

116TH CONGRESS
2D SESSION

H. R. 8408

AN ACT

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Aircraft Certification Reform and Accountability Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Safety management systems.
- Sec. 3. Expert review of organization designation authorizations for transport
airplanes.
- Sec. 4. Certification oversight staff.
- Sec. 5. Disclosure of safety-critical information.
- Sec. 6. Periodic reviews of organization designation authorizations.
- Sec. 7. Limitations on delegation.
- Sec. 8. Oversight of organization designation authorization unit members.
- Sec. 9. Integrated project teams.
- Sec. 10. Oversight integrity briefing.
- Sec. 11. Appeals of certification decisions.
- Sec. 12. Employment restrictions.
- Sec. 13. Professional development and skills enhancement.
- Sec. 14. Voluntary safety reporting program.
- Sec. 15. Compensation limitation.
- Sec. 16. System safety assessments and other requirements.
- Sec. 17. Flight crew alerting.
- Sec. 18. Amended type certificates.
- Sec. 19. Whistleblower protections.
- Sec. 20. Pilot training.
- Sec. 21. Nonconformity with approved type design.
- Sec. 22. Implementation of recommendations.
- Sec. 23. Oversight of FAA compliance program.
- Sec. 24. Settlement agreement.
- Sec. 25. Human factors.
- Sec. 26. Technical corrections.
- Sec. 27. Definitions.

6 **SEC. 2. SAFETY MANAGEMENT SYSTEMS.**

7 (a) IN GENERAL.—Not later than 30 days after the
8 date of enactment of this Act, the Administrator shall ini-
9 tiate a rulemaking proceeding to require each person who
10 holds both a type certificate and a production certificate
11 issued under section 44704 of title 49, United States
12 Code, to adopt, not later than the earlier of the date that

1 is 180 days after the issuance of the regulation required
2 under this subsection or the date that is 4 years after the
3 date of enactment of this Act, a safety management sys-
4 tem consistent with the standards and recommended prac-
5 tices contained in annex 19 to the Convention on Inter-
6 national Civil Aviation (61 Stat. 1180) in effect on the
7 earlier of the date of the issuance of such regulations or
8 the date that is 4 years after the date of enactment of
9 this Act.

10 (b) CONTENTS OF REGULATIONS.—The regulations
11 issued under subsection (a) shall, at a minimum, include
12 provisions for the Administrator’s approval of, and regular
13 oversight of adherence to, a certificate holder’s safety
14 management system adopted pursuant to such regula-
15 tions.

16 (c) DEADLINE.—Not later than 12 months after the
17 end of the comment period for the proposed rule issued
18 pursuant to subsection (a), the Administrator shall issue
19 a final rule with respect to such proposed rule.

20 (d) SAFETY REPORTING PROGRAM.—The regulations
21 issued under subsection (a) shall require a safety manage-
22 ment system to include a confidential employee reporting
23 system through which employees can report hazards,
24 issues, concerns, occurrences, and incidents. A reporting
25 system under this subsection shall include provisions for

1 non-punitive reporting of such items by employees in a
2 manner consistent with other confidential employee re-
3 porting systems administered by the Administrator. Such
4 regulations shall also require a certificate holder described
5 in subsection (a) to submit a summary of reports received
6 under this subsection to the Administrator at least twice
7 per year.

8 (e) CODE OF ETHICS.—The regulations issued under
9 subsection (a) shall require a safety management system
10 to include establishment of a code of ethics applicable to
11 all employees of a certificate holder, including officers,
12 which clarifies that safety is the organization’s highest pri-
13 ority.

14 (f) PROTECTION OF SAFETY INFORMATION.—Section
15 44735(a) of title 49, United States Code, is amended—

16 (1) by striking “title 5 if the report” and in-
17 serting the following: “title 5—

18 “(1) if the report”;

19 (2) by striking the period at the end and insert-
20 ing “; or”; and

21 (3) by adding at the end the following:

22 “(2) if the report, data, or other information is
23 submitted to the Federal Aviation Administration
24 pursuant to section 2(d) of the Aircraft Certification
25 Reform and Accountability Act.”.

1 **SEC. 3. EXPERT REVIEW OF ORGANIZATION DESIGNATION**
2 **AUTHORIZATIONS FOR TRANSPORT AIR-**
3 **PLANES.**

4 (a) EXPERT REVIEW.—

5 (1) ESTABLISHMENT.—Not later than 30 days
6 after the date of enactment of this Act, the Adminis-
7 trator shall convene an expert panel (in this section
8 referred to as the “review panel”) to review and
9 make findings and recommendations on the matters
10 listed in paragraph (2).

11 (2) CONTENTS OF REVIEW.—With respect to
12 each holder of an organization designation author-
13 ization for the design and production of transport
14 airplanes, the review panel shall review the following:

15 (A) The extent to which the holder has im-
16 plemented a safety culture consistent with the
17 principles of the International Civil Aviation
18 Organization Safety Management Manual,
19 Fourth Edition (International Civil Aviation
20 Organization Doc. No. 9589) or any similar
21 successor document.

22 (B) The effectiveness of measures insti-
23 tuted by the holder to instill, among employees
24 and contractors of such holder that support or-
25 ganization designation authorization functions,

1 a commitment to safety above all other prior-
2 ities.

3 (C) The holder's capability, based on the
4 holder's organizational structures, requirements
5 applicable to officers and employees of such
6 holder, and safety culture, of making reasonable
7 and appropriate decisions regarding functions
8 delegated to the holder pursuant to the organi-
9 zation designation authorization.

10 (D) Any other matter determined by the
11 Administrator for which inclusion in the review
12 would be consistent with the public interest in
13 aviation safety.

14 (3) COMPOSITION OF REVIEW PANEL.—The re-
15 view panel shall consist of—

16 (A) 2 representatives of the National Aero-
17 nautics and Space Administration;

18 (B) 2 employees of the Administration's
19 Aircraft Certification Service with experience
20 conducting oversight of persons not involved in
21 the design or production of transport airplanes;

22 (C) 1 employee of the Administration's
23 Aircraft Certification Service with experience
24 conducting oversight of persons involved in the
25 design or production of transport airplanes;

1 (D) 2 employees of the Administration's
2 Flight Standards Service with experience in
3 oversight of safety management systems;

4 (E) 1 appropriately qualified representa-
5 tive, designated by the applicable represented
6 organization, of each of—

7 (i) a labor union representing airline
8 pilots involved in both passenger and all-
9 cargo operations;

10 (ii) a labor union, not selected under
11 clause (i), representing airline pilots with
12 expertise in the matters described in para-
13 graph (2);

14 (iii) a labor union representing em-
15 ployees engaged in the assembly of trans-
16 port airplanes;

17 (iv) the certified bargaining represent-
18 ative under section 7111 of title 5, United
19 States Code, for field engineers engaged in
20 the audit or oversight of an organization
21 designation authorization within the Air-
22 craft Certification Service of the Adminis-
23 tration; and

1 (v) the certified bargaining represent-
2 ative for safety inspectors of the Adminis-
3 tration;

4 (F) 2 independent experts who have not
5 served as a political appointee in the Adminis-
6 tration and—

7 (i) who hold either a baccalaureate or
8 postgraduate degree in the field of aero-
9 space engineering or a related discipline;
10 and

11 (ii) who have a minimum of 20 years
12 of relevant applied experience;

13 (G) 4 air carrier employees whose job re-
14 sponsibilities include administration of a safety
15 management system; and

16 (H) 4 individuals representing 4 different
17 holders of organization designation authoriza-
18 tions, with preference given to individuals rep-
19 resenting holders of organization designation
20 authorizations for the design or production of
21 aircraft other than transport airplanes or for
22 the design or production of aircraft engines,
23 propellers, or appliances.

24 (4) RECOMMENDATIONS.—The review panel
25 shall make recommendations to the Administrator

1 regarding suggested actions to address any defi-
2 ciencies found after review of the matters listed in
3 paragraph (2).

4 (5) REPORT.—

5 (A) SUBMISSION.—Not later than 270
6 days after the date on which the review panel
7 is established, the review panel shall transmit to
8 the Administrator and the congressional com-
9 mittees of jurisdiction a report containing the
10 findings and recommendations of the review
11 panel regarding the matters listed in paragraph
12 (2), except that such report shall include—

13 (i) only such findings endorsed by 10
14 or more individual members of the review
15 panel; and

16 (ii) only such recommendations de-
17 scribed in paragraph (4) endorsed by 18 or
18 more of the individual members of the re-
19 view panel.

20 (B) DISSENTING VIEWS.—In submitting
21 the report required under this paragraph, the
22 review panel shall append to such report the
23 dissenting views of any individual member or
24 group of members of the review panel regarding

1 the findings or recommendations of the review
2 panel.

3 (C) PUBLICATION.—Not later than 5 days
4 after receiving the report under subparagraph
5 (A), the Administrator shall publish such re-
6 port, including any dissenting views appended
7 to the report, on the website of the Administra-
8 tion.

9 (D) TERMINATION.—The review panel
10 shall terminate upon submission of the report
11 under subparagraph (A).

12 (6) ADMINISTRATIVE PROVISIONS.—

13 (A) ACCESS TO INFORMATION.—The re-
14 view panel shall have authority to perform the
15 following actions if a majority of the total num-
16 ber of review panel members consider each ac-
17 tion necessary and appropriate:

18 (i) Entering onto the premises of an
19 organization designation authorization
20 holder described in subsection (a) for ac-
21 cess to and inspection of records or other
22 purposes.

23 (ii) Notwithstanding any other provi-
24 sion of law, accessing and inspecting
25 unredacted records in the possession of an

1 employee or appointed political official of
2 the Administration.

3 (iii) Interviewing employees of such
4 organization designation authorization
5 holder or the Administration as necessary
6 for the panel to complete its work.

7 (B) DISCLOSURE OF FINANCIAL INTER-
8 ESTS.—Each individual serving on the review
9 panel shall disclose to the Administrator any fi-
10 nancial interest held by such individual, or a
11 spouse or dependent of such individual, in a
12 business enterprise engaged in the design or
13 production of transport airplanes, aircraft en-
14 gines designed for transport airplanes, or major
15 systems, components, or parts thereof. The Ad-
16 ministrator shall publicly post such disclosure
17 on the website of the Administration in a de-
18 identified form.

19 (C) PROTECTION OF PROPRIETARY INFOR-
20 MATION; TRADE SECRETS.—

21 (i) MARKING.—The custodian of a
22 record accessed under subparagraph (A)
23 may mark such record as proprietary or
24 containing a trade secret. A marking under
25 this subparagraph shall not be dispositive

1 with respect to whether such record con-
2 tains any information subject to legal pro-
3 tections from public disclosure.

4 (ii) NONDISCLOSURE FOR NON-FED-
5 ERAL GOVERNMENT PARTICIPANTS.—

6 (I) NON-FEDERAL GOVERNMENT
7 PARTICIPANTS.—Prior to partici-
8 pating on the review panel, each indi-
9 vidual serving on the review panel rep-
10 resenting a non-Federal entity, includ-
11 ing a labor union, shall execute an
12 agreement with the Administrator in
13 which the individual shall be prohib-
14 ited from disclosing at any time, ex-
15 cept as required by law, to any per-
16 son, foreign or domestic, any non-pub-
17 lic information made accessible to the
18 panel under subparagraph (A).

19 (II) FEDERAL EMPLOYEE PAR-
20 TICIPANTS.—Federal employees serv-
21 ing on the review panel as representa-
22 tives of the Federal Government and
23 who are required to protect propri-
24 etary information and trade secrets
25 under section 1905 of title 18, United

1 States Code, shall not be required to
2 execute agreements under this sub-
3 paragraph.

4 (iii) PROTECTION OF VOLUNTARILY
5 SUBMITTED SAFETY INFORMATION.—Infor-
6 mation subject to protection from disclo-
7 sure by the Administration in accordance
8 with sections 40123 and 44735 of title 49,
9 United States Code, is deemed voluntarily
10 submitted to the Administration under
11 such sections when shared with the review
12 panel and retains its protection from dis-
13 closure (including protection under section
14 552(b)(3) of title 5, United States Code).
15 The custodian of a record subject to such
16 protection may mark such record as sub-
17 ject to statutory protections. A marking
18 under this subparagraph shall not be dis-
19 positive with respect to whether such
20 record contains any information subject to
21 legal protections from public disclosure.
22 Members of the review panel will protect
23 voluntarily submitted safety information
24 and other otherwise exempt information to
25 the extent permitted under applicable law.

1 (iv) PROTECTION OF PROPRIETARY
2 INFORMATION AND TRADE SECRETS.—
3 Members of the review panel will protect
4 proprietary information, trade secrets, and
5 other otherwise exempt information to the
6 extent permitted under applicable law.

7 (v) RESOLVING CLASSIFICATION OF
8 INFORMATION.—If the review panel and an
9 organization designation authorization
10 holder subject to review under this section
11 disagree as to the proper classification of
12 information described in this subpara-
13 graph, then the deputy chief counsel of the
14 Administration shall determine the proper
15 classification of such information and
16 whether such information will be redacted.

17 (D) APPLICABLE LAW.—Public Law 92–
18 463 shall not apply to the panel established
19 under this subsection.

20 (E) FINANCIAL INTEREST DEFINED.—In
21 this paragraph, the term “financial interest”—

22 (i) excludes securities held in an index
23 fund; and

24 (ii) includes—

- 1 (I) any current or contingent
2 ownership, equity, or security interest;
3 (II) an indebtedness or com-
4 pensated employment relationship; or
5 (III) any right to purchase or ac-
6 quire any such interest, including a
7 stock option or commodity future.

8 (b) FAA AUTHORITY.—

9 (1) IN GENERAL.—After reviewing the findings
10 of the review panel submitted under subsection
11 (a)(5), the Administrator may limit, suspend, or ter-
12minate an organization designation authorization
13 subject to review under this section.

14 (2) REINSTATEMENT.—The Administrator may
15 condition reinstatement of a limited, suspended, or
16 terminated organization designation authorization on
17 the holder's implementation of any corrective actions
18 determined necessary by the Administrator.

19 (3) RULE OF CONSTRUCTION.—Nothing in this
20 subsection shall be construed to limit the Adminis-
21 trator's authority to take any action with respect to
22 an organization designation authorization, including
23 limitation, suspension, or termination of such au-
24 thorization.

1 (c) ORGANIZATION DESIGNATION AUTHORIZATION
2 PROCESS IMPROVEMENTS.—Not later than 1 year after
3 receipt of the recommendations submitted under sub-
4 section (a)(5), the Administrator shall—

5 (1) report to the congressional committees of
6 jurisdiction on—

7 (A) whether the Administrator has con-
8 cluded that such holder is able to safely and re-
9 liably perform all delegated functions in accord-
10 ance with all applicable provisions of chapter
11 447 of title 49, United States Code, title 14,
12 Code of Federal Regulations, and other orders
13 or requirements of the Administrator, and, if
14 not, the Administrator shall outline—

15 (i) the risk mitigations or other cor-
16 rective actions, including the implementa-
17 tion timelines of such mitigations or ac-
18 tions, the Administrator has established
19 for or required of such holder as pre-
20 requisites for a conclusion by the Adminis-
21 trator under subparagraph (A); or

22 (ii) the status of any ongoing inves-
23 tigatory actions; and

1 (B) the status of implementation of each
2 of the recommendations of the review panel, if
3 any, with which the Administrator concurs; and
4 (2) report to the congressional committees of
5 jurisdiction on—

6 (A) the status of procedures under which
7 the Administrator will conduct focused over-
8 sight of such holder's processes for performing
9 delegated functions with respect to the design
10 of new and derivative transport airplanes and
11 the production of such airplanes; and

12 (B) the Administrator's efforts, to the
13 maximum extent practicable and subject to ap-
14 propriations, to increase the number of engi-
15 neers, inspectors, and other qualified technical
16 experts, as necessary to fulfill the requirements
17 of this section, in—

18 (i) each office of the Administration
19 responsible for dedicated oversight of such
20 holder; and

21 (ii) the System Oversight Division, or
22 any successor division, of the Aircraft Cer-
23 tification Service.

24 (d) NON-CONCURRENCE WITH RECOMMENDA-
25 TIONS.—Not later than 6 months after receipt of the rec-

1 ommendations submitted under subsection (a)(5), with re-
2 spect to each recommendation of the review panel with
3 which the Administrator does not concur, if any, the Ad-
4 ministrator shall publish on the website of the Administra-
5 tion and submit to the congressional committees of juris-
6 diction a detailed explanation as to why, including if the
7 Administrator believes implementation of such rec-
8 ommendation would not improve aviation safety.

9 **SEC. 4. CERTIFICATION OVERSIGHT STAFF.**

10 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
11 are authorized to be appropriated to the Administrator
12 \$27,000,000 for each of fiscal years 2021 through 2023
13 to recruit and retain engineers, safety inspectors, human
14 factors specialists, and software and cybersecurity experts
15 and other qualified technical experts who perform duties
16 related to the certification of aircraft, aircraft engines,
17 propellers, and appliances.

18 (b) **RECRUITMENT AND RETENTION.**—

19 (1) **BARGAINING UNITS.**—Not later than 30
20 days after the date of enactment of this Act, the Ad-
21 ministrator shall begin collaboration with the exclu-
22 sive bargaining representatives of engineers, safety
23 inspectors, systems safety specialists, and other
24 qualified technical experts certified under section
25 7111 of title 5, United States Code, to improve re-

1 cruitment of employees for, and to implement reten-
2 tion incentives for employees holding, positions with
3 respect to the certification of aircraft, aircraft en-
4 gines, propellers, and appliances. If the Adminis-
5 trator and such representatives are unable to reach
6 an agreement collaboratively, the Administrator and
7 such representatives shall negotiate in accordance
8 with section 40122(a) of title 49, United States
9 Code, to improve recruitment and implement reten-
10 tion incentives for employees described in subsection
11 (a) who are covered under a collective bargaining
12 agreement.

13 (2) OTHER EMPLOYEES.—Notwithstanding any
14 other provision of law, not later than 30 days after
15 the date of enactment of this Act, the Administra-
16 tion shall improve recruitment of, and implement re-
17 tention incentives for, any individual described in
18 subsection (a) who is not covered under a collective
19 bargaining agreement.

20 (3) RULE OF CONSTRUCTION.—Nothing in this
21 section shall be construed to vest in any exclusive
22 bargaining representative any management right of
23 the Administrator, as such right existed on the day
24 before the date of enactment of this Act.

1 (4) AVAILABILITY OF APPROPRIATIONS.—Any
2 action taken by the Administrator under this section
3 shall be subject to the availability of appropriations
4 authorized under subsection (a).

5 **SEC. 5. DISCLOSURE OF SAFETY-CRITICAL INFORMATION.**

6 (a) PROHIBITION.—Section 44704 of title 49, United
7 States Code, is amended by striking subsection (e) and
8 inserting the following:

9 “(e) DISCLOSURE OF SAFETY-CRITICAL INFORMA-
10 TION.—

11 “(1) IN GENERAL.—Notwithstanding a delega-
12 tion described in section 44702(d), the Adminis-
13 trator shall require an applicant for, or holder of, a
14 type certificate for a transport-category aircraft cov-
15 ered under part 25 of title 14, Code of Federal Reg-
16 ulations, to submit safety-critical information with
17 respect to such aircraft to the Administrator in such
18 form, manner, or time as the Administrator may re-
19 quire. Such safety-critical information shall in-
20 clude—

21 “(A) any design and operational details,
22 intended functions, and failure modes of any
23 system that, without being commanded by the
24 flight crew, commands the operation of any
25 safety-critical function or feature required for

1 control of an aircraft during flight or that oth-
2 erwise changes the flight path or airspeed of an
3 aircraft;

4 “(B) the design and operational details, in-
5 tended functions, failure modes, and mode
6 annunciations of autopilot and autothrottle sys-
7 tems, if applicable;

8 “(C) any failure or operating condition
9 that the applicant or holder anticipates or has
10 concluded would result in an outcome with a se-
11 verity level of hazardous or catastrophic, as de-
12 fined in the appropriate Administration air-
13 worthiness requirements and guidance applica-
14 ble to transport-category aircraft defining risk
15 severity;

16 “(D) any adverse handling quality that
17 fails to meet the requirements of applicable reg-
18 ulations without the addition of a software sys-
19 tem to augment the flight controls of the air-
20 craft to produce compliant handling qualities;
21 and

22 “(E) a system safety assessment with re-
23 spect to a system described in subparagraph
24 (A) or (B) or with respect to any component or
25 other system for which failure or erroneous op-

1 eration of such component or system could re-
2 sult in an outcome with a severity level of haz-
3 ardous or catastrophic, as defined in the appro-
4 priate Administration airworthiness require-
5 ments and guidance applicable to transport-cat-
6 egory aircraft defining risk severity.

7 “(2) ONGOING COMMUNICATIONS.—

8 “(A) NEWLY DISCOVERED INFORMA-
9 TION.—The Administrator shall require that an
10 applicant for, or holder of, a type certificate
11 disclose to the Administrator, in such form,
12 manner, or time as the Administrator may re-
13 quire, any newly discovered information or de-
14 sign or analysis change that would materially
15 alter any submission to the Administrator
16 under paragraph (1).

17 “(B) AIRCRAFT SYSTEM DEVELOPMENT
18 CHANGES.—The Administrator shall establish
19 multiple milestones throughout the certification
20 process at which a proposed aircraft system will
21 be assessed to determine whether any change to
22 such system during the certification process is
23 such that such system should be considered
24 novel or unusual by the Administrator.

1 “(3) FLIGHT MANUALS.—The Administrator
2 shall ensure that an aircraft flight manual and a
3 flight crew operating manual (as appropriate or ap-
4 plicable) for an aircraft contains a description of the
5 operation of a system described in paragraph (1)(A)
6 and flight crew procedures for responding to a fail-
7 ure or aberrant operation of such system.

8 “(4) CIVIL PENALTY.—

9 “(A) AMOUNT.—Notwithstanding section
10 46301, an applicant for, or holder of, a type
11 certificate that knowingly violates paragraph
12 (1), (2), or (3) of this subsection shall be liable
13 to the Administrator for a civil penalty of not
14 more than \$1,000,000 for each violation.

15 “(B) PENALTY CONSIDERATIONS.—In de-
16 termining the amount of a civil penalty under
17 subparagraph (A), the Administrator shall con-
18 sider—

19 “(i) the nature, circumstances, extent,
20 and gravity of the violation, including the
21 length of time that such safety-critical in-
22 formation was known but not disclosed;
23 and

24 “(ii) with respect to the violator, the
25 degree of culpability, any history of prior

1 violations, and the size of the business con-
2 cern.

3 “(5) REVOCATION AND CIVIL PENALTY FOR IN-
4 DIVIDUALS.—

5 “(A) IN GENERAL.—The Administrator
6 shall revoke any airline transport pilot certifi-
7 cate issued under section 44703 held by any in-
8 dividual who, while acting on behalf of an appli-
9 cant for, or holder of, a type certificate, know-
10 ingly makes a false statement with respect to
11 any of the matters described in subparagraphs
12 (A) through (D) of paragraph (1).

13 “(B) AUTHORITY TO IMPOSE CIVIL PEN-
14 ALTY.—The Administrator may impose a civil
15 penalty under section 46301 for each violation
16 described in subparagraph (A).

17 “(6) RULE OF CONSTRUCTION.—Nothing in
18 this subsection shall be construed to affect or other-
19 wise inhibit the authority of the Administrator to
20 deny an application by an applicant for a type cer-
21 tificate or to revoke a type certificate of a holder of
22 such certificate.

23 “(7) DEFINITION OF TYPE CERTIFICATE.—In
24 this subsection, the term ‘type certificate’—

1 “(A) means a type certificate issued under
2 subsection (a) or an amendment to such certifi-
3 cate; and

4 “(B) does not include a supplemental type
5 certificate issued under subsection (b).”.

6 (b) CIVIL PENALTY AUTHORITY.—Section 44704 of
7 title 49, United States Code, is further amended by adding
8 at the end the following:

9 “(f) HEARING REQUIREMENT.—The Administrator
10 may find that a person has violated subsection (a)(6) or
11 paragraph (1), (2), or (3) of subsection (e) and impose
12 a civil penalty under the applicable subsection only after
13 notice and an opportunity for a hearing. The Adminis-
14 trator shall provide a person—

15 “(1) written notice of the violation and the
16 amount of penalty; and

17 “(2) the opportunity for a hearing under sub-
18 part G of part 13 of title 14, Code of Federal Regu-
19 lations.”.

20 **SEC. 6. PERIODIC REVIEWS OF ORGANIZATION DESIGNA-**
21 **TION AUTHORIZATIONS.**

22 Section 44736 of title 49, United States Code, is
23 amended—

24 (1) by redesignating subsection (c) as sub-
25 section (d); and

1 (2) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) PERIODIC REVIEWS.—

4 “(1) IN GENERAL.—Not less than once every 7
5 years, the Administrator shall conduct a comprehen-
6 sive review of the capability of each ODA holder for
7 the design of an aircraft, aircraft engine, propeller,
8 or appliance pursuant to a delegation by the Admin-
9 istrator under section 44702(d) to meet the require-
10 ments of subpart D of part 183 of title 14, Code of
11 Federal Regulations, based on the holder’s organiza-
12 tional structures, requirements applicable to officers
13 and employees, and safety culture.

14 “(2) CONTENTS OF REVIEW.—A comprehensive
15 review under this subsection shall include an assess-
16 ment of the effectiveness of, and organization-wide
17 adherence to, an ODA holder’s procedures manual
18 and voluntary safety reporting system.”.

19 **SEC. 7. LIMITATIONS ON DELEGATION.**

20 Section 44702(d) of title 49, United States Code, is
21 amended by adding at the end the following:

22 “(4) Notwithstanding any other provision of law, the
23 Administrator may not delegate a matter under this sub-
24 section—

1 “(A) with respect to the certification of the de-
 2 sign of a novel or unusual design feature that results
 3 in a major change to a type design, except when the
 4 Administrator determines—

5 “(i) a matter is a routine task; or

6 “(ii) during the course of the certification
 7 process, that a matter no longer relates to a
 8 novel or unusual design feature; or

9 “(B) on the sole basis that the Federal Aviation
 10 Administration lacks a sufficient number of per-
 11 sonnel qualified or with the requisite expertise to
 12 perform the function.”.

13 **SEC. 8. OVERSIGHT OF ORGANIZATION DESIGNATION AU-**
 14 **THORIZATION UNIT MEMBERS.**

15 (a) IN GENERAL.—Chapter 447 of title 49, United
 16 States Code, as amended by this Act, is amended by add-
 17 ing at the end the following:

18 **“§ 44741. Approval of organization designation au-**
 19 **thorization unit members**

20 “(a) IN GENERAL.—Beginning on the date that is 1
 21 year after the date of enactment of the Aircraft Certifi-
 22 cation Reform and Accountability Act, each individual who
 23 is selected on or after such date to become a member of
 24 an ODA unit by an ODA holder engaged in the design
 25 of an aircraft, aircraft engine, propeller, or appliance and

1 performs an authorized function pursuant to a delegation
2 by the Administrator of the Federal Aviation Administra-
3 tion under section 44702(d)—

4 “(1) shall be an employee, a contractor, or the
5 employee of a supplier of the ODA holder; and

6 “(2) may not become a member of such unit
7 unless approved by the Administrator pursuant to
8 this section.

9 “(b) PROCESS AND TIMELINE.—

10 “(1) IN GENERAL.—The Administrator shall
11 maintain an efficient process for the review and ap-
12 proval of an individual to become a member of an
13 ODA unit under this section.

14 “(2) PROCESS.—An ODA holder described in
15 subsection (a) may submit to the Administrator an
16 application for an individual to be approved to be-
17 come a member of an ODA unit under this section.
18 The application shall be submitted in such form and
19 manner as the Administrator determines appro-
20 priate. The Administrator shall require an ODA
21 holder to submit with such an application informa-
22 tion sufficient to demonstrate an individual’s quali-
23 fications under subsection (c).

24 “(3) TIMELINE.—The Administrator shall ap-
25 prove or reject an individual that is selected by an

1 ODA holder to become an ODA unit member under
2 this section not later than 30 days after the receipt
3 of an application by an ODA holder.

4 “(4) DOCUMENTATION OF APPROVAL.—Upon
5 approval of an individual to become a member of an
6 ODA unit under this section, the Administrator shall
7 provide such individual a letter confirming that such
8 individual has been approved by the Administrator
9 under this section to be an ODA unit member.

10 “(5) REAPPLICATION.—An ODA holder may
11 submit an application under this subsection for an
12 individual to become a member of an ODA unit
13 under this section regardless of whether an applica-
14 tion for such individual was previously rejected by
15 the Administrator.

16 “(c) QUALIFICATIONS.—

17 “(1) IN GENERAL.—The Administrator shall
18 issue minimum qualifications for an individual to be-
19 come a member of an ODA unit under this section.
20 In issuing such qualifications, the Administrator
21 shall consider existing qualifications for Administra-
22 tion employees with similar duties and whether such
23 individual—

24 “(A) is technically proficient and qualified
25 to perform the authorized functions sought;

1 “(B) has no recent record of serious en-
2 forcement action, as determined by the Admin-
3 istrator, taken by the Administrator with re-
4 spect to any certificate, approval, or authoriza-
5 tion held by such individual;

6 “(C) is of good moral character (as such
7 qualification is applied to an applicant for an
8 airline transport pilot certificate issued under
9 section 44703);

10 “(D) possesses the knowledge of applicable
11 design or production requirements in this chap-
12 ter and in title 14, Code of Federal Regula-
13 tions, necessary for performance of the author-
14 ized functions sought;

15 “(E) possesses a high degree of knowledge
16 of applicable design or production principles,
17 system safety principles, or safety risk manage-
18 ment processes appropriate for the authorized
19 functions sought; and

20 “(F) meets such testing, examination,
21 training, or other qualification standards as the
22 Administrator determines are necessary to en-
23 sure the individual is competent and capable of
24 performing the authorized functions sought.

1 “(2) PREVIOUSLY REJECTED APPLICATION.—In
2 reviewing an application for an individual to become
3 a member of an ODA unit under this section, if an
4 application for such individual was previously re-
5 jected, the Administrator shall ensure that the rea-
6 sons for the prior rejection have been resolved or
7 mitigated to the Administrator’s satisfaction before
8 making a determination on the individual’s re-
9 application.

10 “(d) RESCISSION OF APPROVAL.—The Administrator
11 may rescind an approval of an individual as a member of
12 an ODA unit granted pursuant to this section at any time
13 and for any reason the Administrator considers appro-
14 priate. The Administrator shall develop procedures to pro-
15 vide for notice and opportunity to appeal rescission deci-
16 sions made by the Administrator. Such decisions by the
17 Administrator are not subject to judicial review.

18 “(e) RECORDS AND BRIEFINGS.—

19 “(1) IN GENERAL.—Beginning on the date de-
20 scribed in subsection (a), an ODA holder shall main-
21 tain, for a period to be determined by the Adminis-
22 trator and with proper protections to ensure the se-
23 curity of sensitive and personal information—

24 “(A) any data, applications, records, or
25 manuals required by the ODA holder’s ap-

1 proved procedures manual, as determined by
2 the Administrator;

3 “(B) the names, responsibilities, qualifica-
4 tions, and example signature of each member of
5 the ODA unit who performs an authorized
6 function pursuant to a delegation by the Ad-
7 ministrator under section 44702(d);

8 “(C) training records for ODA unit mem-
9 bers and ODA administrators; and

10 “(D) any other data, applications, records,
11 or manuals determined appropriate by the Ad-
12 ministrator.

13 “(2) CONGRESSIONAL BRIEFING.—Not later
14 than 90 days after the date of enactment of the Air-
15 craft Certification Reform and Accountability Act,
16 and every 90 days thereafter through September 30,
17 2023, the Administrator shall provide to the Com-
18 mittee on Transportation and Infrastructure of the
19 House of Representatives and Committee on Com-
20 merce, Science, and Transportation of the Senate a
21 briefing on the implementation and effects of this
22 section, including—

23 “(A) the Administration’s performance in
24 completing reviews of individuals and approving

1 or denying such individuals within the timeline
2 required under subsection (b)(3);

3 “(B) for any individual rejected by the Ad-
4 ministrator under subsection (b) during the
5 preceding 90-day period, the reasoning or basis
6 for such rejection; and

7 “(C) any resource, staffing, or other chal-
8 lenges within the Administration associated
9 with implementation of this section.

10 “(f) SPECIAL REVIEW OF QUALIFICATIONS.—

11 “(1) IN GENERAL.—Not later than 30 days
12 after the issuance of minimum qualifications under
13 subsection (c), the Administrator shall initiate a re-
14 view of the qualifications of each individual who on
15 the date on which such minimum qualifications are
16 issued is a member of an ODA unit of a holder of
17 a type certificate for a transport airplane to ensure
18 such individual meets the minimum qualifications
19 issued by the Administrator under subsection (c).

20 “(2) UNQUALIFIED INDIVIDUAL.—For any indi-
21 vidual who is determined by the Administrator not
22 to meet such minimum qualifications pursuant to
23 the review conducted under paragraph (1), the Ad-
24 ministrator—

1 “(A) shall determine whether the lack of
2 qualification may be remedied and, if so, pro-
3 vide such individual with an action plan or
4 schedule for such individual to meet such quali-
5 fications; or

6 “(B) may, if the Administrator determines
7 the lack of qualification may not be remedied,
8 take appropriate action, including prohibiting
9 such individual from performing an authorized
10 function.

11 “(3) DEADLINE.—

12 “(A) The Administrator shall complete the
13 review required under paragraph (1) not later
14 than 18 months after the date on which such
15 review was initiated.

16 “(B) If the Administrator fails to complete
17 the review in compliance with subparagraph
18 (A), the Secretary of Transportation shall as-
19 sume the responsibility for completing the re-
20 view.

21 “(C) The Secretary’s completion of the re-
22 view under subparagraph (B)—

23 “(i) may not be delegated to the Ad-
24 ministration; and

1 “(ii) shall be completed within 120
2 days of the date the Secretary’s assump-
3 tion of responsibility following the Admin-
4 istrator’s failure to complete the review in
5 compliance with subparagraph (A).

6 “(4) SAVINGS CLAUSE.—An individual approved
7 to become a member of an ODA unit of a holder of
8 a type certificate for a transport airplane under sub-
9 section (a) shall not be subject to the review under
10 this subsection.

11 “(g) PROHIBITION.—The Administrator may not au-
12 thorize an organization or ODA holder to approve an indi-
13 vidual selected by an ODA holder to become an ODA unit
14 member under this section.

15 “(h) DEFINITIONS.—

16 “(1) GENERAL APPLICABILITY.—The defini-
17 tions contained in section 44736 shall apply to this
18 section.

19 “(2) TRANSPORT AIRPLANE.—The term ‘trans-
20 port airplane’ means a transport-category airplane
21 designed for operation by an air carrier or foreign
22 air carrier type-certificated with a passenger seating
23 capacity of 30 or more or an all-cargo or combi de-
24 rivative of such an airplane.

1 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$3,000,000 for each of fiscal years 2021 through 2023.

4 **“§ 44742. Interference with the duties of organization**
5 **designation authorization unit members**

6 “(a) IN GENERAL.—The Administrator of the Fed-
7 eral Aviation Administration shall continuously seek to
8 eliminate or minimize interference by an ODA holder that
9 affects the performance of authorized functions by mem-
10 bers of an ODA unit.

11 “(b) PROHIBITION.—

12 “(1) IN GENERAL.—It shall be unlawful for any
13 individual who is employed by an ODA holder to
14 commit an act of interference with an ODA unit
15 member’s performance of authorized functions.

16 “(2) CIVIL PENALTY.—

17 “(A) INDIVIDUALS.—An individual shall be
18 subject to a civil penalty under section
19 46301(a)(1) for each violation under paragraph
20 (1).

21 “(B) SAVINGS CLAUSE.—Nothing in this
22 paragraph shall be construed as limiting or con-
23 stricting any other authority of the Adminis-
24 trator to pursue an enforcement action against
25 an individual or organization for violation of ap-

1 plicable Federal laws or regulations of the Ad-
2 ministration.

3 “(c) REPORTING.—

4 “(1) REPORTS TO ODA HOLDER.—A member of
5 an ODA unit shall promptly report any instances of
6 interference experienced or witnessed by such mem-
7 ber to the office of the ODA holder that is des-
8 ignated to receive such reports.

9 “(2) REPORTS TO THE FAA.—

10 “(A) IN GENERAL.—The ODA holder of-
11 fice described in paragraph (1) shall submit to
12 the office of the Administration designated by
13 the Administrator to accept and review such re-
14 ports any credible instances of interference re-
15 ported under paragraph (1).

16 “(B) CONTENTS.—A report to the Admin-
17 istration under this paragraph shall be sub-
18 mitted in a manner, at a time, and in a form
19 prescribed by the Administrator. Such report
20 shall include the results of any investigation
21 conducted by the ODA holder in response to a
22 report of interference, a description of any ac-
23 tion taken by the ODA holder as a result of the
24 report of interference, and any other informa-

1 tion or potentially mitigating factors the ODA
2 holder or the Administrator deems appropriate.

3 “(C) USE OF REPORT.—The Administrator
4 may use the information submitted in a report
5 under this paragraph, including the actions
6 taken by an ODA holder in response to a report
7 under paragraph (1), in determining whether to
8 issue a civil penalty pursuant to subsection (b)
9 or whether such civil penalty should be subject
10 to a setoff or compromised.

11 “(3) RULE OF CONSTRUCTION.—Nothing in
12 this subsection shall be construed to preclude a
13 member of an ODA unit from reporting an instance
14 of interference reported under paragraph (1) directly
15 to the Administration. Each ODA holder shall pro-
16 vide notice to each member of such holder’s ODA
17 unit stating that such individual may report an in-
18 stance of interference reported under paragraph (1)
19 directly to the Administration.

20 “(d) DEFINITIONS.—

21 “(1) GENERAL APPLICABILITY.—The defini-
22 tions contained in section 44736 shall apply to this
23 section.

24 “(2) INTERFERENCE.—In this section, the term
25 ‘interference’ means—

1 “(A) blatant or egregious statements or be-
2 havior, such as harassment, beratement, or
3 threats, that a reasonable person would con-
4 clude was intended to improperly influence or
5 prejudice an ODA unit member’s performance
6 of his or her duties; or

7 “(B) the presence of non-ODA unit duties
8 or activities that conflict with the performance
9 of authorized functions by ODA unit mem-
10 bers.”.

11 (b) LATERAL COMMUNICATIONS.—

12 (1) CONTACT WITH ADMINISTRATION.—The
13 Administrator shall ensure that employees of the Ad-
14 ministration with responsibility for aircraft certifi-
15 cation functions may directly contact non-managerial
16 employees of an aircraft manufacturer for consulta-
17 tion regarding the certification of aircraft design,
18 production, and other matters.

19 (2) PROHIBITION.—It shall be a violation of
20 section 44736(a)(2)(C) of title 49, United States
21 Code, for a manufacturer to prohibit employees from
22 contacting any employee of the Administration or
23 otherwise impose any condition, restriction, or pen-
24 alty (including by requiring prior notice to or the ap-
25 proval of any supervisor or manager) with respect to

1 such contact, except that such manufacturer may in-
2 stitute reasonable, company-wide policies requiring
3 documentation of communications regarding aircraft
4 design or production between the manufacturer’s
5 employees and Administration employees.

6 (c) ODA PROGRAM ENHANCEMENTS.—Section
7 44736 of title 49, United States Code, is further amend-
8 ed—

9 (1) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A) by striking
12 the semicolon and inserting “; and”;

13 (ii) by striking subparagraph (B);

14 (iii) in subparagraph (C) by striking
15 “; and” and inserting a period;

16 (iv) by striking subparagraph (D);

17 and

18 (v) by redesignating subparagraph (C)

19 as subparagraph (B); and

20 (B) in paragraph (3) by striking “shall—

21 ” and all that follows through the end and in-

22 serting “shall conduct regular oversight activi-

23 ties by inspecting the ODA holder’s delegated

24 functions and taking action based on validated

25 inspection findings.”; and

1 (2) in subsection (b)(3)—

2 (A) in subparagraph (A)—

3 (i) by striking clause (i) and redesignating clauses (ii), (iii), and (iv) as clauses
4 (i), (ii), and (iii), respectively;

5 (ii) in clause (i) as redesignated by inserting “, as appropriate,” after “require”;

6 (iii) in clause (ii) as redesignated by inserting “, as appropriate,” after “require”; and
7

8 (iv) in clause (iii) as redesignated by inserting “when appropriate,” before
9 “make a reassessment”;

10 (B) by striking subparagraph (B);

11 (C) in subparagraph (F) by inserting “, when appropriate,” before “approve”; and

12 (D) by redesignating subparagraphs (C),
13 (D), (E), and (F) as subparagraphs (B), (C),
14 (D), and (E), respectively.

15 (d) TECHNICAL CORRECTIONS.—

16 (1) SECTION 44737.—Chapter 447 of title 49,
17 United States Code, is further amended by redesignating the second section 44737 (as added by section 581 of the FAA Reauthorization Act of 2018)
18 as section 44740.

1 (2) ANALYSIS.—The analysis for chapter 447 of
2 title 49, United States Code, is amended—

3 (A) by striking the item relating to the
4 second section 44737 (as added by section 581
5 of the FAA Reauthorization Act of 2018); and

6 (B) by inserting after the item relating to
7 section 44739 the following new items:

“44740. Special rule for certain aircraft operations.

“44741. Approval of organization designation authorization unit members.

“44742. Interference with the duties of organization designation authorization
unit members.”.

8 (3) SPECIAL RULE FOR CERTAIN AIRCRAFT OP-
9 ERATIONS.—Section 44740 of title 49, United States
10 Code (as redesignated by paragraph (1)), is amend-
11 ed—

12 (A) in the heading by striking the period
13 at the end;

14 (B) in subsection (a)(1) by striking “chap-
15 ter” and inserting “section”;

16 (C) in subsection (b)(1) by striking “(1)”
17 the second time it appears; and

18 (D) in subsection (c)(2) by adding a period
19 at the end.

20 **SEC. 9. INTEGRATED PROJECT TEAMS.**

21 (a) IN GENERAL.—Upon receipt of an application for
22 a type certificate for a new transport airplane, the Admin-
23 istrator shall convene an interdisciplinary integrated

1 project team responsible for coordinating review of such
2 application.

3 (b) MEMBERSHIP.—In convening an interdisciplinary
4 integrated project team under subsection (a), the Adminis-
5 trator shall appoint employees of the Administration with
6 specialized expertise and experience in the fields of engi-
7 neering, systems design, human factors, and pilot train-
8 ing, including, at a minimum—

9 (1) not less than 1 designee of the Associate
10 Administrator for Aviation Safety whose duty sta-
11 tion is in the Administration’s headquarters;

12 (2) representatives of the Aircraft Certification
13 Service of the Administration;

14 (3) representatives of the Flight Standards
15 Service of the Administration;

16 (4) experts in the fields of human factors, aero-
17 dynamics, flight controls, software, and systems de-
18 sign; and

19 (5) any other subject matter expert whom the
20 Administrator determines appropriate.

21 **SEC. 10. OVERSIGHT INTEGRITY BRIEFING.**

22 Not later than 1 year after the date of enactment
23 of this Act, the Administrator shall brief the congressional
24 committees of jurisdiction on specific measures the Ad-
25 ministrator has taken to reinforce that each employee of

1 the Administration responsible for overseeing an organiza-
 2 tion designation authorization with respect to the certifi-
 3 cation of aircraft perform such responsibility in accord-
 4 ance with safety management principles and in the public
 5 interest of aviation safety.

6 **SEC. 11. APPEALS OF CERTIFICATION DECISIONS.**

7 (a) IN GENERAL.—Section 44704, of title 49, United
 8 States Code, is further amended by adding at the end the
 9 following:

10 “(g) CERTIFICATION DISPUTE RESOLUTION.—

11 “(1) DISPUTE RESOLUTION PROCESS AND AP-
 12 PEALS.—

13 “(A) IN GENERAL.—Not later than 60
 14 days after the date of enactment of this sub-
 15 section, the Administrator shall issue an order
 16 establishing—

17 “(i) an effective, timely, and mile-
 18 stone-based issue resolution process for
 19 type certification activities under sub-
 20 section (a); and

21 “(ii) a process by which a decision,
 22 finding of compliance or noncompliance, or
 23 other act of the Administration, with re-
 24 spect to compliance with design require-
 25 ments, may be appealed by a covered per-

son directly involved with the certification activities in dispute on the basis that such decision, finding, or act is erroneous or inconsistent with this chapter, regulations, or guidance materials promulgated by the Administrator, or other requirements.

“(B) ESCALATION.—The order issued under subparagraph (A) shall provide for—

“(i) resolution of technical issues at pre-established stages of the certification process, as agreed to by the Administrator and the type certificate applicant;

“(ii) automatic elevation to appropriate management personnel of the Administration and the type certificate applicant of any major certification process milestone that is not completed or resolved within a specific period of time agreed to by the Administrator and the type certificate applicant;

“(iii) resolution of a major certification process milestone elevated pursuant to clause (ii) with a specific period of time agreed to by the Administrator and the type certificate applicant;

1 “(iv) initial review by appropriate Ad-
2 ministration employees of any appeal de-
3 scribed in subparagraph (A)(ii); and

4 “(v) subsequent review of any further
5 appeal by appropriate management per-
6 sonnel of the Administration and the Asso-
7 ciate Administrator for Aviation Safety.

8 “(C) DISPOSITION.—

9 “(i) WRITTEN DECISION.—The Asso-
10 ciate Administrator for Aviation Safety
11 shall issue a written decision on each ap-
12 peal submitted under subparagraph (A)(ii),
13 stating the grounds for the decision of the
14 Associate Administrator.

15 “(ii) REPORT TO CONGRESS.—Not
16 later than December 31 of each calendar
17 year through calendar year 2025, the Ad-
18 ministrator shall submit to the Committee
19 on Transportation and Infrastructure of
20 the House of Representatives and the
21 Committee on Commerce, Science, and
22 Transportation of the Senate a report
23 summarizing each appeal resolved under
24 this subsection.

25 “(D) FINAL REVIEW.—

1 “(i) IN GENERAL.—A written decision
2 of the Associate Administrator under sub-
3 paragraph (C) may be appealed to the Ad-
4 ministrators for a final review and deter-
5 mination.

6 “(ii) DECLINE TO REVIEW.—The Ad-
7 ministrators may decline to review an ap-
8 peal initiated pursuant to clause (i).

9 “(iii) JUDICIAL REVIEW.—Notwith-
10 standing any other provision of law, nei-
11 ther a final determination of the Adminis-
12 trators under clause (i) nor a decision to
13 decline to review an appeal under clause
14 (ii) shall be subject to judicial review.

15 “(2) PROHIBITED CONTACTS.—

16 “(A) PROHIBITION GENERALLY.—During
17 the course of an appeal under this subsection,
18 no covered official may engage in an ex parte
19 communication with an individual representing
20 or acting on behalf of an applicant for, or hold-
21 er of, a certificate under this section in relation
22 to such appeal unless such communication is
23 disclosed pursuant to subparagraph (B).

24 “(B) DISCLOSURE.—If, during the course
25 of an appeal under this subsection, a covered

1 official engages in, receives, or is otherwise
2 made aware of an ex parte communication, the
3 covered official shall disclose such communica-
4 tion in the public record at the time of the
5 issuance of the written decision in accordance
6 with subsection (g)(1)(C), including the time
7 and date of the communication, subject of com-
8 munication, and all persons engaged in such
9 communication.

10 “(3) DEFINITIONS.—In this subsection:

11 “(A) COVERED PERSON.—The term ‘cov-
12 ered person’ means either—

13 “(i) an employee of the Administra-
14 tion whose responsibilities relate to the cer-
15 tification of aircraft, engines, propellers, or
16 appliances; or

17 “(ii) an applicant for, or holder of, a
18 type certificate or amended type certificate
19 issued under this section.

20 “(B) COVERED OFFICIAL.—The term ‘cov-
21 ered official’ means the following officials:

22 “(i) The Executive Director or any
23 Deputy Director of the Aircraft Certifi-
24 cation Service.

1 “(ii) The Deputy Executive Director
2 for Regulatory Operations of the Aircraft
3 Certification Service.

4 “(iii) The Director or Deputy Director
5 of the Compliance and Airworthiness Divi-
6 sion of the Aircraft Certification Service.

7 “(iv) The Director or Deputy Director
8 of the System Oversight Division of the
9 Aircraft Certification Service.

10 “(v) The Director or Deputy Director
11 of the Policy and Innovation Division of
12 the Aircraft Certification Service.

13 “(vi) The Executive Director or any
14 Deputy Executive Director of the Flight
15 Standards Service.

16 “(vii) The Associate Administrator or
17 Deputy Associate Administrator for Avia-
18 tion Safety.

19 “(viii) The Deputy Administrator of
20 the Federal Aviation Administration.

21 “(ix) The Administrator of the Fed-
22 eral Aviation Administration.

23 “(x) Any similarly situated or suc-
24 cesssor FAA management position, as de-
25 termined by the Administrator.

1 “(C) MAJOR CERTIFICATION PROCESS
 2 MILESTONE.—The term ‘major certification
 3 process milestone’ means a milestone related to
 4 the type certification basis, type certification
 5 plan, type inspection authorization, issue paper,
 6 or other major type certification activity agreed
 7 to by the Administrator and the type certificate
 8 applicant.

9 “(4) RULE OF CONSTRUCTION.—Nothing in
 10 this subsection shall apply to the communication of
 11 a good-faith complaint by any individual alleging—

12 “(A) gross misconduct;

13 “(B) a violation of title 18; or

14 “(C) a violation of any of the provisions of
 15 part 2635 or 6001 of title 5, Code of Federal
 16 Regulations.”.

17 (b) CONFORMING AMENDMENT.—Section 44704(a)
 18 is amended by striking paragraph (6).

19 **SEC. 12. EMPLOYMENT RESTRICTIONS.**

20 (a) DISQUALIFICATION BASED ON PRIOR EMPLOY-
 21 MENT.—An employee of the Administration with super-
 22 visory responsibility may not direct, conduct, or otherwise
 23 participate in oversight of a holder of a certificate issued
 24 under section 44704 that previously employed such em-
 25 ployee in the preceding 1-year period.

1 (b) POST-EMPLOYMENT RESTRICTIONS.—Section
2 44711(d) of title 49, United States Code, is amended to
3 read as follows:

4 “(d) POST-EMPLOYMENT RESTRICTIONS FOR IN-
5 SPECTORS AND ENGINEERS.—

6 “(1) PROHIBITION.—A person holding a certifi-
7 cate issued under part 21 or 119 of title 14, Code
8 of Federal Regulations, may not knowingly employ,
9 or make a contractual arrangement that permits, an
10 individual to act as an agent or representative of
11 such person in any matter before the Administration
12 if the individual, in the preceding 2-year period—

13 “(A) served as, or was responsible for over-
14 sight of—

15 “(i) a flight standards inspector of the
16 Administration; or

17 “(ii) an employee of the Administra-
18 tion with responsibility for certification
19 functions with respect to a holder of a cer-
20 tificate issued under section 44704(a); and

21 “(B) had responsibility to inspect, or over-
22 see inspection of, the operations of such person.

23 “(2) WRITTEN AND ORAL COMMUNICATIONS.—
24 For purposes of paragraph (1), an individual shall
25 be considered to be acting as an agent or representa-

1 tive of a certificate holder in a matter before the Ad-
2 ministration if the individual makes any written or
3 oral communication on behalf of the certificate hold-
4 er to the Administration (or any of its officers or
5 employees) in connection with a particular matter,
6 whether or not involving a specific party and without
7 regard to whether the individual has participated in,
8 or had responsibility for, the particular matter while
9 serving as an individual covered under paragraph
10 (1).”.

11 **SEC. 13. PROFESSIONAL DEVELOPMENT AND SKILLS EN-**
12 **HANCEMENT.**

13 (a) IN GENERAL.—The Administrator shall—

14 (1) develop a program for regular recurrent
15 training of engineers, inspectors, and other subject-
16 matter experts employed in the Aircraft Certification
17 Service of the Administration in accordance with the
18 training strategy developed pursuant to section 231
19 of the FAA Reauthorization Act of 2018 (Public
20 Law 115–254; 132 Stat. 3256); and

21 (2) to the maximum extent practicable, imple-
22 ment measures, including assignments in multiple
23 divisions of the Aircraft Certification Service, to en-
24 sure that such engineers and other subject-matter
25 experts in the Aircraft Certification Service have ac-

1 cess to diverse professional opportunities that ex-
2 pand their knowledge and skills.

3 (b) IMPLEMENTATION.—The Administrator shall, to
4 the maximum extent practicable, ensure that actions taken
5 pursuant to subsection (a)—

6 (1) permit engineers, inspectors, and other sub-
7 ject matter experts to continue developing knowledge
8 of, and expertise in, new and emerging technologies
9 in systems design, flight controls, principles of avia-
10 tion safety, system oversight, and certification
11 project management;

12 (2) minimize the likelihood of an individual de-
13 veloping an inappropriate bias toward a designer or
14 manufacturer of aircraft, aircraft engines, propellers,
15 or appliances;

16 (3) are consistent with any applicable collective
17 bargaining agreements; and

18 (4) account for gaps in knowledge and skills be-
19 tween Administration employees and private-sector
20 employees, as identified by the exclusive bargaining
21 representatives certified under section 7111 of title
22 5, United States Code, for each group of Adminis-
23 tration employees covered under this section.

1 **SEC. 14. VOLUNTARY SAFETY REPORTING PROGRAM.**

2 (a) IN GENERAL.—Not later than 30 days after the
3 date of enactment of this Act, the Administrator shall
4 begin collaboration with the exclusive bargaining rep-
5 resentatives of engineers, safety inspectors, systems safety
6 specialists, and other subject matter experts certified
7 under section 7111 of title 5, United States Code, to im-
8 plement a confidential voluntary safety reporting program,
9 in a manner that is consistent with other voluntary report-
10 ing programs administered by the Administrator. The pro-
11 gram shall include provisions addressing, at a minimum—

12 (1) participation in all facets of the program by
13 the exclusive bargaining representatives for employ-
14 ees identified in the matter preceding this para-
15 graph;

16 (2) protections for frontline employees from ad-
17 verse employment actions related to their participa-
18 tion in the program;

19 (3) identification of exclusionary criteria; and

20 (4) creation of a corrective action process in
21 order to address safety issues that are identified
22 through the program.

23 (b) NEGOTIATIONS.—If the Administrator and the
24 representatives described in subsection (a) are unable to
25 reach an agreement collaboratively, the Administrator and
26 such representatives shall negotiate in accordance with

1 section 40122(a) of title 49, United States Code, to reach
2 agreement on the terms and conditions of such a program.

3 **SEC. 15. COMPENSATION LIMITATION.**

4 Notwithstanding any other provision of law, an em-
5 ployee of the Administration may not receive an adjust-
6 ment to the employee's compensation solely on the basis
7 of the employee's performance in meeting or exceeding a
8 deadline related to the completion of certification func-
9 tions.

10 **SEC. 16. SYSTEM SAFETY ASSESSMENTS AND OTHER RE-**
11 **QUIREMENTS.**

12 (a) IN GENERAL.—Not later than 2 years after the
13 date of enactment of this Act, the Administrator shall
14 issue such regulations as are necessary to amend title 14,
15 Code of Federal Regulations, and any associated advisory
16 circular, guidance, or policy of the Administration, in ac-
17 cordance with this section.

18 (b) SYSTEM SAFETY ASSESSMENTS AND OTHER RE-
19 QUIREMENTS.—In developing regulations under sub-
20 section (a), the Administrator shall—

21 (1) require an applicant for an amended type
22 certificate for a transport airplane to—

23 (A) perform a system safety assessment
24 with respect to each proposed design change
25 that the Administrator determines is signifi-

1 cant, with such assessment considering the air-
2 plane-level effects of individual errors, malfunc-
3 tions, or failures and realistic pilot response
4 times to such errors, malfunctions, or failures
5 related to such change;

6 (B) update such assessment to account for
7 each subsequent proposed design change that
8 the Administrator determines is significant; and

9 (C) provide appropriate employees of the
10 Administration with the data and assumptions
11 underlying each assessment and amended as-
12 sessment; and

13 (2) work with other civil aviation authorities
14 representing states of design to ensure such regula-
15 tions remain harmonized internationally.

16 (c) FAA REVIEW.—Appropriate employees of the
17 Aircraft Certification Service and the Flight Standards
18 Service of the Administration shall review each system
19 safety assessment required under subsection (b)(1)(A),
20 updated assessment required under subsection (b)(1)(B),
21 and supporting data and assumptions required under sub-
22 section (b)(1)(C), to ensure that each such assessment
23 sufficiently considers the matters listed under subsection
24 (b)(1).

1 **SEC. 17. FLIGHT CREW ALERTING.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of this Act, the Administrator shall fully
4 implement National Transportation Safety Board rec-
5 ommendations A–19–11 and A–19–12 (as contained in
6 the safety recommendation report adopted on September
7 9, 2019).

8 (b) PROHIBITION.—Beginning on the date that is 2
9 years after the date of enactment of this Act, the Adminis-
10 trator may not issue a type certificate for a transport-cat-
11 egory aircraft unless—

12 (1) in the case of a transport airplane, such air-
13 plane incorporates a flight crew alerting system that,
14 at a minimum, displays and differentiates among
15 warnings, cautions, and advisories, and includes
16 functions to assist the flight crew in prioritizing cor-
17 rective actions and responding to systems failures; or

18 (2) in the case of a transport-category aircraft
19 other than a transport airplane, the type certificate
20 applicant provides a means acceptable to the Admin-
21 istrator to assist the flight crew in prioritizing cor-
22 rective actions and responding to systems failures
23 (including by cockpit or flight manual procedures).

24 **SEC. 18. AMENDED TYPE CERTIFICATES.**

25 (a) REVIEW AND REEVALUATION OF AMENDED TYPE
26 CERTIFICATES.—

1 (1) INTERNATIONAL LEADERSHIP.—The Ad-
2 ministrators shall exercise leadership in the creation
3 of international policies and standards relating to
4 the issuance of amended type certificates within the
5 group of international civil aviation authorities
6 known as the Certificate Management Team.

7 (2) REEVALUATION OF AMENDED TYPE CER-
8 TIFICATES.—In carrying out this subsection, the Ad-
9 ministrators shall—

10 (A) encourage Certificate Management
11 Team members to examine and address any rel-
12 evant covered recommendations (as defined in
13 section 22) relating to the issuance of amended
14 type certificates;

15 (B) reevaluate existing assumptions and
16 practices inherent in the amended type certifi-
17 cate process and assess whether such assump-
18 tions and practices are valid; and

19 (C) ensure, to the greatest extent prac-
20 ticable, that Federal regulations relating to the
21 issuance of amended type certificates are har-
22 monized with the regulations of other inter-
23 national states of design.

24 (b) AMENDED TYPE CERTIFICATE REPORT AND
25 RULEMAKING.—

1 (1) REPORT ON CERTIFICATE MANAGEMENT
2 TEAM EFFORTS.—Not later than 18 months after
3 the date of enactment of this Act, the Administrator
4 shall submit a report to the congressional commit-
5 tees of jurisdiction on the efforts by the Certificate
6 Management Team to modify and harmonize policies
7 and regulations relating to the issuance of amended
8 type certificates.

9 (2) INITIATION OF ACTION.—Not later than 2
10 years after the date of enactment of this Act, the
11 Administrator shall revise and improve the process
12 of issuing amended type certificates in accordance
13 with this section. Such action may include the revi-
14 sion of guidance, the initiating of a rulemaking, or
15 such other action as the Administrator determines
16 necessary to implement this section.

17 (3) CONTENTS.—In taking an action required
18 under paragraph (2), the Administrator shall—

19 (A) consider—

20 (i) the findings and work of the Cer-
21 tificate Management Team and other simi-
22 lar international harmonization efforts;

23 (ii) any relevant covered recommenda-
24 tions (as defined in section 22); and

1 (iii) whether a fixed time beyond
2 which a type certificate may not be amend-
3 ed would improve aviation safety; and

4 (B) establish the extent to which the fol-
5 lowing design characteristics should preclude
6 the issuance of an amended type certificate:

7 (i) A new or revised flight control sys-
8 tem.

9 (ii) Any substantial changes to aero-
10 dynamic stability resulting from a physical
11 change that may require a new or modified
12 software system or control law in order to
13 produce positive and acceptable stability
14 and handling qualities.

15 (iii) A flight control system or aug-
16 mented software to maintain aerodynamic
17 stability in any portion of the flight enve-
18 lope that was not required for a previously
19 certified derivative.

20 (iv) A change in structural compo-
21 nents (other than a stretch or shrink of
22 the fuselage) that results in a change in
23 structural load paths or the magnitude of
24 structural loads attributed to flight maneu-
25 vers or cabin pressurization.

1 (v) A novel or unusual system, compo-
2 nent, or other feature whose failure would
3 present a hazardous or catastrophic risk.

4 (4) DEADLINE.—The Administrator shall final-
5 ize the actions initiated under paragraph (2) not
6 later than 3 years after the date of enactment of
7 this Act.

8 (c) INTERNATIONAL LEADERSHIP.—The Adminis-
9 trator shall exercise leadership within the International
10 Civil Aviation Organization and among other civil aviation
11 regulators representing states of aircraft design to advo-
12 cate for the adoption of requirements equivalent to those
13 described in this section.

14 **SEC. 19. WHISTLEBLOWER PROTECTIONS.**

15 Section 42121 of title 49, United States Code, is
16 amended—

17 (1) by striking subsection (a) and inserting the
18 following:

19 “(a) PROHIBITED DISCRIMINATION.—A holder of a
20 certificate under section 44704 or 44705 of this title, or
21 contractor or subcontractor of such holder, may not dis-
22 charge an employee or otherwise discriminate against an
23 employee with respect to compensation, terms, conditions,
24 or privileges of employment because the employee (or any
25 person acting pursuant to a request of the employee)—

1 “(1) provided, caused to be provided, or is
2 about to provide (with any knowledge of the em-
3 ployer) or cause to be provided to the employer or
4 Federal Government information relating to any vio-
5 lation or alleged violation of any order, regulation,
6 or standard of the Federal Aviation Administration
7 or any other provision of Federal law relating to
8 aviation safety under this subtitle or any other law
9 of the United States;

10 “(2) has filed, caused to be filed, or is about to
11 file (with any knowledge of the employer) or cause
12 to be filed a proceeding relating to any violation or
13 alleged violation of any order, regulation, or stand-
14 ard of the Federal Aviation Administration or any
15 other provision of Federal law relating to aviation
16 safety under this subtitle or any other law of the
17 United States;

18 “(3) testified or is about to testify in such a
19 proceeding; or

20 “(4) assisted or participated or is about to as-
21 sist or participate in such a proceeding.”;

22 (2) by striking subsection (d) and inserting the
23 following:

24 “(d) NONAPPLICABILITY TO DELIBERATE VIOLA-
25 TIONS.—Subsection (a) shall not apply with respect to an

1 employee of a holder of a certificate issued under section
 2 44704 or 44705, or a contractor or subcontractor thereof,
 3 who, acting without direction from such certificate-holder,
 4 contractor, or subcontractor (or such person’s agent), de-
 5 liberately causes a violation of any requirement relating
 6 to aviation safety under this subtitle or any other law of
 7 the United States.”; and

8 (3) by striking subsection (e) and inserting the
 9 following:

10 “(e) CONTRACTOR DEFINED.—In this section, the
 11 term ‘contractor’ means—

12 “(1) a person that performs safety-sensitive
 13 functions by contract for an air carrier or commer-
 14 cial operator; or

15 “(2) a person that performs safety-sensitive
 16 functions related to the design or production of an
 17 aircraft, aircraft engine, propeller, appliance, or
 18 component thereof by contract for a holder of a cer-
 19 tificate issued under section 44704.”.

20 **SEC. 20. PILOT TRAINING.**

21 (a) IN GENERAL.—Chapter 447 of title 49, United
 22 States Code, as amended by section 8, is further amended
 23 by adding at the end the following:

24 **“§ 44743. Pilot training requirements**

25 “(a) IN GENERAL.—

1 “(1) ADMINISTRATOR’S DETERMINATION.—In
2 establishing any pilot training requirements with re-
3 spect to a new transport airplane, the Administrator
4 of the Federal Aviation Administration shall inde-
5 pendently review any proposal by the manufacturer
6 of such airplane with respect to the scope, format,
7 or minimum level of training required for operation
8 of such airplane.

9 “(2) ASSURANCES AND MARKETING REPRESENTATIONS.—Before the Administrator has established
10 applicable training requirements, an applicant for a
11 new or amended type certificate for an airplane de-
12 scribed in paragraph (1) may not, with respect to
13 the scope, format, or magnitude of pilot training for
14 such airplane—
15 such airplane—

16 “(A) make any assurance, whether verbal
17 or in writing, to a potential purchaser of such
18 airplane unless a clear and conspicuous dis-
19 claimer (as defined by the Administrator) is in-
20 cluded regarding the status of training required
21 for operation of such airplane; or

22 “(B) provide financial incentives (including
23 rebates) to a potential purchaser of such air-
24 plane regarding the scope, format, or mag-
25 nitude of pilot training for such airplane.

1 “(b) PILOT RESPONSE TIME.—Beginning on the day
2 after the date on which regulations are issued under sec-
3 tion 20(b)(5) of the Aircraft Certification Reform and Ac-
4 countability Act, the Administrator may not issue a new
5 or amended type certificate for an airplane described in
6 subsection (a) unless the applicant for such certificate has
7 demonstrated to the Administrator that the applicant has
8 accounted for realistic assumptions regarding the time for
9 pilot responses to non-normal conditions in designing the
10 systems and instrumentation of such airplane. Such as-
11 sumptions shall—

12 “(1) be based on test data, analysis, or other
13 technical validation methods; and

14 “(2) account for generally accepted scientific
15 consensus among experts in human factors regard-
16 ing realistic pilot response time.

17 “(c) DEFINITION.—In this section, the term ‘trans-
18 port airplane’ means a transport-category airplane de-
19 signed for operation by an air carrier or foreign air carrier
20 type-certificated with a passenger seating capacity of 30
21 or more or an all-cargo or combi derivative of such an
22 airplane.”.

23 (b) CONFORMING AMENDMENT.—The analysis for
24 chapter 447 of title 49, United States Code, is further
25 amended by adding at the end the following:

“44743. Pilot training requirements.”.

1 (c) EXPERT SAFETY REVIEW.—

2 (1) IN GENERAL.—Not later than 30 days after
3 the date of enactment of this Act, the Administrator
4 shall initiate an expert safety review of assumptions
5 relied upon by the Administration and manufactur-
6 ers of transport-category aircraft in the design and
7 certification of such aircraft.

8 (2) CONTENTS.—The expert safety review re-
9 quired under paragraph (1) shall include—

10 (A) a review of Administration regulations,
11 guidance, and directives related to pilot re-
12 sponse assumptions relied upon by the FAA
13 and manufacturers of transport-category air-
14 craft in the design and certification of such air-
15 craft;

16 (B) a focused review of the assumptions
17 relied on regarding the time for pilot responses
18 to non-normal conditions in designing such air-
19 craft's systems and instrumentation;

20 (C) a review of revisions made to the air-
21 man certification standards for certificates over
22 the last four years, including any possible ef-
23 fects on pilot competency in basic manual flying
24 skills;

1 (D) consideration of the global nature of
2 the aviation marketplace, varying levels of pilot
3 competency, and differences in pilot training
4 programs worldwide; and

5 (E) a process for aviation stakeholders, in-
6 cluding pilots, airlines, inspectors, engineers,
7 test pilots, human factors experts, and other
8 aviation safety experts, to provide and discuss
9 any observations, feedback, and best practices.

10 (3) REPORT AND RECOMMENDATIONS.—Not
11 later than 30 days after the conclusion of the expert
12 safety review pursuant to paragraph (1), the Admin-
13 istrator shall submit to the congressional committees
14 of jurisdiction a report on the results of the review,
15 any recommendations for actions or best practices to
16 ensure the FAA and the manufacturers of transport-
17 category aircraft have accounted for pilot response
18 assumptions to be relied upon in the design and cer-
19 tification of transport-category aircraft.

20 (4) TERMINATION.—The expert safety review
21 shall end upon submission of the report required
22 pursuant to paragraph (3).

23 (5) REGULATIONS.—The Administrator shall
24 issue such regulations as are necessary to implement
25 the recommendations of the expert safety review

1 that the Administrator determines are necessary to
2 improve aviation safety.

3 (d) CALL TO ACTION ON AIRMAN CERTIFICATION
4 STANDARDS.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date of enactment of this Act, the Administrator
7 shall initiate a call to action safety review of pilot
8 certification standards in order to bring stakeholders
9 together to share lessons learned, best practices, and
10 implement actions to address any safety issues iden-
11 tified.

12 (2) CONTENTS.—The call to action safety re-
13 view required under paragraph (1) shall include—

14 (A) a review of Administration regulations,
15 guidance, and directives related to the pilot cer-
16 tification standards, including the oversight of
17 those processes;

18 (B) a review of revisions made to the pilot
19 certification standards for certificates over the
20 last four years, including any possible effects on
21 pilot competency in manual flying skills and ef-
22 fectively managing automation to improve safe-
23 ty; and

24 (C) a process for aviation stakeholders, in-
25 cluding aviation students, instructors, des-

1 ignated pilot examiners, pilots, airlines, labor,
2 and aviation safety experts, to provide and dis-
3 cuss any observations, feedback, and best prac-
4 tices.

5 (3) REPORT AND RECOMMENDATIONS.—Not
6 later than 90 days after the conclusion of the call to
7 action safety review pursuant to paragraph (1), the
8 Administrator shall submit to the congressional com-
9 mittees of jurisdiction a report on the results of the
10 review, any recommendations for actions or best
11 practices to ensure pilot competency in basic manual
12 flying skills and in effective management of automa-
13 tion, and actions the Administrator will take in re-
14 sponse to the recommendations.

15 (e) INTERNATIONAL PILOT TRAINING.—

16 (1) IN GENERAL.—The Secretary of Transpor-
17 tation, the Administrator, and other appropriate of-
18 ficials of the Government shall exercise leadership in
19 setting global standards to improve air carrier pilot
20 training and qualifications for—

21 (A) monitoring and managing the behavior
22 and performance of automated systems;

23 (B) controlling the flightpath of aircraft
24 without autoflight systems engaged;

1 (C) effectively utilizing and managing
2 autoflight systems, when appropriate;

3 (D) effectively identifying situations in
4 which the use of autoflight systems is appro-
5 priate and when such use is not appropriate;
6 and

7 (E) recognizing and responding appro-
8 priately to non-normal conditions.

9 (2) INTERNATIONAL LEADERSHIP.—The Sec-
10 retary, the Administrator, and other appropriate of-
11 ficials of the Government shall exercise leadership
12 under subsection (a) by working with—

13 (A) foreign counterparts of the Adminis-
14 trator in the International Civil Aviation Orga-
15 nization and its subsidiary organizations;

16 (B) other international organizations and
17 fora; and

18 (C) the private sector.

19 (3) CONSIDERATIONS.—In exercising leadership
20 under paragraph (1), the Secretary, the Adminis-
21 trator, and other appropriate officials of the Govern-
22 ment shall consider—

23 (A) the latest information relating to
24 human factors;

1 (B) aircraft manufacturing trends, includ-
2 ing those relating to increased automation in
3 the cockpit;

4 (C) the extent to which cockpit automation
5 improves aviation safety and introduces novel
6 risks;

7 (D) the availability of opportunities for pi-
8 lots to practice manual flying skills;

9 (E) the need for consistency in maintain-
10 ing and enhancing manual flying skills world-
11 wide;

12 (F) recommended practices of other coun-
13 tries that enhance manual flying skills and au-
14 tomation management; and

15 (G) whether a need exists for initial and
16 recurrent training standards for improve pilots'
17 proficiency in manual flight and in effective
18 management of autoflight systems.

19 (4) CONGRESSIONAL BRIEFING.—The Sec-
20 retary, the Administrator, and other appropriate of-
21 ficials of the Government shall provide to the con-
22 gressional committees of jurisdiction regular brief-
23 ings on the status of efforts undertaken pursuant to
24 this section.

1 **SEC. 21. NONCONFORMITY WITH APPROVED TYPE DESIGN.**

2 Section 44704(a) of title 49, United States Code, is
3 further amended by adding at the end the following:

4 “(6) NONCONFORMITY WITH APPROVED TYPE
5 DESIGN.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (D), a holder of a production cer-
8 tificate for an aircraft may not present a non-
9 conforming aircraft to the Administrator for
10 issuance of an airworthiness certificate.

11 “(B) CIVIL PENALTY.—Notwithstanding
12 section 46301, a production certificate holder
13 who knowingly violates subparagraph (A) shall
14 be liable to the Administrator for a civil penalty
15 of not more than \$1,000,000 for each noncon-
16 forming aircraft.

17 “(C) PENALTY CONSIDERATIONS.—In de-
18 termining the amount of a civil penalty under
19 subparagraph (B), the Administrator shall con-
20 sider—

21 “(i) the nature, circumstances, extent,
22 and gravity of the violation, including the
23 length of time the nonconformity was
24 known but not disclosed; and

25 “(ii) with respect to the violator, the
26 degree of culpability, any history of prior

1 violations, and the size of the business con-
2 cern.

3 “(D) REMEDIAL ACTION.—The Adminis-
4 trator may permit a production certificate hold-
5 er to present a nonconforming aircraft to the
6 Administrator for an airworthiness certificate
7 if—

8 “(i) the Administrator determines the
9 nonconformity, when compared to the con-
10 figuration approved as part of the type de-
11 sign, does not diminish by any degree the
12 aircraft’s safe operation without any
13 change in flight crew operating procedures;

14 “(ii) the Administrator determines the
15 nonconformity was not the product of an
16 intentional decision by the production cer-
17 tificate holder to alter the aircraft’s con-
18 figuration from the approved type design;

19 “(iii) the production certificate holder
20 has fully complied with subparagraph (E);

21 “(iv) the production certificate holder
22 agrees to correct the nonconformity on all
23 nonconforming aircraft within a timeframe
24 that is—

1 “(I) prescribed by the Adminis-
2 trator; and

3 “(II) commensurate with the se-
4 verity of the nonconformity;

5 “(v) the production certificate holder
6 informs a person who is to take delivery of
7 the nonconforming aircraft of the non-
8 conformance prior to its delivery; and

9 “(vi) the production certificate holder
10 agrees not to impose any penalty, financial
11 or otherwise, on a person that chooses to
12 delay the delivery of a nonconforming air-
13 craft until the production certificate hold-
14 er, to the Administrator’s satisfaction, con-
15 forms the aircraft to the approved type de-
16 sign of such aircraft.

17 “(E) NOTIFICATION AND PROPOSED REME-
18 DIAL ACTION.—A production certificate holder
19 shall, within 5 days of determining that such
20 production certificate holder delivered a noncon-
21 forming aircraft, notify the Administrator, the
22 purchaser of the airplane, and (if the purchaser
23 is a lessor) the intended operator of the air-
24 plane, if known. A notification under this clause
25 shall describe—

1 “(i) the nonconformity in detail; and

2 “(ii) the production certificate hold-
3 er’s initial proposal for actions necessary
4 to eliminate the nonconformity.

5 “(F) NONCONFORMING AIRCRAFT DE-
6 FINED.—In this paragraph, the term ‘noncon-
7 forming aircraft’ means an aircraft that does
8 not conform to the approved type design for
9 such aircraft type.”.

10 **SEC. 22. IMPLEMENTATION OF RECOMMENDATIONS.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of this Act, the Administrator shall sub-
13 mit a report to the congressional committees of jurisdic-
14 tion on the status of the Administration’s implementation
15 of covered recommendations.

16 (b) CONTENTS.—The report required under sub-
17 section (a) shall contain, at a minimum—

18 (1) a list and description of all covered rec-
19 ommendations;

20 (2) a determination of whether the Adminis-
21 trator concurs, concurs in part, or does not concur
22 with each covered recommendation;

23 (3) an implementation plan and schedule for all
24 covered recommendations the Administrator concurs
25 or concurs in part with; and

1 (4) for each covered recommendation with
2 which the Administrator does not concur (in whole
3 or in part), a detailed explanation as to why.

4 (c) COVERED RECOMMENDATIONS DEFINED.—In
5 this section, the term “covered recommendations” means
6 recommendations made by the following entities in any re-
7 view initiated in response to the accident of Lion Air flight
8 610 on October 29, 2018, or Ethiopian Airlines flight 302
9 on March 10, 2019, that recommend Administration ac-
10 tion:

11 (1) The National Transportation Safety Board.

12 (2) The Joint Authorities Technical Review.

13 (3) The inspector general of the Department of
14 Transportation.

15 (4) The Safety Oversight and Certification Ad-
16 visory Committee, or any special committee thereof.

17 (5) Any other entity the Administrator may
18 designate.

19 **SEC. 23. OVERSIGHT OF FAA COMPLIANCE PROGRAM.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of enactment of this Act, the Administrator shall es-
22 tablish an Executive Council within the Administration to
23 oversee the use and effectiveness across program offices
24 of the Administration’s Compliance Program, described in
25 Order 8000.373A dated October 31, 2018.

1 (b) COMPLIANCE PROGRAM OVERSIGHT.—The Exec-
2 utive Council established under this section shall—

3 (1) monitor, collect, and analyze data on the
4 use of the Compliance Program across program of-
5 fices of the Administration, including data on en-
6 forcement actions and compliance actions pursued
7 against regulated entities by such program offices;

8 (2) conduct an evaluation of the Compliance
9 Program, not less frequently than annually each cal-
10 endar year through 2023, to assess the functioning
11 and effectiveness of such program in meeting the
12 stated goals and purpose of the program;

13 (3) provide reports to the Administrator con-
14 taining the results of any evaluation conducted
15 under paragraph (2), including identifying in such
16 report any nonconformities or deficiencies in the im-
17 plementation of the program and compliance of reg-
18 ulated entities with safety standards of the Adminis-
19 tration;

20 (4) make recommendations to the Adminis-
21 trator on regulations, guidance, performance stand-
22 ards or metrics, or other controls that should be
23 issued by the Administrator to improve the effective-
24 ness of the Compliance Program in meeting the stat-

1 ed goals and purpose of the program and to ensure
2 the highest levels of aviation safety; and

3 (5) carry out any other oversight duties with re-
4 spect to implementation of the Compliance Program
5 and assigned by the Administrator.

6 (c) EXECUTIVE COUNCIL.—

7 (1) EXECUTIVE COUNCIL MEMBERSHIP.—The
8 Compliance Program Executive Council shall be
9 comprised of representatives from each program of-
10 fice with regulatory responsibility as provided in
11 Order 8000.373A.

12 (2) CHAIRPERSON.—The Executive Council
13 shall be chaired by a person, who shall be appointed
14 by the Administrator and shall report directly to the
15 Administrator.

16 (3) INDEPENDENCE.—The Secretary of Trans-
17 portation, the Administrator, or any officer or em-
18 ployee of the Administration may not prevent or pro-
19 hibit the chair of the Executive Council from per-
20 forming the activities described in this section or
21 from reporting to Congress on such activities.

22 (4) DURATION.—The Executive Council shall
23 terminate on October 1, 2023.

24 (d) ANNUAL BRIEFING.—Each calendar year
25 through 2023, the chair of the Executive Council shall

1 provide a briefing to the congressional committees of juris-
2 diction on the effectiveness of the Administration's Com-
3 pliance Program in meeting the stated goals and purpose
4 of the program and the activities of the office described
5 in subsection (b), including any reports and recommenda-
6 tions made by the office during the preceding calendar
7 year.

8 **SEC. 24. SETTLEMENT AGREEMENT.**

9 (a) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that the Administrator should fully exercise all
11 rights and pursue all remedies available to the Adminis-
12 trator under any settlement agreement between the Ad-
13 ministration and the holder of a type certificate and pro-
14 duction certificate for transport airplanes executed on De-
15 cember 18, 2015, including a demand for full payment of
16 any applicable civil penalties deferred under such agree-
17 ment, if the Administrator concludes that such holder has
18 not fully performed all obligations incurred under such
19 agreement.

20 (b) CONGRESSIONAL BRIEFING.—Not later than
21 February 1, 2021, and every 6 months thereafter until
22 a certificate holder described in subsection (a) has fully
23 performed all obligations incurred by such certificate hold-
24 er under such settlement agreement, the Administrator

1 shall brief the congressional committees of jurisdiction on
2 action taken consistent with subsection (a).

3 **SEC. 25. HUMAN FACTORS.**

4 (a) AIRCRAFT CERTIFICATION PROCESS.—

5 (1) EVALUATION.—Not later than 18 months
6 after the date of enactment of this Act, the Adminis-
7 trator (acting through the Associate Administrator
8 for Aviation Safety of the Administration) shall—

9 (A) conduct an evaluation of the develop-
10 ment of tools and methods to support the inte-
11 gration of human factors assessment and sys-
12 tem safety assessments of human interaction
13 with flight deck and flight control systems for
14 transport airplanes into the aircraft certifi-
15 cation process under section 44704 of title 49,
16 United States Code; and

17 (B) develop a framework to better inte-
18 grate human factors throughout such aircraft
19 certification process with the objective of im-
20 proving safety by designing systems and train-
21 ing pilots in a manner that accounts for con-
22 temporary knowledge to reduce the possibility
23 of an accident resulting in whole or in part
24 from the pilot's interaction with the aircraft.

1 (2) REPORT TO CONGRESS.—Not later than 60
2 days after the completion of the evaluation required
3 under paragraph (1), the Administrator shall submit
4 to Congress a report detailing the findings of such
5 report and a plan for implementation based on such
6 findings of such report.

7 (3) IMPLEMENTATION.—Upon submission of
8 the report required under paragraph (2), the Admin-
9 istrator shall implement the findings of such evalua-
10 tion.

11 (b) HUMAN FACTORS EDUCATION PROGRAM.—

12 (1) IN GENERAL.—The Administrator shall de-
13 velop a human factors education program that ad-
14 dresses the effects of modern flight deck systems, in-
15 cluding automated systems, on human performance
16 for transport airplanes and the approaches for better
17 integration of human factors in aircraft design and
18 certification.

19 (2) TARGET AUDIENCE.—The human factors
20 education program shall be integrated into the train-
21 ing protocol in existence as of the date of the enact-
22 ment of this Act such that such program is routinely
23 administered to the following:

24 (A) Appropriate employees within the
25 Flight Standards Service.

1 (B) Appropriate employees within the Air-
2 craft Certification Service.

3 (C) Other employees or authorized rep-
4 resentatives determined to be necessary by the
5 Administrator.

6 (c) TRANSPORT AIRPLANE MANUFACTURER INFOR-
7 MATION SHARING.—The Administrator shall—

8 (1) require each transport airplane manufac-
9 turer to provide the Administrator with the informa-
10 tion or findings necessary for flight crew to be
11 trained on flight deck systems;

12 (2) ensure the information or findings under
13 paragraph (1) adequately includes consideration of
14 human factors; and

15 (3) ensure that each transport airplane manu-
16 facturer identifies any technical basis, justification
17 or rationale for the information and findings under
18 paragraph (1).

19 **SEC. 26. TECHNICAL CORRECTIONS.**

20 Section 46301 of title 49, United States Code, is
21 amended—

22 (1) in subsection (a)(1)(A) by striking “(except
23 sections 44717 and 44719–44723)” and inserting
24 “(except sections 44704(a)(6), 44704(e)(4), 44717,
25 and 44719–44723)”;

1 (2) in subsection (a)(5)(A) by striking “(except
2 sections 44717–44723)” and inserting “(except sec-
3 tions 44704(a)(6), 44704(e)(4), and 44717–
4 44723)”;

5 (3) in subsection (d)(2) by striking “(except
6 sections 44717 and 44719–44723)” and inserting
7 “(except sections 44704(a)(6), 44704(e)(4), 44717,
8 and 44719–44723)”;

9 (4) in subsection (f)(1)(A)(i) by striking “(ex-
10 cept sections 44717 and 44719–44723)” and insert-
11 ing “(except sections 44704(a)(6), 44704(e)(4),
12 44717, and 44719–44723)”.

13 **SEC. 27. DEFINITIONS.**

14 In this Act:

15 (1) ADMINISTRATION; FAA.—The terms “Ad-
16 ministration” and “FAA” mean the Federal Avia-
17 tion Administration.

18 (2) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the FAA.

20 (3) ORGANIZATION DESIGNATION AUTHORIZA-
21 TION.—The term “organization designation author-
22 ization” has the same meaning given such term in
23 section 44736 of title 49, United States Code.

24 (4) CONGRESSIONAL COMMITTEES OF JURISDIC-
25 TION.—The term “congressional committees of juris-

1 diction” means the Committee on Transportation
2 and Infrastructure of the House of Representatives
3 and the Committee on Commerce, Science, and
4 Transportation of the Senate.

5 (5) HUMAN FACTORS.—The term “human fac-
6 tors” means a multidisciplinary set of principles de-
7 veloped to holistically explain and predict pilot be-
8 havior in relation to the management of the oper-
9 ation of an aircraft, including the pilot’s manage-
10 ment of aircraft systems and response to systems
11 failures and non-normal conditions.

12 (6) TRANSPORT AIRPLANE.—The term “trans-
13 port airplane” means a transport-category airplane
14 designed for operation by an air carrier or foreign
15 air carrier type-certificated with a passenger seating
16 capacity of 30 or more or an all-cargo or combi de-
17 rivative of such an airplane.

18 (7) TYPE CERTIFICATE.—The term “type cer-
19 tificate”—

20 (A) means a type certificate issued pursu-
21 ant to section 44704(a) of title 49, United
22 States Code, or an amendment to such certifi-
23 cate; and

1 (B) does not include a supplemental type
2 certificate issued under section 44704(b) of
3 such section.

Passed the House of Representatives November 17,
2020.

Attest:

Clerk.

116TH CONGRESS
2D Session

H. R. 8408

AN ACT

To direct the Administrator of the Federal Aviation Administration to require certain safety standards relating to aircraft, and for other purposes.