

S. 3885 Budd Substitute
(as modified)



AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 3885

To provide for updates to the Federal Aviation Administration type certification process to support development of new and novel technologies, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. BUDD

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**
- 4 (a) **SHORT TITLE.**—This Act may be cited as the
- 5 “Aviation Innovation and Global Competitiveness Act”.
- 6 (b) **TABLE OF CONTENTS.**—The table of contents of
- 7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Transparency of the FAA type certification process.
Sec. 3. Criteria for FAA issue papers.
Sec. 4. FAA delegation guidance.
Sec. 5. Rule of construction.
Sec. 6. Definitions.

1 **SEC. 2. TRANSPARENCY OF THE FAA TYPE CERTIFICATION**
2 **PROCESS.**

3 (a) IN GENERAL.—To support innovation in aviation
4 and the development of new and novel technologies and
5 to ensure global leadership in aviation, not later than 180
6 days after the date of enactment of this section, the Ad-
7 ministrator shall—

8 (1) develop a plan with respect to the type cer-
9 tification of aircraft designed for use in advanced air
10 mobility missions or operations for—

11 (A) improving the issue paper process as-
12 sociated with applications for a type certificate
13 or supplemental type certificate under section
14 44704 of title 49, United States Code;

15 (B) determining, in any given certification
16 project, the extent to which an industry con-
17 sensus standard can be used as an acceptable
18 means or method of compliance, to the extent
19 consistent with the public interest in aviation
20 safety and in the Administrator's sole discre-
21 tion;

22 (C) creating stable policy, to the extent
23 practicable, regarding subjects that the Admin-
24 istrator determines are commonly addressed in
25 issue papers, special conditions, special air-

1 worthiness criteria, or findings on equivalent
2 levels of safety; and

3 (D) ensuring consideration of performance-
4 based standards when promulgating require-
5 ments applicable to the type certification of air-
6 craft, aircraft engine, or propeller; and

7 (2) publish the plan developed in paragraph (1)
8 on the official internet website of the FAA.

9 (b) NON-BINDING, STANDARD, EXPECTED
10 TIMELINES.—Not later than 270 days after the date of
11 enactment of this section, and subject to subsection (c),
12 the Administrator shall amend FAA order 8110.112A (or
13 any successor document), and shall make conforming
14 amendments to other applicable FAA orders and related
15 documents, to establish a range of non-binding, standard,
16 expected timelines for achievement of major milestones es-
17 tablished in the type certification process for aircraft de-
18 signed for use in advanced air mobility missions or oper-
19 ations, including—

20 (1) the development of issue papers and memo-
21 randa regarding certification basis, certification plan
22 means of compliance, and equivalent levels of safety;

23 (2) the anticipated FAA response time at appli-
24 cable stages of the issue paper process;

25 (3) the amount of time that passes between—

1 (A) closure of an issue paper that contains
2 a special condition; and

3 (B) publication of the respective notice of
4 proposed special conditions and final special
5 conditions (if the FAA decides to publish a pro-
6 posed special condition);

7 (4) responses by the Administrator to—

8 (A) applicant petitions for exemptions; and

9 (B) applicant proposals setting forth
10 means of compliance with applicable perform-
11 ance-based design standards; and

12 (5) substantive responses by an applicant to the
13 Administrator's requests for information the Admin-
14 istrator deems necessary to close out petitions and
15 proposals covered under paragraph (3).

16 (c) EXCLUSION.—Subsection (b) shall not apply with
17 respect to such complex issues as the Administrator, in
18 the Administrator's sole discretion, may identify.

19 (d) CONSULTATION REQUIREMENT.—In carrying out
20 the requirements under subsections (a) and (b), the Ad-
21 ministrator shall consult with—

22 (1) trade associations that represent prior and
23 prospective applicants for type certificates, includ-
24 ing, but not limited to, type certificates for powered-

1 lift or other aircraft designed for operation in ad-
2 vanced air mobility use cases;

3 (2) the respective bargaining representatives, as
4 certified under section 7111 of title 5, United States
5 Code, of—

6 (A) FAA aviation safety inspectors and
7 technicians;

8 (B) FAA aviation safety engineers; and

9 (3) any other relevant organizations and stake-
10 holders, as determined by the Administrator.

11 (e) BRIEFING TO CONGRESS.—Not later than 180
12 days after the Administrator establishes non-binding,
13 standard, expected timelines under subsection (b), and an-
14 nually thereafter, the Administrator, in consultation with
15 the FAA's Executive Director of the Aircraft Certification
16 Service, shall brief the Committee on Commerce, Science,
17 and Transportation of the Senate and the Committee on
18 Transportation and Infrastructure of the House of Rep-
19 resentatives, on the status of the implementation of this
20 section, including—

21 (1) metrics on the FAA's performance in meet-
22 ing timelines established under subsection (b);

23 (2) any changes under consideration to imple-
24 mentation of subsection (a) that are likely to im-

1 prove the FAA's performance to align with such
2 timelines

3 (3) the Administrator's progress in creating
4 stable policy with respect to matters commonly cov-
5 ered in issue papers.

6 **SEC. 3. CRITERIA FOR FAA ISSUE PAPERS.**

7 (a) IN GENERAL.—Not later than 180 days after the
8 date of enactment of this section, the Administrator shall
9 amend FAA order 8110.112A (or a successor document)
10 and other applicable FAA documents with respect to the
11 type certification of aircraft designed for use in advanced
12 air mobility missions or operations to—

13 (1) include specific criteria to be used to deter-
14 mine—

15 (A) when an issue warrants the establish-
16 ment of an issue paper; and

17 (B) which roles within the FAA will be re-
18 sponsible for evaluating whether each criterion
19 is met;

20 (2) account for performance-based rule projects
21 that require issue papers regarding both means and
22 methods of compliance; and

23 (3) improve efficiency and compliance with the
24 timelines established under section 2(b) by—

1 (A) converting stable means of compliance
2 issue papers into published policy or advisory
3 circulars; and

4 (B) incorporating stable issue papers for
5 special conditions, exemptions, equivalent level
6 of safety findings, and other requirements
7 through periodic updates to product airworthi-
8 ness standards issued under title 14, Code of
9 Federal Regulations.

10 (b) **SUBSEQUENT ORDERS.**—In the event such FAA
11 order 8110.112A is superseded or canceled, the Adminis-
12 trator shall ensure that the matters described in para-
13 graphs (1), (2), and (3) of subsection (a) are included in
14 a subsequent order governing issue papers.

15 **SEC. 4. FAA DELEGATION GUIDANCE.**

16 (a) **IN GENERAL.**—Not later than 180 days after the
17 date of enactment of this section, the Administrator
18 shall—

19 (1) update delegation guidance for the use of
20 designated engineering representatives and other
21 similarly assigned designees in the type certification
22 of aircraft, aircraft engines, and propellers for use in
23 advanced air mobility missions or operations under
24 section 44704(a) of title 49, United States Code;
25 and

1 (2) publish such updated guidance on the offi-
2 cial internet website of the FAA.

3 (b) REQUIREMENTS.—Subject to section 44702(d) of
4 such title 49, the updated delegation guidance required by
5 subsection (a) shall include each of the following:

6 (1) Criteria for applicant eligibility for delega-
7 tion.

8 (2) Criteria for classification of compliance
9 findings that are considered routine and those that
10 are considered safety-critical.

11 (3) The extent to which the FAA's implementa-
12 tion of delegation authority considers how to ensure
13 safety and foster predictable and routine type certifi-
14 cation processes for new and novel technologies.

15 **SEC. 5. RULE OF CONSTRUCTION.**

16 Notwithstanding any other provision of law:

17 (1) The Administrator's establishment of non-
18 binding, standard, expected timelines or expected
19 ranges of time for certain actions under section 2(b)
20 shall not create any new legal right that did not
21 exist on the day before the date of enactment of this
22 Act.

23 (2) The Administrator's adherence, or failure to
24 adhere, to any non-binding, standard, expected

1 timelines established under section 2(b) in any given
2 instance shall not be subject to judicial review.

3 **SEC. 6. DEFINITIONS.**

4 In this Act:

5 (1) ADMINISTRATOR.—The term “Adminis-
6 trator” means the Administrator of the Federal
7 Aviation Administration.

8 (2) ADVANCED AIR MOBILITY.—The term “ad-
9 vanced air mobility” has the meaning given such
10 term in section 951 of the FAA Reauthorization Act
11 of 2024 (49 U.S.C. 40101 note).

12 (3) FAA.—The term “FAA” means the Fed-
13 eral Aviation Administration.