptions.—

(1) Rulemakings.—Any rulemaking published prior to the date of enactment of this Act under the authority described in section 44807 of title 49, United States Code, shall continue to be in effect following the expiration of such authority.

(2) Exemptions.—Any exemption granted under the authority described in section 44807 of title 49, United States Code, and in effect as of September 30, 2023, shall continue to be in effect until
the date that is 3 years after the date of termination described in such exemption.

(3) DELEGATION.—The authority granted to the Secretary of Transportation in such section 44807 may continue to be delegated to the Administrator of the Federal Aviation Administration in whole or in part.

(4) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to interfere with the Secretary of Transportation’s—

(A) authority to rescind or amend the granting of an exemption for reasons such as unsafe conditions or operator oversight; or

(B) ability to grant an exemption based on a determination made pursuant to such section 44807 before the expiration of that provision.