

118TH CONGRESS
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S. 4979

To establish an independent expert review panel to review and make findings and recommendations to inform the Federal Aviation Administration's implementation of a comprehensive and integrated Safety Management System for all lines of business within the Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2024

Ms. CANTWELL (for herself and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish an independent expert review panel to review and make findings and recommendations to inform the Federal Aviation Administration's implementation of a comprehensive and integrated Safety Management System for all lines of business within the Federal Aviation Administration, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FAA SMS Compliance
5 Review Act of 2024”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

6 (2) APPROPRIATE COMMITTEES OF CON-
7 GRESS.—The term “appropriate committees of Con-
8 gress” means the Committee on Commerce, Science,
9 and Transportation of the Senate and the Com-
10 mittee on Transportation and Infrastructure of the
11 House of Representatives.

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

14 (4) SMS.—The term “SMS” means a Safety
15 Management System.

16 **SEC. 3. EXPERT COMPLIANCE REVIEW OF FAA SAFETY**
17 **MANAGEMENT SYSTEM.**

18 (a) EXPERT COMPLIANCE REVIEW.—

19 (1) ESTABLISHMENT.—

20 (A) IN GENERAL.—Not later than 60 days
21 after the date of enactment of this section, the
22 Administrator shall convene an independent ex-
23 pert panel (in this section referred to as the
24 “review panel”) to review and make findings
25 and recommendations on the matters listed in
26 paragraph (2).

1 (B) PURPOSE.—The purpose of the review
2 panel is to review and evaluate FAA orders and
3 policies to inform the FAA’s implementation of
4 a comprehensive and integrated SMS for all
5 lines of business within the FAA.

6 (2) CONTENTS OF REVIEW.—The review panel
7 shall review the following:

8 (A) The extent to which the FAA’s SMS
9 complies with relevant FAA orders and policies.

10 (B) The actual and projected safety en-
11 hancements achieved through the FAA’s prior
12 implementation of the SMS.

13 (C) The effectiveness of the SMS, includ-
14 ing with respect to the implementation of the
15 following 4 components:

16 (i) Safety policy.

17 (ii) Safety risk management.

18 (iii) Safety assurance.

19 (iv) Safety promotion.

20 (D) The extent to which the SMS and each
21 of the 4 components described in subparagraph
22 (C) are integrated among all lines of business
23 of the FAA.

24 (E) The extent to which the SMS and each
25 of the 4 components so described are under-

1 stood and communicated to personnel at the
2 FAA.

3 (F) The efficacy of the FAA’s Voluntary
4 Safety Reporting Program as part of the SMS,
5 including any actions taken by the FAA in re-
6 sponse to reports filed under such program.

7 (G) Whether the Federal Government
8 should advocate for changes to Annex 19—Safe-
9 ty Management of the International Civil Avia-
10 tion Organization (in this section referred to as
11 “ICAO”) to ensure appropriate updates to the
12 State Safety Program standards and rec-
13 ommended practices, including—

14 (i) a systems-level approach to evalu-
15 ating and improving SMS for air naviga-
16 tion service providers; and

17 (ii) the implementation of the SMS
18 for civil aviation regulators.

19 (H) Any other matter determined by the
20 Administrator for which review by the review
21 panel would be consistent with the public inter-
22 est in aviation safety.

23 (3) COMPOSITION OF REVIEW PANEL.—

1 (A) APPOINTED MEMBERS.—The review
2 panel shall consist of the following members ap-
3 pointed by the Administrator:

4 (i) Two representatives of the Na-
5 tional Aeronautics and Space Administra-
6 tion with expertise in SMSs.

7 (ii) Three appropriately qualified rep-
8 resentatives of aviation labor organizations,
9 designated by the applicable represented
10 organization.

11 (iii) Not less than 5 independent sub-
12 ject matter experts in safety management
13 systems who—

14 (I) have not served as a political
15 appointee in the FAA; and

16 (II) have a minimum of 10 years
17 of relevant applied experience.

18 (iv) Three representatives from the
19 aviation industry with expertise in safety
20 management systems.

21 (v) A representative of the United
22 States Mission to the ICAO.

23 (B) ADVISORY MEMBERS.—

24 (i) IN GENERAL.—In addition to the
25 appointed members described in subpara-

graph (A), the review panel shall be advised by up to 5 employees of the FAA, at least 3 of whom shall be subject matter experts in implementing SMS at the FAA.

(ii) DUTIES.—The advisory members may take part in deliberations of the review panel and provide subject matter expertise with respect to the review panel’s work.

(4) RECOMMENDATIONS.—The review panel shall issue recommendations to the Administrator based on the review of the matters listed in paragraph (2) in order to inform the FAA’s implementation of a comprehensive and integrated SMS for all lines of business within the FAA.

(5) REPORT.—

(A) SUBMISSION.—Not later than 180 days after the date of the first meeting of the review panel, the review panel shall submit to the Administrator and the appropriate committees of Congress a report containing the findings and recommendations regarding the matters listed in paragraph (2) that are endorsed by a majority of the review panel.

1 (B) DISSENTING VIEWS.—In submitting
2 the report under subparagraph (A), the review
3 panel shall append to such report the dissenting
4 views of any individual member or group of
5 members of the review panel regarding the find-
6 ings or recommendations of the review panel.

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

12 (D) TERMINATION.—The review panel
13 shall terminate upon the submission of the re-
14 port under subparagraph (A).

15 (6) ADMINISTRATIVE PROVISIONS.—

16 (A) ACCESS TO INFORMATION.—

17 (i) IN GENERAL.—The review panel
18 shall have the authority to perform the fol-
19 lowing actions if a majority of the review
20 panel members consider each action nec-
21 essary and appropriate:

22 (I) Entering onto the premises of
23 the FAA for access to and inspection
24 of records or other purposes.

(II) Notwithstanding any other provision of law, except as provided in clause (ii), accessing and inspecting unredacted records directly necessary for the completion of the review panel's work under this section that are in the possession of the FAA.

(III) Interviewing employees of the FAA as necessary for the review panel to complete its work.

(ii) NON-FEDERAL GOVERNMENT MEMBERS.—Members of the review panel who are not officers or employees of the Federal Government shall only have access to, and be allowed to inspect, information provided to the FAA pursuant to section 40123 of title 49, United States Code, and part 193 of title 14, Code of Federal Regulations, in a de-identified form.

(B) NONDISCLOSURE OF CONFIDENTIAL INFORMATION.—

(i) NONDISCLOSURE FOR NON-FEDERAL GOVERNMENT MEMBERS.—

(I) NON-FEDERAL GOVERNMENT PARTICIPANTS.—Prior to partici-

1 pating on the review panel, each indi-
2 vidual serving on the review panel rep-
3 resenting a non-Federal entity shall
4 execute an agreement with the Admin-
5 istrator in which the individual shall
6 be prohibited from disclosing at any
7 time, except as required by law, to
8 any person, foreign or domestic, any
9 non-public information made available
10 to the panel under subparagraph (A).

11 (II) FEDERAL GOVERNMENT
12 PARTICIPANTS.—Federal officers or
13 employees serving on the review panel
14 as representatives of the Federal Gov-
15 ernment and subject to the require-
16 ment to protect confidential informa-
17 tion (including proprietary informa-
18 tion and trade secrets under section
19 1905 of title 18, United States Code)
20 shall not be required to execute agree-
21 ments under this clause.

22 (ii) PROTECTION OF INFORMATION.—
23 Information that is obtained or reviewed
24 by the review panel shall not constitute a
25 waiver of the protections applicable to the

1 information under section 552 of title 5,
2 United States Code (commonly referred to
3 as the “Freedom of Information Act”).
4 Members of the review panel shall protect
5 such information to the extent permitted
6 under applicable law.

7 (iii) PROTECTION OF PROPRIETARY
8 INFORMATION AND TRADE SECRETS.—
9 Members of the review panel shall protect
10 proprietary information, trade secrets, and
11 other information otherwise exempt under
12 section 552 of title 5, United States Code,
13 to the extent permitted under applicable
14 law.

15 (7) INAPPLICABILITY OF FACA.—The review
16 panel shall not be subject to chapter 10 of title 5,
17 United States Code (commonly referred to as the
18 “Federal Advisory Committee Act”).

19 (8) PROCESS IMPROVEMENTS.—Not later than
20 1 year after the submission of the recommendations
21 under paragraph (4), the Administrator shall report
22 to the appropriate committees of Congress on the
23 status of any ongoing actions in response to such
24 recommendations, including the status of implemen-

1 tation of each of the recommendations of the review
2 panel, if any, with which the Administrator concurs.

3 (b) NON-CONCURRENCE WITH RECOMMENDA-
4 TIONS.—Not later than 6 months after submission of the
5 recommendations under subsection (a)(4), with respect to
6 each recommendation of the review panel with which the
7 Administrator does not concur, if any, the Administrator
8 shall publish on the website of the FAA and submit to
9 the appropriate committees of Congress a detailed expla-
10 nation for such determination, including if the Adminis-
11 trator believes implementation of such recommendation
12 would not improve aviation safety.

13 **SEC. 4. FAA’S SAFETY RISK MANAGEMENT PROCESSES.**

14 (a) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this section, the Administrator shall
16 develop and implement effective processes for performing
17 root cause analyses to identify opportunities for improve-
18 ment in executing the regulatory oversight responsibilities
19 of the FAA.

20 (b) BRIEFING.—Not later than 30 days after the date
21 described in subsection (a), the Administrator shall brief
22 the appropriate committees of Congress on the processes
23 implemented under such subsection.

1 **SEC. 5. FAA PRODUCTION AUDITS.**

2 Not later than 6 months after the date of enactment
3 of this section, the Administrator shall revise the produc-
4 tion audit procedures of the FAA to—

5 (1) provide not more than 7 days advance no-
6 tice to a production certificate holder or supplier
7 that the FAA will conduct an audit of the holder's
8 or supplier's facilities; and

9 (2) direct inspectors to audit systemic compli-
10 ance with quality system elements identified in sec-
11 tion 21.137 of title 14, Code of Federal Regulations,
12 in addition to compliance with individual require-
13 ments of the holder's quality system.

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