

118TH CONGRESS  
1ST SESSION

# H. R. 3459

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2023

Mr. YAKYM (for himself and Mr. MENENDEZ) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

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

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing Competi-  
5 tiveness for American Drones Act of 2023”.

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

8 (a) IN GENERAL.—Chapter 448 of title 49, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

1 **“§ 44811. Beyond visual line of sight operations for**  
2 **unmanned aircraft systems**

3 “(a) IN GENERAL.—Not later than 6 months after  
4 the date of enactment of this section, the Administrator  
5 of the Federal Aviation Administration (in this section re-  
6 ferred to as the ‘Administrator’) shall issue a notice of  
7 proposed rulemaking establishing a regulatory pathway  
8 for certification or approval of unmanned aircraft systems  
9 to enable commercial beyond visual line of sight (in this  
10 section referred to as ‘BVLOS’) operations.

11 “(b) CONSULTATION.—

12 “(1) IN GENERAL.—Subject to paragraph (2),  
13 in promulgating the rule under subsection (a), the  
14 Administrator shall implement the final report and  
15 recommendations of the Beyond Visual Line of Sight  
16 Aviation Rulemaking Committee which were sub-  
17 mitted to the Administrator on March 10, 2022.

18 “(2) EXCEPTION.—If the Administrator deter-  
19 mines not to implement 1 or more of the rec-  
20 ommendations described in paragraph (1), the Ad-  
21 ministrator shall provide to the appropriate commit-  
22 tees of Congress a statement of explanation for such  
23 determination.

24 “(c) FINAL RULE.—

25 “(1) IN GENERAL.—Not later than 2 years  
26 after the date of enactment of this section, the Ad-

1        administrator shall issue a final rule establishing a reg-  
2        ulatory pathway for certification or approval of un-  
3        manned aircraft systems to enable commercial  
4        BVLOS operations.

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

8            “(A) Establish an applicable risk assess-  
9        ment methodology for the authorization of  
10       BVLOS unmanned aircraft system operations  
11       that includes quantified measures of accept-  
12       ability which sufficiently account for the total  
13       air and ground risks associated with such oper-  
14       ations and the means for mitigating such risks,  
15       taking into account an aircraft’s size, weight,  
16       speed, kinetic energy, operational capability,  
17       proximity to airports and populated areas, oper-  
18       ation over people, and operation beyond the vis-  
19       ual line of sight, or operation during the day or  
20       night, including consideration of unmanned air-  
21       craft using an approved or accepted detect and  
22       avoid system appropriate for the class and type  
23       of airspace in which the operation is being con-  
24       ducted.

1           “(B) Establish remote pilot certification  
2 standards for remote pilots for BVLOS oper-  
3 ations, taking into account varying levels of  
4 automated control and management of un-  
5 manned aircraft system flights.

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

13           “(D) Establish a special airworthiness cer-  
14 tificate to be issued upon a manufacturer’s dec-  
15 laration of compliance to a Federal Aviation  
16 Administration accepted means of compliance,  
17 which—

18                   “(i) shall not require type or produc-  
19 tion certification;

20                   “(ii) shall, at least, govern airworthi-  
21 ness of any unmanned aircraft system  
22 that—

23                           “(I) is not—

24                                   “(aa) a small unmanned air-  
25 craft system; and

1                   “(bb) appropriate for the  
2                   process described in subpara-  
3                   graph (C), as determined by the  
4                   Administrator;

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

8                   “(III) has a maximum speed of  
9                   100 miles per hour; and

10                  “(iii) may require unmanned aircraft  
11                  systems subject to the certificate to oper-  
12                  ate in the national airspace system at alti-  
13                  tudes below at least—

14                         “(I) 400 feet above ground level;  
15                         or

16                         “(II) with respect to an un-  
17                         manned aircraft system flown within a  
18                         400-foot radius of a structure, 400  
19                         feet above the structure’s immediate  
20                         uppermost limit.

21                  “(E) Amend the Code of Federal Regula-  
22                  tions to establish generally applicable standards  
23                  for the type certification of unmanned aircraft  
24                  systems that the Administrator determines pose  
25                  higher air or ground risks such that those un-

1           manned aircraft systems are not appropriate  
2           for approvals under the processes described in  
3           subparagraph (C) or (D).

4           “(F) Establish operating rules for—

5                   “(i) the operation of the unmanned  
6                   aircraft systems described in subparagraph  
7                   (C), (D), or (E); and

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

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

20           (b) CLERICAL AMENDMENT.—The analysis for chap-  
21           ter 448 of title 49, United States Code, is amended by  
22           inserting after the item relating to section 44810 the fol-  
23           lowing:

“44811. Beyond visual line of sight operations for unmanned aircraft systems.”.

1 **SEC. 3. ESTABLISHMENT OF ASSOCIATE ADMINISTRATOR**  
2 **OF UAS INTEGRATION.**

3 Section 106 of title 49, United States Code, is  
4 amended by adding at the end the following new sub-  
5 section:

6 “(u) OFFICE OF THE ASSOCIATE ADMINISTRATOR OF  
7 UAS INTEGRATION.—

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

12 “(2) ASSOCIATE ADMINISTRATOR.—The Office  
13 shall be headed by an Associate Administrator, who  
14 shall—

15 “(A) be appointed by the Administrator, in  
16 consultation with the Secretary of Transpor-  
17 tation; and

18 “(B) report directly to the Administrator.

19 “(3) PURPOSES.—The purposes of the Office  
20 are to—

21 “(A) ensure and oversee the safe integra-  
22 tion of UASs into the national airspace system;

23 “(B) encourage and facilitate a commer-  
24 cially viable UAS industry and the leadership of  
25 the United States in UAS;

1           “(C) increase overall safety of the trans-  
2           portation system on a mode-neutral basis;

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

5           “(E) manage the UAS Integration Office.

6           “(4) DUTIES.—The Associate Administrator  
7           shall—

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

10           “(B) review submissions under the proc-  
11           esses established in subparagraphs (C) through  
12           (E) of section 44811(c)(2) and, as appropriate,  
13           grant certifications and other operational ap-  
14           provals;

15           “(C) review, modify, accept, or approve in-  
16           dustry-developed standards, means of compli-  
17           ance, and declarations of compliance;

18           “(D) consult and coordinate with subject  
19           matter experts from all relevant lines of busi-  
20           ness and staff offices in carrying out the duties  
21           described in this paragraph in a timely and effi-  
22           cient manner;

23           “(E) hire full-time equivalent employees,  
24           as appropriate, to build expertise within the Of-



1           fice in assessing new technologies and novel risk  
2           mitigations;

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

5           “(G) engage in any other activities deemed  
6           necessary by the Associate Administrator to  
7           carry out the purposes described in paragraph  
8           (3).

9           “(5) DEFINITIONS.—In this subsection:

10           “(A) BEYOND VISUAL LINE OF SIGHT;  
11           BVLOS.—The terms ‘beyond visual line of sight’  
12           or ‘BVLOS’ mean the operation of a UAS be-  
13           yond the capability of the flightcrew members  
14           to see the UAS with vision unaided by any de-  
15           vice other than corrective lenses (such as spec-  
16           tacles or contact lenses).

17           “(B) UAS.—The term ‘UAS’ has the  
18           meaning given the term ‘unmanned aircraft sys-  
19           tem’ in section 44801.”.

20   **SEC. 4. ESTABLISHMENT OF UAS CERTIFICATION UNIT.**

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

24           “(v) UAS CERTIFICATION UNIT.—

1           “(1) ESTABLISHMENT.—There is established in  
2 the Office of Associate Administrator of UAS Inte-  
3 gration (as established in subsection (u)) the UAS  
4 Certification Unit (in this subsection referred to as  
5 the ‘Unit’).

6           “(2) MEMBERSHIP.—

7           “(A) EMPLOYEES.—The Unit shall include  
8 not less than 1 employee from each relevant  
9 line of business of the Federal Aviation Admin-  
10 istration, including the UAS Integration Office,  
11 the Aircraft Certification Service, the Flight  
12 Standards Service, Air Traffic Control, the Of-  
13 fice of Chief Counsel, the Office of Environment  
14 and Energy, and any other office deemed ap-  
15 propriate by the Associate Administrator.

16           “(B) LEADERSHIP.—Out of the employees  
17 described in subparagraph (A), the Associate  
18 Administrator of the Office of Associate Admin-  
19 istrator of UAS Integration may designate a di-  
20 rector and steering committee to lead the Unit,  
21 which shall consist of not less than 1 employee  
22 from each line of business participating in the  
23 Unit.

24           “(3) DUTIES.—The Unit shall develop and im-  
25 plement the unmanned aircraft system certification

1 or approval processes described in section 44811  
2 by—

3 “(A) reviewing and accepting industry-  
4 based airworthiness standards and means of  
5 compliance;

6 “(B) engaging with applicants on the cer-  
7 tification or approval process;

8 “(C) providing clear and consistent guid-  
9 ance to industry standards organizations, in-  
10 cluding setting either a target level of safety or  
11 an acceptable level of risk;

12 “(D) promptly responding to questions  
13 from any person seeking an approval described  
14 in subparagraphs (C) through (D) of section  
15 44811(c)(2); and

16 “(E) taking all necessary steps to move the  
17 unmanned aircraft system certification and ac-  
18 ceptance processes forward without avoidable  
19 delay.

20 “(4) UAS SPECIAL AIRWORTHINESS CERTIFI-  
21 CATE APPROVALS.—The Associate Administrator  
22 shall have the authority to grant or deny an applica-  
23 tion for any approval described in section 44811,  
24 upon review of the recommendations of the Unit and  
25 after consultation with the managers of the Aircraft

1 Certification Service and Flight Standards Service,  
2 if either manager requests consultation.”.

3 **SEC. 5. USE OF MODELING AND SIMULATION TOOLS IN UN-**  
4 **MANNED AIRCRAFT TEST RANGES; PROGRAM**  
5 **EXTENSION.**

6 (a) USE OF MODELING AND SIMULATION TOOLS.—  
7 Section 44803(b) of title 49, United States Code, is  
8 amended—

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

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

13 “(12) use modeling and simulation tools to as-  
14 sist in the testing, evaluation, verification, and vali-  
15 dation of unmanned aircraft systems.”.

16 (b) PROGRAM EXTENSION.—Section 44803(h) of title  
17 49, United States Code, is amended by striking “Sep-  
18 tember 30, 2023” and inserting “September 30, 2028”.

19 **SEC. 6. EXTENSION OF SPECIAL AUTHORITY FOR UN-**  
20 **MANNED AIRCRAFT SYSTEMS.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-  
22 gress that—

23 (1) the lack of appropriate certification stand-  
24 ards, rules, and processes set by the Federal Avia-  
25 tion Administration for airworthiness determinations

1 and operational approvals of unmanned aircraft sys-  
2 tems (as defined in section 44801 of title 49, United  
3 States Code) puts the United States at a disadvan-  
4 tage in global competitiveness and delays the inte-  
5 gration of promising new technology into commu-  
6 nities in the United States;

7 (2) this lack of progress on a standardized air-  
8 worthiness and operational approvals approach com-  
9 pels the extension of authority to issue exemptions  
10 under section 44807 of such title 49; and

11 (3) such section 44807—

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

16 (B) should not be limited to type certifi-  
17 cate applicants.

18 (b) EXTENSION.—Section 44807(d) of title 49,  
19 United States Code, is amended by striking “September  
20 30, 2023” and inserting “on the date the rules described  
21 in section 44811 take effect”.

22 (c) CLARIFICATION.—Section 44807(a) of title 49,  
23 United States Code, is amended by inserting “or chapter  
24 447” after “Notwithstanding any other requirement of  
25 this chapter”.

1 (d) EXPEDITED EXEMPTIONS.—In exercising author-  
2 ity under section 44807 of title 49, United States Code  
3 (as amended by subsection (b)), the Administrator of the  
4 Federal Aviation Administration shall, taking into account  
5 the statutory mandate to ensure safe and efficient use of  
6 the national airspace system and without requiring a rule-  
7 making or imposing the requirements of part 11 of title  
8 14, Code of Federal Regulations, grant exemptions to en-  
9 able—

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

14 (2) extended visual line of sight operations that  
15 rely on visual observers to keep the aircraft or air-  
16 space within view.

17 (e) CLARIFICATION OF STATUS OF PREVIOUSLY  
18 ISSUED RULEMAKINGS AND EXEMPTIONS.—

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

24 (2) EXEMPTIONS.—Any exemption granted  
25 under the authority described in section 44807 of

1 title 49, United States Code, and in effect as of Sep-  
2 tember 30, 2023, shall continue to be in effect until  
3 the date that is 3 years after the date of termination  
4 described in such exemption.

5 (3) DELEGATION.—The authority granted to  
6 the Secretary of Transportation in such section  
7 44807 may continue to be delegated to the Adminis-  
8 trator of the Federal Aviation Administration in  
9 whole or in part.

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

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

16 (B) ability to grant an exemption based on  
17 a determination made pursuant to such section  
18 44807 before the expiration of that provision.

○