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2D SESSION

H. R. 2809

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2018

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To amend title 51, United States Code, to provide for the authorization and supervision of nongovernmental space activities, 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 “American Space Commerce Free Enterprise Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; policy; purposes.
- Sec. 3. Certification to operate space objects.
- Sec. 4. Permitting of space-based remote sensing systems.
- Sec. 5. Administrative provisions related to certification and permitting.
- Sec. 6. Technical and conforming amendments.
- Sec. 7. Office of Space Commerce.
- Sec. 8. Restriction on preventing launches and reentries of certified space objects.
- Sec. 9. Report on registration of space objects.
- Sec. 10. Comptroller General report.
- Sec. 11. Radiofrequency mapping report.

6 **SEC. 2. FINDINGS; POLICY; PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The United States, through existing author-
9 ization and supervision mechanisms, satisfies and is
10 in conformity with its obligation under the Outer
11 Space Treaty to authorize and supervise nongovern-
12 mental space activities to assure such activities are
13 carried out in conformity with the international obli-
14 gations of the United States under the Outer Space
15 Treaty.

16 (2) The United States has a robust and innova-
17 tive private sector that is investing in, developing,
18 and placing into outer space, spacecraft and pay-
19 loads.

1 (3) Authorization and supervision mechanisms
2 as of the date of enactment of this Act could be im-
3 proved to relieve administrative burdens on new and
4 innovative nongovernmental space actors.

5 (4) It serves the national interest to address
6 misperceptions of legal uncertainty through the es-
7 tablishment of a general authorization and super-
8 vision certification authority for nongovernmental
9 outer space activities.

10 (5) The private exploration and use of outer
11 space by nongovernmental entities will further the
12 national security, foreign policy, and economic inter-
13 ests of the United States.

14 (b) POLICY.—It is the policy of the United States
15 that—

16 (1) United States citizens and entities are free
17 to explore and use space, including the utilization of
18 outer space and resources contained therein, without
19 conditions or limitations;

20 (2) this freedom is only to be limited when nec-
21 essary to assure United States national security in-
22 terests are met and to authorize and supervise non-
23 governmental space activities to assure such activi-
24 ties are carried out in conformity with the inter-

1 national obligations of the United States under the
2 Outer Space Treaty;

3 (3) to the maximum extent practicable, the
4 Federal Government shall interpret and fulfill its
5 international obligations to minimize regulations and
6 limitations on the freedom of United States non-
7 governmental entities to explore and use space;

8 (4) to the maximum extent practicable, the
9 Federal Government shall take steps to protect the
10 physical safety of space objects operated by the
11 United States that do not involve limitations on the
12 freedoms of nongovernmental entities of the United
13 States; and

14 (5) nongovernmental activities in outer space
15 shall only be authorized and supervised in a trans-
16 parent, timely, and predictable manner, with mini-
17 mal costs and burdens placed on the entities author-
18 ized and supervised.

19 (c) PURPOSES.—The purposes of this Act and the
20 amendments made by this Act are—

21 (1) to enhance the existing outer space author-
22 ization and supervision framework to provide greater
23 transparency, greater efficiency, and less administra-
24 tive burden for nongovernmental entities of the

1 United States seeking to conduct space activities;
2 and

3 (2) to ensure that the United States remains
4 the world leader in commercial space activities.

5 (d) DEFINITIONS.—In this Act—

6 (1) the term “Agreement on the Rescue of As-
7 tronauts and the Return of Space Objects” means
8 the Agreement on the Rescue of Astronauts, the Re-
9 turn of Astronauts and the Return of Objects
10 Launched into Outer Space (signed at Washington,
11 Moscow, and London on April 22, 1968, ratified by
12 the United States on December 3, 1968; 19 UST
13 7570);

14 (2) the term “Convention on Registration of
15 Space Objects” means the Convention on Registra-
16 tion of Objects Launched into Outer Space (signed
17 at New York on January 14, 1975, ratified by the
18 United States on September 15, 1976; 28 UST
19 695);

20 (3) the term “covered treaties on outer space”
21 means—

22 (A) the Outer Space Treaty;

23 (B) the Agreement on the Rescue of Astro-
24 nauts and the Return of Space Objects;

1 (C) the Convention on Registration of
2 Space Objects; and

3 (D) the Liability Convention;

4 (4) the term “Liability Convention” means the
5 Convention on the International Liability for Dam-
6 age Caused by Space Objects (signed at Washington,
7 Moscow, and London on March 29, 1972, ratified by
8 the United States on October 9, 1973; 24 UST
9 2389); and

10 (5) the term “Outer Space Treaty” means the
11 Treaty on Principles Governing the Activities of
12 States in the Exploration and Use of Outer Space,
13 including the Moon and Other Celestial Bodies
14 (signed at Washington, Moscow, and London on
15 January 27, 1967, ratified by the United States on
16 October 10, 1967; 18 UST 2410).

17 **SEC. 3. CERTIFICATION TO OPERATE SPACE OBJECTS.**

18 Title 51, United States Code, is amended by adding
19 at the end the following:

20 **“Subtitle VIII—Authorization and**
21 **Supervision of Nongovern-**
22 **mental Space Activities**
23 **“CHAPTER 801—CERTIFICATION TO**
24 **OPERATE SPACE OBJECTS**

“Sec.

“80101. Definitions.

“80102. Certification authority.

- “80103. Certification application and requirements.
- “80104. Mitigation of space debris.
- “80105. Continuing certification requirements.
- “80106. Certification transfer.
- “80107. Certification expiration and termination.
- “80108. Existing license or pending application for launch or reentry.
- “80109. Private Space Activity Advisory Committee.
- “80110. Exemptions.
- “80111. Protecting the interests of United States entity space objects.

1 **“§ 80101. Definitions**

2 “In this subtitle:

3 “(1) AGENCY.—The term ‘agency’ has the
4 meaning given the term Executive agency in section
5 105 of title 5.

6 “(2) AGREEMENT ON THE RESCUE OF ASTRO-
7 NAUTS AND THE RETURN OF SPACE OBJECTS.—The
8 term ‘Agreement on the Rescue of Astronauts and
9 the Return of Space Objects’ means the Agreement
10 on the Rescue of Astronauts, the Return of Astro-
11 nauts and the Return of Objects Launched into
12 Outer Space (signed at Washington, Moscow, and
13 London on April 22, 1968, ratified by the United
14 States on December 3, 1968; 19 UST 7570).

15 “(3) CONVENTION ON REGISTRATION OF SPACE
16 OBJECTS.—The term ‘Convention on Registration of
17 Space Objects’ means the Convention on Registra-
18 tion of Objects Launched into Outer Space (signed
19 at New York on January 14, 1975, ratified by the
20 United States on September 15, 1976; 28 UST
21 695).

1 “(4) COVERED TREATIES ON OUTER SPACE.—

2 The term ‘covered treaties on outer space’ means—

3 “(A) the Outer Space Treaty;

4 “(B) the Agreement on the Rescue of As-
5 tronauts and the Return of Space Objects;

6 “(C) the Convention on Registration of
7 Space Objects; and

8 “(D) the Liability Convention.

9 “(5) LIABILITY CONVENTION.—The term ‘Li-
10 ability Convention’ means the Convention on the
11 International Liability for Damage Caused by Space
12 Objects (signed at Washington, Moscow, and Lon-
13 don on March 29, 1972, ratified by the United
14 States on October 9, 1973; 24 UST 2389).

15 “(6) NATIONAL OF THE UNITED STATES.—The
16 term ‘national of the United States’ has the meaning
17 given such term in section 101(a) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1101(a)).

19 “(7) OUTER SPACE TREATY.—The term ‘Outer
20 Space Treaty’ means the Treaty on Principles Gov-
21 erning the Activities of States in the Exploration
22 and Use of Outer Space, including the Moon and
23 Other Celestial Bodies (signed at Washington, Mos-
24 cow, and London on January 27, 1967, ratified by

1 the United States on October 10, 1967; 18 UST
2 2410).

3 “(8) SECRETARY.—The term ‘Secretary’
4 means, except as otherwise provided in this subtitle,
5 the Secretary of Commerce, acting through the Of-
6 fice of Space Commerce.

7 “(9) SPACE-BASED REMOTE SENSING SYS-
8 TEM.—The term ‘space-based remote sensing sys-
9 tem’ means a space object in Earth orbit that is—

10 “(A) designed to image the Earth; or

11 “(B) capable of imaging a space object in
12 Earth orbit operated by the Federal Govern-
13 ment.

14 “(10) SPACE DEBRIS MITIGATION.—The term
15 ‘space debris mitigation’ means efforts to—

16 “(A) prevent on-orbit break-ups;

17 “(B) remove spacecraft that have reached
18 the end of their mission operation from useful
19 densely populated orbit regions; and

20 “(C) limit the amount of debris released
21 during normal operations of a space object.

22 “(11) SPACE OBJECT.—

23 “(A) IN GENERAL.—The term ‘space ob-
24 ject’ means—

1 “(i) a human-made object located in
2 outer space, including on the Moon and
3 other celestial bodies, with or without
4 human occupants, that was launched from
5 Earth, such as a satellite or a spacecraft,
6 including component parts of the object;
7 and

8 “(ii) all items carried on such object
9 that are intended for use in outer space
10 outside of, and independent of, the oper-
11 ation of such object.

12 “(B) INCLUSION.—Such term includes any
13 human-made object that is—

14 “(i) manufactured or assembled in
15 outer space; and

16 “(ii) intended for operations in outer
17 space outside of, and independent of, the
18 operations of such object in which the
19 manufacturing or assembly occurred.

20 “(C) EXCLUSIONS.—Such term does not
21 include—

22 “(i) an article on board a space object
23 that is only intended for use inside the
24 space object;

1 “(ii) an article manufactured or proc-
2 essed in outer space that is a material; or

3 “(iii) an article intended for use out-
4 side of a space object as part of the cer-
5 tified operations of the space object.

6 “(12) STATE.—The term ‘State’ means each of
7 the several States of the United States, the District
8 of Columbia, the Commonwealth of Puerto Rico, the
9 United States Virgin Islands, Guam, American
10 Samoa, the Commonwealth of the Northern Mariana
11 Islands, and any other commonwealth, territory, or
12 possession of the United States.

13 “(13) UNITED STATES.—The term ‘United
14 States’ means the States, collectively.

15 “(14) UNITED STATES ENTITY.—The term
16 ‘United States entity’ means—

17 “(A) an individual who is a national of the
18 United States; or

19 “(B) a nongovernmental entity organized
20 or existing under, and subject to, the laws of
21 the United States or a State.

22 **“§ 80102. Certification authority**

23 “(a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of the American Space Commerce Free
25 Enterprise Act, the Secretary shall begin issuing certifi-

1 cations for the operation of a space object to any United
2 States entity who submits an application for a certification
3 in satisfaction of the requirements of this chapter.

4 “(b) CONSULTATION.—

5 “(1) IN GENERAL.—The Secretary shall, as the
6 Secretary considers necessary, consult with the
7 heads of other relevant agencies in carrying out the
8 requirements of this chapter, pursuant to section
9 80310.

10 “(2) EXPLOITATION AND INTEGRATION OF
11 WAVEFORMS.—The Secretary shall consult with the
12 Secretary of Defense before issuing a certification or
13 approving a change to an existing certification if the
14 operations of the space object involve exploitation
15 and integration of waveforms other than publicly
16 available or standard public waveforms. The pre-
17 vious sentence shall not grant authority to the Sec-
18 retary to regulate such operations.

19 “(c) CERTIFICATION REQUIRED FOR OPERATION.—
20 Beginning on the date that is 1 year after the date of
21 enactment of the American Space Commerce Free Enter-
22 prise Act, a United States entity may not operate a space
23 object unless the entity holds a certification issued under
24 this chapter for the operation of such object or the entity
25 holds a valid payload approval for launch or reentry under

1 section 50904 as part of a license issued under chapter
2 509, and that satisfies the requirements of section
3 80108(a).

4 “(d) FOREIGN ENTITIES PROHIBITED.—The Sec-
5 retary may not issue a certification under this chapter to
6 any person who is not a United States entity.

7 “(e) COVERAGE OF CERTIFICATION.—The Secretary
8 shall, to the maximum extent practicable, require only one
9 certification under this chapter for a United States entity
10 to—

11 “(1) conduct multiple operations carried out
12 using a single space object;

13 “(2) operate multiple space objects that carry
14 out substantially similar operations; or

15 “(3) use multiple space objects to carry out a
16 single space operation.

17 **“§ 80103. Certification application and requirements**

18 “(a) APPLICATION PROCESS.—

19 “(1) IN GENERAL.—To be eligible for a certifi-
20 cation or transfer of a certification to operate a
21 space object under this chapter, a United States en-
22 tity shall submit an application to the Secretary as
23 provided in paragraph (2). Such application shall in-
24 clude, for each required item or attestation, suffi-
25 cient evidence to demonstrate each fact or assertion.

1 “(2) CONTENTS.—An application described in
2 paragraph (1) shall include only the following infor-
3 mation, with respect to each space object and the
4 operations proposed to be certified:

5 “(A) The name, address, and contact in-
6 formation of one or more nationals of the
7 United States designated by the applicant as
8 responsible for the operation of the space ob-
9 ject.

10 “(B) An affirmation, and a document of
11 proof, that the applicant is a United States en-
12 tity.

13 “(C) If available at the time of submission
14 of the application, the planned date and loca-
15 tion of the launch of the space object, including
16 the identity of the launch provider.

17 “(D) The general physical form and com-
18 position of the space object.

19 “(E) A description of the proposed oper-
20 ations of the space object that includes—

21 “(i) when and where the space object
22 will operate; and

23 “(ii) when and where the operation of
24 the space object will terminate.

1 “(F) A description of how the space object
2 will be operated and disposed of in a manner to
3 mitigate the generation of space debris.

4 “(G) Information about third-party liabil-
5 ity insurance obtained, if any, by the applicant
6 for operations of the space object, including the
7 amount and coverage of such liability insurance.

8 “(H) Whether the space object will include
9 a space-based remote sensing system.

10 “(I) Whether the operations will involve ex-
11 ploitation and integration of waveforms other
12 than publicly available or standard public wave-
13 forms and, if so, information about such oper-
14 ations as proscribed in advance by regulation by
15 the Secretary.

16 “(3) ATTESTATIONS.—An application described
17 in paragraph (1) shall contain an attestation by the
18 applicant of each the following:

19 “(A) The space object is not a nuclear
20 weapon or a weapon of mass destruction.

21 “(B) The space object will not carry a nu-
22 clear weapon or weapon of mass destruction.

23 “(C) The space object will not be operated
24 or used for testing of any weapon on a celestial
25 body.

1 “(D) All information in the application and
2 supporting documents is true, complete, and ac-
3 curate.

4 “(b) REVIEW OF APPLICATION.—

5 “(1) VERIFICATION OF INFORMATION AND AT-
6 TESTATIONS.—Not later than 90 days after receipt
7 of an application under this section, the Secretary
8 shall verify that—

9 “(A) the application is complete, including
10 any required supporting documents;

11 “(B) the application does not contain any
12 clear indication of fraud or falsification; and

13 “(C) the application contains each attesta-
14 tion required under subsection (a)(3).

15 “(2) DETERMINATION.—Not later than 90 days
16 after receipt of an application under this section—

17 “(A) if the Secretary verifies that the ap-
18 plicant has met the application requirements
19 described in paragraph (1), the Secretary shall
20 approve the application and issue a certification
21 to the applicant with or without conditions on
22 the proposed operation of the space object pur-
23 suant to subsection (c)(1)(A); or

24 “(B) if the Secretary cannot verify that
25 the applicant has met the application require-

1 ments described in paragraph (1) or if the Sec-
2 retary determines it is necessary to deny the
3 application pursuant to subsection (c)(1)(B),
4 the Secretary—

5 “(i) shall issue a denial of the applica-
6 tion signed by the Secretary (a duty that
7 may not be delegated, including to the Of-
8 fice of Space Commerce); and

9 “(ii) shall, not later than 10 days
10 after the decision to deny the certifi-
11 cation—

12 “(I) provide the applicant with a
13 written notification containing a clear-
14 ly articulated rationale for the denial
15 that provides, to the maximum extent
16 practicable, guidance to the applicant
17 as to how such rationale for denial
18 could be addressed in a subsequent
19 application; and

20 “(II) notify the Committee on
21 Commerce, Science, and Transpor-
22 tation of the Senate and the Com-
23 mittee on Science, Space, and Tech-
24 nology of the House of Representa-
25 tives of such rationale.

1 “(3) AUTOMATIC APPROVAL.—If the Secretary
2 has not approved or denied the application before
3 the deadline under paragraph (2), the certification
4 shall be approved without condition. The Secretary
5 may not allow tolling of the 90-day period under
6 such paragraph.

7 “(4) IMPROPER BASIS FOR DENIAL.—The Sec-
8 retary may not deny an application for a certifi-
9 cation under this section in order to protect an exist-
10 ing certification holder from competition.

11 “(5) SUBSEQUENT REVIEW.—The Secretary
12 may not prejudice a new application for the pro-
13 posed operations denied pursuant to paragraph
14 (2)(B) if such new application contains remedies ad-
15 dressing the rationale for such denial.

16 “(c) COMPLIANCE WITH THE OUTER SPACE TREA-
17 TY.—

18 “(1) IN GENERAL.—If the Secretary deter-
19 mines, with clear and convincing evidence, that the
20 proposed operation of a space object under an appli-
21 cation for a certification under this chapter is a vio-
22 lation of an international obligation of the United
23 States pertaining to a nongovernmental entity of the
24 United States under the Outer Space Treaty—

1 “(A) the Secretary may condition the pro-
2 posed operation covered by the certification only
3 to the extent necessary to prevent a violation of
4 such international obligation; or

5 “(B) if the Secretary determines that there
6 is no practicable way to condition such certifi-
7 cation to prevent such a violation, the Secretary
8 may deny the application.

9 “(2) LIMITATION FOR DETERMINATIONS.—A
10 determination under paragraph (1) shall be limited
11 as follows:

12 “(A) The Federal Government shall inter-
13 pret and fulfill its international obligations
14 under the Outer Space Treaty in a manner that
15 minimizes regulations and limitations on the
16 freedom of United States nongovernmental enti-
17 ties to explore and use space.

18 “(B) The Federal Government shall inter-
19 pret and fulfill its international obligations
20 under the Outer Space Treaty in a manner that
21 promotes free enterprise in outer space.

22 “(C) The Federal Government shall not
23 presume all obligations of the United States
24 under the Outer Space Treaty are obligations to

1 be imputed upon United States nongovern-
2 mental entities.

3 “(D) Guidelines promulgated by the Com-
4 mittee on Space Research may not be consid-
5 ered international obligations of the United
6 States.

7 “(3) PRESUMPTIONS.—In making a determina-
8 tion under paragraph (1), the Secretary shall pre-
9 sume, absent clear and convincing evidence to the
10 contrary, that—

11 “(A) any attestation made by an applicant
12 pursuant to subsection (a)(3) is sufficient to
13 meet the international obligations of the United
14 States pertaining to nongovernmental entities of
15 the United States under the Outer Space Trea-
16 ty addressed by such attestation; and

17 “(B) reasonably commercially available ef-
18 forts are sufficient to be in conformity with the
19 international obligations of the United States
20 pertaining to nongovernmental entities of the
21 United States under the Outer Space Treaty.

22 “(4) PROHIBITION ON RETROACTIVE CONDI-
23 TIONS.—No other modifications may be made, or
24 additional conditions placed, on a certification after
25 the date on which the certification is issued (except

1 to account for a material change as provided in sec-
2 tion 80105(c) or the removal of a condition pursuant
3 to subsection (d).

4 “(5) NONDELEGABLE.—The responsibilities of
5 the Secretary under this subsection may not be dele-
6 gated, including to the Office of Space Commerce.

7 “(d) AUTHORITY TO REMOVE CONDITIONS.—The
8 Secretary, as determined appropriate, may remove a con-
9 dition placed on a certification pursuant to subsection (c).

10 **“§ 80104. Mitigation of space debris**

11 “(a) PLAN SUBMISSION.—To be eligible for a certifi-
12 cation under this chapter, each application shall include
13 a space debris mitigation plan for the space object. Such
14 plan—

15 “(1) shall take into account best practice guide-
16 lines promulgated by the United States and the
17 Interagency Debris Coordinating Committee; and

18 “(2) may take into account that a space object
19 may end certified operations and be stored in a safe
20 manner until such time as the space object is perma-
21 nently disposed of or certified for further operations.

22 “(b) IMPLEMENTATION.—To the maximum extent
23 practicable, a holder of a certification under this chapter
24 shall notify the Secretary not later than 30 days before
25 beginning to implement the disposal phase of a space de-

1 bris mitigation plan described in subsection (a). Such cer-
2 tification holder shall, not later than 30 days after com-
3 pleting implementation of such phase, update the Sec-
4 retary of the results of any space debris mitigation efforts.

5 **“§ 80105. Continuing certification requirements**

6 “(a) NOTIFICATION REQUIREMENT.—A certification
7 holder shall, in a timely manner, notify the Secretary if—

8 “(1) a certified space object has terminated op-
9 erations; or

10 “(2) a catastrophic event has occurred to a cer-
11 tified space object, such as the unplanned destruc-
12 tion of a space object.

13 “(b) MATERIAL CHANGE.—The Secretary shall re-
14 quire certification holders to inform the Secretary of—

15 “(1) any material changes to the space object
16 or the planned operations of the space object prior
17 to launch; and

18 “(2) any material anomalies or departures from
19 the planned operations during the course of oper-
20 ations.

21 “(c) UPDATE TO CERTIFICATION.—Not later than 14
22 days after the date of receipt of information regarding a
23 material change pursuant to subsection (b), the Secretary
24 shall make a determination of whether such material
25 change is substantial enough to warrant additional review

1 under section 80103(b). Not later than 90 days after a
2 determination that such review is warranted, the Secretary
3 shall complete a similar such review process for such mate-
4 rial change as is required for a certification applicant
5 under such section.

6 **“§ 80106. Certification transfer**

7 “(a) IN GENERAL.—Subject to subsections (b) and
8 (c), the Secretary shall provide for the transfer of a certifi-
9 cation under this chapter from the certification holder to
10 another United States entity to continue the operations
11 allowed under such certification.

12 “(b) TRANSFER REQUEST REQUIREMENTS.—To be
13 eligible for a transfer under subsection (a), the certifi-
14 cation holder shall submit to the Secretary a request that
15 includes—

16 “(1) any identifying information regarding the
17 proposed transferee, including accompanying sup-
18 porting documents, that would be required under an
19 initial application under section 80103; and

20 “(2) each attestation required under section
21 80103(a)(3), including accompanying supporting
22 documents, completed by the proposed transferee.

23 “(c) DETERMINATION.—Not later than 90 days after
24 a certification holder submits a request under subsection
25 (b), the Secretary shall complete a similar review process

1 for the request for transfer as required for a certification
2 applicant under section 80103(b).

3 **“§ 80107. Certification expiration and termination**

4 “(a) CERTIFICATION EXPIRATION.—A certification
5 issued under this chapter shall expire on the earlier of—

6 “(1) the date on which all operations approved
7 under such certification cease, including carrying out
8 a space debris mitigation plan of any space object
9 approved under such certification;

10 “(2) the date on which all space objects ap-
11 proved under the certification no longer exist; or

12 “(3) the date that is 5 years after the date on
13 which the certification was approved, if no oper-
14 ations approved under the certification have com-
15 menced by such date.

16 “(b) CERTIFICATION TERMINATION.—

17 “(1) IN GENERAL.—The Secretary shall termi-
18 nate a certification under this chapter if an appli-
19 cant or certification holder is convicted of a violation
20 of section 1001 of title 18 related to the certification
21 process under this chapter.

22 “(2) ELIGIBILITY.—A certification holder
23 whose certification is terminated under this sub-
24 section shall be ineligible to apply for or receive a
25 certification under this chapter.

1 “(3) SPACE DEBRIS MITIGATION PLAN.—Upon
2 termination of a certification under paragraph (1),
3 the Secretary may require the certification holder to
4 carry out the space debris mitigation plan submitted
5 by the certification holder under section 80104.

6 **“§ 80108. Existing license or pending application for**
7 **launch or reentry**

8 “(a) CONTINUATION OF EXISTING LICENSE.—Any
9 United States entity for whom a payload has been ap-
10 proved (and not subject to an exemption under section
11 80110) on or before the effective date of this section for
12 launch or reentry under section 50904 as part of a license
13 issued under chapter 509 may—

14 “(1) elect to be immediately considered certified
15 for operation under this chapter on such effective
16 date, in which case all terms and conditions applica-
17 ble to the payload as approved for launch or reentry
18 as part of a license issued under chapter 509 shall
19 apply for the duration of the operation of the pay-
20 load; or

21 “(2) apply for a certification under this chapter
22 for the operation of the licensed activities and may
23 continue to operate pursuant to such license until
24 such time as such certification is issued.

1 “(b) RESCINDING OR TRANSFER OF PENDING LI-
2 CENSE.—A payload of a United States entity that, on the
3 effective date of this section, is pending approval under
4 section 50904 as part of a launch or reentry license issued
5 under chapter 509 may be, at the election of the applicant
6 for payload approval—

7 “(1) rescinded without prejudice; or

8 “(2) transferred to the Office of Space Com-
9 merce and deemed to be a pending application for
10 certification under this chapter.

11 “(c) EFFECTIVE DATE.—This section shall take ef-
12 fect on the date that is 1 year after the date of enactment
13 of the American Space Commerce Free Enterprise Act.

14 **“§ 80109. Private Space Activity Advisory Committee**

15 “(a) ESTABLISHMENT.—The Secretary shall estab-
16 lish a Private Space Activity Advisory Committee (in this
17 section referred to as the ‘Committee’) consisting of 15
18 members who shall be appointed by the Secretary.

19 “(b) CHAIR.—The Committee shall designate one
20 member as the chair of the Committee.

21 “(c) MEMBERSHIP.—

22 “(1) LIMITATION.—Members of the Committee
23 may not be Federal Government employees or offi-
24 cials.

1 “(2) TRAVEL EXPENSES.—Members of the
2 Committee shall receive travel expenses, including
3 per diem in lieu of subsistence, in accordance with
4 the applicable provisions under subchapter I of chap-
5 ter 57 of title 5.

6 “(3) QUALIFICATIONS.—Members of the Com-
7 mittee shall include a variety of space policy, engi-
8 neering, technical, science, legal, and finance profes-
9 sionals. Not less than three members shall have sig-
10 nificant experience working in the commercial space
11 industry.

12 “(d) TERMS.—Each member of the Committee shall
13 serve for a term of 4 years and may not serve as a member
14 for the 2-year period following the date of completion of
15 each such term.

16 “(e) DUTIES.—The duties of the Committee shall be
17 to—

18 “(1) analyze the status and recent develop-
19 ments of nongovernmental space activities;

20 “(2) analyze the effectiveness and efficiency of
21 the implementation of the certification process under
22 this chapter;

23 “(3) provide recommendations to the Secretary
24 and Congress on how the United States can facili-
25 tate and promote a robust and innovative private

1 sector that is investing in, developing, and operating
2 space objects;

3 “(4) identify any challenges the United States
4 private sector is experiencing—

5 “(A) with the authorization and super-
6 vision of the operation of space objects under
7 this chapter;

8 “(B) more generally, with international ob-
9 ligations of the United States relevant to pri-
10 vate sector activities in outer space;

11 “(C) with harmful interference to private
12 sector activities in outer space; and

13 “(D) with access to adequate, predictable,
14 and reliable radio frequency spectrum;

15 “(5) review existing best practices for United
16 States entities to avoid the harmful contamination of
17 the Moon and other celestial bodies;

18 “(6) review existing best practices for United
19 States entities to avoid adverse changes in the envi-
20 ronment of the Earth resulting from the introduc-
21 tion of extraterrestrial matter;

22 “(7) provide information, advice, and rec-
23 ommendations on matters relating to United States
24 private sector activities in outer space; and

1 “(8) provide information, advice, and rec-
2 ommendations on matters related to the authority of
3 the Secretary under this chapter or to private sector
4 space activities authorized pursuant to this chapter
5 that the Committee determines necessary.

6 “(f) ANNUAL REPORT.—The Committee shall submit
7 to Congress, the President, and the Secretary an annual
8 report that includes the information, analysis, findings,
9 and recommendations described in subsection (e).

10 “(g) SUNSET.—The Committee shall terminate on
11 the date that is 10 years after the date on which the Com-
12 mittee is established.

13 **“§ 80110. Exemptions**

14 “(a) IN GENERAL.—A certification is not required
15 under this chapter for any of the following operations:

16 “(1) Space object activities authorized by an-
17 other country that is a party to the Outer Space
18 Treaty.

19 “(2) Launch or reentry vehicle operations li-
20 censed by the Department of Transportation under
21 chapter 509.

22 “(3) Space stations licensed by the Federal
23 Communications Commission under the Communica-
24 tions Act of 1934 (47 U.S.C. 151 et seq.).

1 “(b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
2 tion shall be construed to exempt any entity from the re-
3 quirement to obtain a permit to operate a space-based re-
4 mote sensing system under chapter 802.

5 **“§ 80111. Protecting the interests of United States en-
6 tity space objects**

7 “The President shall—

8 “(1) protect the interests of United States enti-
9 ty exploration and use of outer space, including com-
10 mercial activity and the exploitation of space re-
11 sources, from acts of foreign aggression and foreign
12 harmful interference;

13 “(2) protect ownership rights of United States
14 entity space objects and obtained space resources;
15 and

16 “(3) ensure that United States entities oper-
17 ating in outer space are given due regard.”.

18 **SEC. 4. PERMITTING OF SPACE-BASED REMOTE SENSING
19 SYSTEMS.**

20 (a) **FINDINGS.**—Congress finds the following:

21 (1) The commercial market for space-based re-
22 mote sensing technologies and information has expe-
23 rienced significant growth since the passage of the
24 Land Remote Sensing Policy Act of 1992.

1 (2) It is in the interest of the United States to
2 foster new and novel space-based remote sensing ap-
3 plications and services and to help facilitate their
4 continued domestic growth.

5 (3) Since the passage of the Land Remote
6 Sensing Policy Act of 1992, the National Oceanic
7 and Atmospheric Administration’s Office of Com-
8 mercial Remote Sensing has experienced a signifi-
9 cant increase in applications for private remote sens-
10 ing space system licenses as authorized under sec-
11 tion 60121 of title 51, United States Code.

12 (4) Many of the applicants for commercial
13 space-based remote sensing licenses have encoun-
14 tered significant delays and unnecessary obstacles in
15 the application process.

16 (5) The current licensing paradigm must be up-
17 dated as to not discourage the continued growth of
18 the United States space-based remote sensing indus-
19 try. It must be updated in a way that satisfies the
20 needs of commercial remote sensing market as well
21 as the national security of the United States.

22 (6) In order to protect United States leadership
23 and commercial viability in remote sensing tech-
24 nologies, the Federal Government should not limit
25 commercial entities from providing remote sensing

1 capabilities or data products that are available or
2 reasonably expected to be made available in the next
3 3 years in the international or domestic marketplace.

4 (b) POLICY.—It is the policy of the United States
5 that, to the maximum extent practicable, the Federal Gov-
6 ernment shall take steps to protect the national security
7 interests of the United States that do not involve regu-
8 lating or limiting the freedoms of United States non-
9 governmental entities to explore and use space. Federal
10 Government agencies shall mitigate any threat to national
11 security posed by the exploration and use of outer space
12 by United States citizens and entities, to the maximum
13 extent practicable, changing Federal Government activi-
14 ties and operations.

15 (c) AMENDMENT.—Title 51, United States Code, is
16 further amended by adding at the end the following:

17 **“CHAPTER 802—PERMITTING OF SPACE-**
18 **BASED REMOTE SENSING SYSTEMS**

“Sec.

“80201. Permitting authority.

“80202. Application for permit.

“80203. Continuing permitting requirements.

“80204. Permit transfer.

“80205. Agency activities.

“80206. Annual reports.

“80207. Advisory Committee on Commercial Remote Sensing.

“80208. Continuation of existing license or pending application.

“80209. Commercial Remote Sensing Regulatory Affairs Office.

1 **“§ 80201. Permitting authority**

2 “(a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of the American Space Commerce Free
4 Enterprise Act, the Secretary is authorized to permit per-
5 sons to operate space-based remote sensing systems.

6 “(b) CONSULTATION.—The Secretary shall, as the
7 Secretary considers necessary, consult with the heads of
8 other relevant agencies in carrying out the requirements
9 of this chapter, pursuant to section 80310.

10 “(c) LIMITATION WITH RESPECT TO SYSTEM USED
11 FOR OTHER PURPOSES.—In the case of a space object
12 that is used for remote sensing and other purposes, the
13 authority of the Secretary under this chapter shall be lim-
14 ited to the remote sensing operations of such space object.

15 “(d) DE MINIMIS EXCEPTION.—

16 “(1) WAIVER.—The Secretary may waive the
17 requirement for a permit for a space-based remote
18 sensing system that the Secretary determines is—

19 “(A) ancillary to the primary design pur-
20 pose of the space object; or

21 “(B) too trivial to require a determination
22 under section 80202(c) relating to national se-
23 curity.

24 “(2) GUIDANCE.—Not later than 1 year after
25 the date of enactment of this subsection, the Sec-
26 retary shall issue guidance providing a clear expla-

1 nation of the criteria used by the Secretary to grant
2 a de minimis waiver under paragraph (1)(B) for a
3 space-based remote sensing system that is too trivial
4 to require a determination under section 80202(c).

5 “(e) COVERAGE OF PERMIT.—The Secretary shall, to
6 the maximum extent practicable, ensure that only one per-
7 mit is required under this chapter to—

8 “(1) conduct multiple operations carried out
9 using a space-based remote sensing system;

10 “(2) operate multiple space-based remote sens-
11 ing systems that carry out substantially similar op-
12 erations; or

13 “(3) use multiple space-based remote sensing
14 systems to carry out a single remote sensing oper-
15 ation.

16 “(f) PROHIBITION ON OPERATION.—Not later than
17 1 year after the date of enactment of the American Space
18 Commerce Free Enterprise Act, no person may, directly
19 or through any subsidiary or affiliate, operate any space-
20 based remote sensing system without a permit issued
21 under this chapter.

22 “(g) RESPONSIBLE PARTY.—In any case in which the
23 applicant for a permit under this chapter is not a United
24 States entity, the applicant shall identify a United States

1 entity that consents to be responsible for the permitted
2 operation of the space-based remote sensing system.

3 “(h) OPERATION OF SPACE-BASED REMOTE SENS-
4 ING SYSTEM.—For purposes of this chapter, the operation
5 of a space-based remote sensing system—

6 “(1) begins when the system—

7 “(A) is located in outer space; and

8 “(B) can meet the minimum threshold and
9 objective capabilities for the system’s stated
10 need; and

11 “(2) shall not cover the acts of distribution,
12 sale, or transfer of data, information, or services to
13 persons, foreign or domestic, including any such acts
14 taken pursuant to an agreement with such persons.

15 **“§ 80202. Application for permit**

16 “(a) APPLICATION PROCESS.—

17 “(1) IN GENERAL.—To receive a permit to op-
18 erate a space-based remote sensing system under
19 this chapter, a person shall submit an application to
20 the Secretary as provided in paragraph (2). Such
21 application shall include, for each required item, suf-
22 ficient evidence to demonstrate each fact or asser-
23 tion.

24 “(2) CONTENTS.—An application described in
25 paragraph (1) shall include only the following infor-

1 mation, with respect to each space-based remote
2 sensing system and the operations proposed to be
3 permitted:

4 “(A) The name, address, and contact in-
5 formation of one or more United States entity
6 identified by the applicant, pursuant to section
7 80201(g), as responsible for the operation of
8 the space-based remote sensing system.

9 “(B) If available at the time of submission
10 of the application, the planned date and loca-
11 tion of the launch of the applicable space object,
12 including the identity of the launch provider.

13 “(C) The general physical form and com-
14 position of the space-based remote sensing sys-
15 tem.

16 “(D) A description of the proposed oper-
17 ations of the space-based remote sensing system
18 that includes—

19 “(i) when and where the space-based
20 remote sensing system will operate;

21 “(ii) when and where the operation of
22 the space-based remote sensing system will
23 terminate; and

24 “(iii) any additional information nec-
25 essary to make a determination under sub-

1 section (c) regarding a significant threat to
2 national security, as prescribed in advance
3 in regulation by the Secretary.

4 “(E) A description of how the space-based
5 remote sensing system will be operated and dis-
6 posed of in a manner to mitigate the generation
7 of space debris.

8 “(F) Information about third-party liabil-
9 ity insurance obtained, if any, by the applicant
10 for operations of the space-based remote sens-
11 ing system, including the amount and coverage
12 of such liability insurance.

13 “(b) REVIEW OF APPLICATION.—

14 “(1) VERIFICATIONS.—Not later than 90 days
15 after receipt of an application under this section, the
16 Secretary shall verify that—

17 “(A) the application is complete pursuant
18 to subsection (a); and

19 “(B) the application does not contain any
20 clear indication of fraud or falsification.

21 “(2) DETERMINATION.—Not later than 90 days
22 after receipt of an application under this section—

23 “(A) if the Secretary verifies that the ap-
24 plicant has met the application requirements
25 described in paragraph (1), the Secretary shall

1 approve the application and issue a permit to
2 the applicant with or without conditions on the
3 proposed operation of the space-based remote
4 sensing system pursuant to subsection
5 (c)(1)(A); or

6 “(B) if the Secretary cannot verify that
7 the applicant has met the application require-
8 ments described in paragraph (1) or if the Sec-
9 retary makes a determination to deny the appli-
10 cation under subsection (c)(1)(B), the Sec-
11 retary—

12 “(i) shall issue a denial of the applica-
13 tion signed by the Secretary (a duty that
14 may not be delegated, including to the Of-
15 fice of Space Commerce); and

16 “(ii) shall, not later than 10 days
17 after the decision to deny the application—

18 “(I) provide the applicant with a
19 written notification containing a clear-
20 ly articulated rationale for the denial
21 that, to the maximum extent prac-
22 ticable—

23 “(aa) provides guidance to
24 the applicant as to how the ar-
25 ticulated rationale for denial

1 could be addressed in a subse-
2 quent application; and

3 “(bb) includes all classified
4 information included in such ra-
5 tionale for which the applicant
6 has the required security clear-
7 ance; and

8 “(II) submit a notification of the
9 denial to the Committee on Science,
10 Space, and Technology of the House
11 of Representatives and the Committee
12 on Commerce, Science, and Transpor-
13 tation of the Senate that—

14 “(aa) contains the clearly
15 articulated rationale for the de-
16 nial; and

17 “(bb) in the case of a denial
18 pursuant to a national security
19 determination under subsection
20 (c)—

21 “(AA) includes an ex-
22 planation of how, and clear
23 and convincing evidence
24 that, to the maximum extent
25 practicable, the Federal

1 Government took steps to
2 mitigate a significant threat
3 to the national security of
4 the United States posed by
5 the operation of the appli-
6 cant's space-based remote
7 sensing system by changing
8 Federal Government activi-
9 ties and operations; and
10 “(BB) may contain
11 classified information.

12 “(3) AUTOMATIC APPROVAL.—

13 “(A) IN GENERAL.—If the Secretary has
14 not approved or denied the application before
15 the deadline under paragraph (2), the applica-
16 tion shall be approved without condition. The
17 Secretary may not allow tolling of the 90-day
18 period under such paragraph.

19 “(4) DELAY OF AUTOMATIC APPROVAL.—

20 “(A) IN GENERAL.—The President is per-
21 mitted to extend the 90-day period under para-
22 graph (2) once for each application for an addi-
23 tional 60 days to further evaluate the national
24 security implications of the application only if
25 the President notifies the Committee on

1 Science, Space, and Technology of the House of
2 Representatives and the Committee on Com-
3 merce, Science, and Transportation of the Sen-
4 ate of the need, with clear and convincing evi-
5 dence, to extend the review period. Such notifi-
6 cation shall include—

7 “(i) details on the efforts taken to re-
8 view the application during the 90-day pe-
9 riod, including staff time, studies pro-
10 duced, and interim conclusions; and

11 “(ii) a plan for assuring a final deci-
12 sion within the additional 60 days.

13 “(B) NONDELEGABLE.—The responsibil-
14 ities of the President under this paragraph may
15 not be delegated.

16 “(5) IMPROPER BASIS FOR DENIAL.—The Sec-
17 retary may not deny an application for a permit
18 under this section in order to protect an existing
19 permit holder from competition.

20 “(6) SUBSEQUENT REVIEW.—The Secretary
21 may not prejudice a new application for the pro-
22 posed operations denied pursuant to paragraph
23 (2)(B) if such new application contains remedies ad-
24 dressing the rationale for such denial.

25 “(c) ADDRESSING NATIONAL SECURITY THREAT.—

1 “(1) IN GENERAL.—If the Secretary deter-
2 mines, in consultation with the Secretary of Defense
3 and with clear and convincing evidence, that the pro-
4 posed operation of a space-based remote sensing sys-
5 tem under an application for a permit under this
6 chapter poses a significant threat to the national se-
7 curity of the United States as provided in paragraph
8 (2)—

9 “(A) the Secretary may condition the pro-
10 posed operation covered by the permit only to
11 the extent necessary to address such threat; or

12 “(B) if the Secretary determines that there
13 is no practicable way to condition such permit
14 to address such threat, the Secretary may deny
15 the application.

16 “(2) SIGNIFICANT THREAT TO NATIONAL SECUR-
17 ITY.—For purposes of a determination under para-
18 graph (1), a significant threat to the national secu-
19 rity of the United States is a threat—

20 “(A) that is imminent; and

21 “(B) that cannot practicably be mitigated
22 through changes to Federal Government activi-
23 ties or operations.

24 “(3) REASONABLY COMMERCIALY AVAILABLE
25 EFFORTS.—To the maximum extent practicable, the

1 Secretary shall only place a condition on a permit
2 that is achievable using reasonably commercially
3 available efforts.

4 “(4) NOTIFICATION.—Not later than 10 days
5 after the decision to condition the proposed oper-
6 ation covered by a permit pursuant to this sub-
7 section, the Secretary shall—

8 “(A) provide the applicant with a written
9 notification containing a clearly articulated ra-
10 tionale for the condition that, to the maximum
11 extent practicable—

12 “(i) provides guidance to the applicant
13 as to how the articulated rationale for con-
14 dition could be addressed in a subsequent
15 application; and

16 “(ii) includes all necessary classified
17 information included in such rationale for
18 which the applicant has the required secu-
19 rity clearance; and

20 “(B) submit a notification of the condition
21 to the Committee on Commerce, Science, and
22 Transportation of the Senate and the Com-
23 mittee on Science, Space, and Technology of
24 the House of Representatives that—

1 “(i) contains the clearly articulated
2 rationale for the condition;

3 “(ii) includes an explanation of how,
4 and clear and convincing evidence that, to
5 the maximum extent practicable, the Fed-
6 eral Government took steps to mitigate a
7 significant threat to the national security
8 of the United States posed by the oper-
9 ation of the applicant’s space-based remote
10 sensing system by changing Federal Gov-
11 ernment activities and operations; and

12 “(iii) may contain classified informa-
13 tion.

14 “(5) PROHIBITION ON RETROACTIVE CONDI-
15 TIONS.—No other modifications may be made, or
16 additional conditions placed, on a permit after the
17 date on which the permit is issued except to account
18 for a material change as provided in section
19 80203(c).

20 “(6) NONDELEGABLE.—The responsibilities of
21 the Secretary under this subsection may not be dele-
22 gated, including to the Office of Space Commerce.

23 “(d) LIMITATIONS ON CONDITIONS.—

24 “(1) SAME OR SIMILAR CAPABILITY.—No oper-
25 ational condition under subsection (c) may be placed

1 on a space-based remote sensing system that has the
2 same or substantially similar space-based remote
3 sensing capabilities as another system permitted
4 under this chapter with no such condition.

5 “(2) CONDITIONS THAT EXCEED PERMITTED
6 CONDITIONS.—The Secretary may not place a condi-
7 tion on a permit for a space-based remote sensing
8 system that exceeds a condition placed on an exist-
9 ing permitted system that has the same or substan-
10 tially similar capabilities.

11 “(3) SCOPE.—With respect to a condition
12 placed on a permit for a space-based remote sensing
13 system because of a national security concern, the
14 Secretary may only place such a condition for the
15 smallest area and for the shortest period necessary
16 to protect the national security concern at issue.

17 “(e) COMMERCIALY AVAILABLE CAPABILITY.—

18 “(1) EXCEPTION.—The Secretary may not deny
19 an application for, or place a condition on, a permit
20 for the operation of a space-based remote sensing
21 system for which the same or substantially similar
22 capabilities, derived data, products, or services are
23 already commercially available or reasonably ex-
24 pected to be made available in the next 3 years in
25 the international or domestic marketplace. The ex-

1 ception in the previous sentence applies regardless of
2 whether the marketplace products and services origi-
3 nate from the operation of aircraft, unmanned air-
4 craft, or other platforms or technical means or are
5 assimilated from a variety of data sources.

6 “(2) CLEAR AND CONVINCING EVIDENCE.—
7 Each denial of an application for, and each condition
8 placed on, a permit for the operation of a space-
9 based remote sensing system, shall include an expla-
10 nation of, and clear and convincing evidence that,
11 the exception under paragraph (1) does not apply
12 with respect to the proposed permitted operations of
13 such system.

14 “(3) DATABASE.—The President shall—

15 “(A) maintain a database of commercially
16 available capabilities described in paragraph
17 (1);

18 “(B) update such database not less than
19 once every 3 months; and

20 “(C) submit to the Committee on Com-
21 merce, Science, and Transportation of the Sen-
22 ate and the Committee on Science, Space, and
23 Technology of the House of Representatives a
24 report containing the contents of the database

1 upon each update required under subparagraph
2 (B).

3 “(4) APPLICANT SUBMISSIONS.—An applicant
4 for, or holder of, a permit for the operation of a
5 space-based remote sensing system may submit to
6 the Secretary evidence of, or information regarding,
7 a commercially available capability described in
8 paragraph (1) for consideration for inclusion in the
9 database.

10 “(5) NONAPPLICATION OF CONDITION.—In any
11 case in which the Secretary determines that the ex-
12 ception under paragraph (1) applies with respect to
13 a permit for the operation of a space-based remote
14 sensing system for which the Secretary has placed a
15 condition under subsection (c), such condition shall
16 no longer apply with respect to such permitted oper-
17 ations.

18 “(f) AUTHORITY TO REMOVE CONDITIONS.—Noth-
19 ing in this section shall be construed to prohibit the Sec-
20 retary from removing a condition placed on a permit pur-
21 suant to subsection (c).

22 **“§ 80203. Continuing permitting requirements**

23 “(a) NOTIFICATION REQUIREMENT.—A permit hold-
24 er shall, in a timely manner, notify the Secretary if—

1 “(1) a permitted space-based remote sensing
2 system has terminated operations; or

3 “(2) a catastrophic event has occurred to a
4 space-based remote sensing system, such as the un-
5 planned destruction of such system.

6 “(b) MATERIAL CHANGE.—The Secretary shall re-
7 quire permit holders to inform the Secretary of—

8 “(1) any material changes to the space-based
9 remote sensing system or the planned operations of
10 such system prior to launch; and

11 “(2) any material anomalies or departures from
12 the planned operations during the course of oper-
13 ations.

14 “(c) UPDATE TO PERMIT.—Not later than 14 days
15 after the date of receipt of information regarding a mate-
16 rial change pursuant to subsection (b), the Secretary shall
17 make a determination of whether such material change is
18 substantial enough to warrant additional review under sec-
19 tion 80202(b). Not later than 90 days after a determina-
20 tion that such review is warranted, the Secretary shall
21 complete a similar such review process for such material
22 change as is required for a permit applicant under such
23 section.

1 **“§ 80204. Permit transfer**

2 “(a) IN GENERAL.—Subject to subsections (b) and
3 (c), the Secretary shall provide for the transfer of a permit
4 under this chapter from the permit holder to another per-
5 son to continue the operations allowed under such permit.

6 “(b) TRANSFER REQUEST REQUIREMENTS.—To be
7 eligible for a transfer under subsection (a), the permit
8 holder shall submit to the Secretary a request that in-
9 cludes any identifying information regarding the trans-
10 feree that would be required under an initial application
11 under section 80202.

12 “(c) DETERMINATION.—Not later than 14 days after
13 the date on which the Secretary receives a transfer request
14 pursuant to subsection (b), the Secretary shall make a de-
15 termination of whether such material change is substantial
16 enough to warrant additional review under section
17 80202(b). Not later than 90 days after a determination
18 that such review is warranted, the Secretary shall com-
19 plete a similar such review process for such transferee as
20 is required for a permit applicant under such section.

21 “(d) MATERIAL CHANGE.—Any transfer of a permit
22 under this chapter constitutes a material change under
23 section 80203(b).

24 **“§ 80205. Agency activities**

25 “(a) UTILIZATION OF FEDERAL GOVERNMENT VEHI-
26 CLE.—A person may apply for a permit to operate a

1 space-based remote sensing system that utilizes, on a
2 space-available basis, a civilian Federal Government sat-
3 ellite or vehicle as a platform for such system. The Sec-
4 retary, pursuant to this chapter, may permit such system
5 if it meets all conditions of this chapter.

6 “(b) ASSISTANCE.—The Secretary may offer assist-
7 ance to persons in finding appropriate opportunities for
8 the utilization described in subsection (a).

9 “(c) AGREEMENTS.—To the extent provided in ad-
10 vance by appropriation Acts, an agency may enter into an
11 agreement for the utilization described in subsection (a)
12 if such agreement is consistent with the agency’s mission
13 and statutory authority, and if the space-based remote
14 sensing system is issued a permit by the Secretary under
15 this chapter before commencing operation.

16 **“§ 80206. Annual reports**

17 “(a) IN GENERAL.—The Secretary shall submit a re-
18 port to the Committee on Commerce, Science, and Trans-
19 portation of the Senate and the Committee on Science,
20 Space, and Technology of the House of Representatives
21 not later than 180 days after the date of enactment of
22 the American Space Commerce Free Enterprise Act, and
23 annually thereafter, on—

24 “(1) the Secretary’s implementation of this
25 chapter, including—

1 ing (in this section referred to as the ‘Committee’) con-
2 sisting of 15 members who shall be appointed by the Sec-
3 retary.

4 “(b) CHAIR.—The Committee shall designate one
5 member as the chair of the Committee.

6 “(c) MEMBERSHIP.—

7 “(1) LIMITATION.—Members of the Committee
8 may not be Federal Government employees or offi-
9 cials.

10 “(2) TRAVEL EXPENSES.—Members of the
11 Committee shall receive travel expenses, including
12 per diem in lieu of subsistence, in accordance with
13 the applicable provisions under subchapter I of chap-
14 ter 57 of title 5.

15 “(d) TERMS.—Each member of the Committee shall
16 serve for a term of 4 years and may not serve as a member
17 for the 2-year period following the date of completion of
18 each such term.

19 “(e) DUTIES.—The duties of the Committee shall be
20 to—

21 “(1) provide information, advice, and rec-
22 ommendations on matters relating to the United
23 States commercial space-based remote sensing in-
24 dustry;

1 “(2) analyze the effectiveness and efficiency of
2 the implementation of the space-based remote sens-
3 ing system permitting process under this chapter;

4 “(3) provide recommendations to the Secretary
5 and Congress on how the United States can facili-
6 tate and promote a robust and innovate private sec-
7 tor that is investing in, developing, and operating
8 space-based remote sensing systems;

9 “(4) identify any challenges the United States
10 private sector is experiencing with the authorization
11 and supervision of the operation of space-based re-
12 mote sensing systems under this chapter; and

13 “(5) provide information, advice, and rec-
14 ommendations on matters related to the authority of
15 the Secretary under this chapter or to private sector
16 space activities authorized pursuant to this chapter
17 that the Committee determines necessary.

18 “(f) ANNUAL REPORT.—The Committee shall submit
19 to Congress, the President, the Secretary, and the Direc-
20 tor of the Office of Space Commerce, an annual report
21 that includes the information, analysis, findings, and rec-
22 ommendations described in subsection (e).

23 “(g) SUNSET.—The Committee shall terminate on
24 the date that is 10 years after the date on which the Com-
25 mittee is established.

1 **“§ 80208. Continuation of existing license or pending**
2 **application**

3 “(a) CONTINUATION OF EXISTING LICENSE.—Any
4 United States entity for whom a license for the operation
5 of a space-based remote sensing system issued under sub-
6 chapter III of chapter 601 that is valid on the effective
7 date of this section may—

8 “(1) elect to be immediately considered per-
9 mitted for operation under this chapter, in which
10 case all terms and conditions of a license issued
11 under such subchapter with respect to the operation
12 of such system shall apply for the duration of the li-
13 cense; or

14 “(2) apply for a permit for operation under this
15 chapter and may continue to operate pursuant to
16 such license until such time as such permit is issued.

17 “(b) RESCIND OR TRANSFER OF PENDING LI-
18 CENSE.—An applicant with an application for a remote
19 sensing license under subchapter III of chapter 601 that
20 is pending on the effective date of this section may be,
21 at the election of the applicant—

22 “(1) rescinded without prejudice; or

23 “(2) transferred to the Office of Space Com-
24 merce and deemed to be a pending application for a
25 permit under this chapter.

1 **“§ 80301. Administrative authority**

2 “(a) FUNCTIONS.—In order to carry out the respon-
3 sibilities specified in this subtitle, the Secretary may—

4 “(1) seek an order of injunction or similar judi-
5 cial determination from a district court of the
6 United States with personal jurisdiction over the
7 certification or permit holder to terminate certifi-
8 cations or permits under this subtitle and to termi-
9 nate certified or permitted operations on an imme-
10 diate basis, if the Secretary determines that the cer-
11 tification or permit holder has substantially failed to
12 comply with any provisions of this subtitle, or with
13 any terms of a certification or permit;

14 “(2) provide for civil penalties not to exceed
15 \$10,000 (each day of operation constituting a sepa-
16 rate violation) and not to exceed \$500,000 in total,
17 for—

18 “(A) noncompliance with the certification
19 or permitting requirements or regulations
20 issued under this subtitle; or

21 “(B) the operation of a space object or
22 space-based remote sensing system without the
23 applicable certification or permit issued under
24 this subtitle;

25 “(3) compromise, modify, or remit any such
26 civil penalty;

1 “(4) seize any object, record, or report, or cop-
2 ies of materials, documents, or records, pursuant to
3 a warrant from a magistrate based on a showing of
4 probable cause to believe that such object, record, or
5 report was used, is being used, or is likely to be used
6 in violation of this subtitle or the requirements of a
7 certification or permit or regulation issued there-
8 under; and

9 “(5) make investigations and inquiries con-
10 cerning any matter relating to the enforcement of
11 this subtitle.

12 “(b) REVIEW OF AGENCY ACTION.—Any holder of,
13 or applicant for, a certification or a permit who makes
14 a timely request for review of an adverse action pursuant
15 to paragraph (2) or (4) of subsection (a) shall be entitled
16 to adjudication by the Secretary on the record after an
17 opportunity for any agency hearing with respect to such
18 adverse action. Any final action by the Secretary under
19 this subsection shall be subject to judicial review under
20 chapter 7 of title 5, as provided in section 80303 of this
21 chapter.

22 “(c) NO COST FOR CERTIFICATION OR PERMIT.—
23 The Secretary may not impose a fee or other cost on a
24 holder of, or applicant for—

25 “(1) a certification under chapter 801; or

1 “(2) a permit under chapter 802.

2 “(d) NO AUTHORITY TO SET CONDITIONS.—The
3 Secretary may not impose a substantive condition on, or
4 any other requirement for, the issuance of a certification
5 or permit except as specifically provided in this subtitle.

6 “(e) FOIA EXEMPTION.—Paragraph (3) of section
7 552(b) of title 5 shall apply with respect to any filing re-
8 lating to a certification or a permit under this subtitle.

9 “(f) LIMITATION ON EXCEPTIONS TO ADMINISTRA-
10 TIVE PROCEDURES.—The exceptions under section
11 553(a)(1), section 553(b)(B), or section 554(a)(4) of title
12 5 shall not apply with respect to a certification or permit
13 under this subtitle.

14 **“§ 80302. Consultation**

15 “(a) SENSE OF CONGRESS.—It is the sense of the
16 Congress that—

17 “(1) the United States Government has assets
18 in Earth orbit critical to national security, scientific
19 research, economic growth, and exploration;

20 “(2) such assets represent a considerable in-
21 vestment of United States taxpayers; and

22 “(3) it is in the national interest of the United
23 States to facilitate opportunities to provide for the
24 protection of such assets.

1 “(b) REVIEW.—Not later than 30 days after the Sec-
2 retary issues a certification under chapter 801, the Sec-
3 retary shall review the operations of any space objects cov-
4 ered by the certification to determine whether the inter-
5 action between such operations and the operations of a
6 Federal Government space object present a substantial
7 risk to the physical safety of a space object operated by
8 either party.

9 “(c) REQUIREMENT TO PARTICIPATE IN CONSULTA-
10 TION.—If the Secretary makes a determination that a sub-
11 stantial risk identified under subsection (b) exists, the
12 Secretary may require that the certification holder partici-
13 pate in a consultation under this section.

14 “(d) PARTIES TO A CONSULTATION.—

15 “(1) IN GENERAL.—A consultation under this
16 section may be held, with respect to a substantial
17 safety risk identified under subsection (b), be-
18 tween—

19 “(A) a certification holder responsible for
20 the certified space object operations; and

21 “(B) any entity of the Federal Government
22 operating a potentially affected space object.

23 “(2) PARTICIPATION.—The Secretary may not
24 impose any requirement on a party pursuant to par-
25 ticipation in the consultation.

1 “(e) MITIGATION OF SAFETY RISK.—In carrying out
2 a consultation, the Secretary shall—

3 “(1) facilitate a discussion among the parties to
4 the consultation;

5 “(2) encourage a mutual understanding of the
6 safety risk; and

7 “(3) encourage, to the maximum extent prac-
8 ticable, voluntary agreements between the parties to
9 the consultation to improve the physical safety of af-
10 fected space object operations or mitigate the phys-
11 ical safety risk.

12 “(f) DURATION OF CONSULTATION; NOTICE.—Not
13 later than 90 days after the Secretary requires a consulta-
14 tion under this section, the Secretary shall—

15 “(1) complete all activities related to the con-
16 sultation; and

17 “(2) submit to Congress a written notification
18 with respect to such consultation, that includes—

19 “(A) the names of each party to the con-
20 sultation;

21 “(B) a description of the physical safety
22 risk at issue;

23 “(C) whether any voluntary agreement was
24 made by the parties; and

25 “(D) the content of any such agreement.

1 Enterprise Act, no other agency shall have the authority
2 to authorize, place conditions on, or supervise the oper-
3 ation of space objects required to be certified under chap-
4 ter 801 or space-based remote sensing systems required
5 to be permitted under chapter 802 except—

6 “(1) the Department of Transportation with re-
7 spect to launch or reentry vehicle operations licensed
8 under chapter 509; and

9 “(2) the Federal Communications Commission
10 with respect to space stations licensed under the
11 Communications Act of 1934 (47 U.S.C. 151 et
12 seq.).

13 “(b) AGREEMENT LIMITATIONS.—Nothing in this
14 section shall be construed to prevent an agency from in-
15 cluding additional terms, conditions, limitations, or re-
16 quirements, consistent with applicable provisions of law,
17 beyond those required in this subtitle in a contract or
18 other agreement with—

19 “(1) the holder of a certification under chapter
20 801 for the operation of the applicable space object;
21 or

22 “(2) the holder of a permit under chapter 802
23 for the operation of the applicable space-based re-
24 mote sensing system.

1 **“§ 80305. Commercial exploration and use of outer**
2 **space**

3 “To the maximum extent practicable, the President,
4 acting through appropriate Federal agencies, shall inter-
5 pret and fulfill international obligations, including under
6 the covered treaties on outer space, to minimize regula-
7 tions and limitations on the freedom of United States non-
8 governmental entities to explore and use space.

9 **“§ 80306. Rule of construction on concurrent applica-**
10 **tion submission**

11 “Nothing in this subtitle shall be construed to pre-
12 vent an applicant from submitting to the Secretary con-
13 current applications for a certification under chapter 801
14 and a permit under chapter 802. The Secretary shall pro-
15 vide for applications under chapter 801 and chapter 802
16 to be filed concurrently or at different times, at the discre-
17 tion of the applicant. To the maximum extent practicable,
18 the Secretary shall avoid duplication of information re-
19 quired in concurrently filed applications.

20 **“§ 80307. Federal jurisdiction**

21 “The district courts shall have original jurisdiction,
22 exclusive of the courts of the States, of any civil action
23 resulting from the operation of a space object for which
24 a certification or permit is required under this subtitle.

1 **“§ 80308. Global commons**

2 “Notwithstanding any other provision of law, outer
3 space shall not be considered a global commons.

4 **“§ 80309. Regulatory authority**

5 “(a) IN GENERAL.—The Secretary shall issue such
6 regulations as are necessary to carry out this subtitle.

7 “(b) REDUCING REGULATORY BURDEN.—In issuing
8 regulations to carry out this subtitle, the Secretary shall
9 avoid, to the maximum extent practicable, the placement
10 of inconsistent, duplicative, or otherwise burdensome re-
11 quirements on the operations of United States nongovern-
12 mental entities in outer space.

13 “(c) ADMINISTRATIVE PROCEDURES ACT.—All ac-
14 tivities carried out pursuant to this section shall comply
15 with the requirements of chapter 5 of title 5.

16 **“§ 80310. Consultation with relevant agencies**

17 “(a) IN GENERAL.—Subject to subsection (b), the
18 Secretary shall, as the Secretary considers necessary, con-
19 sult with the heads of other relevant agencies in carrying
20 out this subtitle.

21 “(b) EXCLUSIVE AUTHORITY OF THE SECRETARY.—
22 The consultation authority provided by subsection (a)
23 shall not be interpreted to alter the exclusive authority of
24 the Secretary to authorize, place conditions on, and super-
25 vise the operation of space objects under chapter 801 and
26 space-based remote sensing systems under chapter 802,

1 as provided in, and subject to, the limitations of section
2 80304.

3 **“§ 80311. Authorization of appropriations**

4 “There are authorized to be appropriated \$5,000,000
5 to the Office of Space Commerce for each of fiscal years
6 2018 and 2019 to carry out this subtitle.”.

7 **SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.**

8 (a) TABLE OF CHAPTERS.—The table of chapters of
9 title 51, United States Code, is amended by adding at the
10 end the following:

**“Subtitle VIII—Authorization and Supervision of
Nongovernmental Space Activities**

| | |
|--|----------------|
| “801. Certification to Operate Space Objects | 80101 |
| “802. Permitting of Space-Based Remote Sensing Systems | 80201 |
| “803. Administrative Provisions Related to Certification and Permitting | 80301”. |

11 (b) REPEALS.—

12 (1) IN GENERAL.—Title 51, United States
13 Code, is amended as follows:

14 (A) Subchapter III of chapter 601 is re-
15 pealed.

16 (B) Section 60147 is repealed.

17 (C) The table of sections for chapter 601
18 is amended by striking the item relating to sec-
19 tion 60147.

20 (D) The table of sections for chapter 601
21 is amended by striking the items relating to
22 subchapter III.

1 (2) EFFECTIVE DATE.—The amendments made
2 by paragraph (1) shall take effect on the date that
3 is 1 year after the date of enactment of this Act.

4 (c) TECHNICAL CORRECTIONS.—

5 (1) IN GENERAL.—Title 51, United States
6 Code, is amended—

7 (A) in section 20302(c)(2), by striking
8 “means has the meaning” and inserting “has
9 the meaning”;

10 (B) in section 50702(c)(5), by striking
11 “Space-Based Position” and inserting “Space-
12 Based Positioning”; and

13 (C) in section 71102(1), by striking
14 “tracking device” and inserting “tracking de-
15 vice to”.

16 (2) CHAPTER 513.—The table of chapters of
17 title 51, United States Code, is amended by striking
18 the item related to chapter 513 and inserting the
19 following:

**“513. Space Resource Commercial Exploration and Utili-
zation51301”.**

20 (3) CHAPTER 701.—The table of chapters of
21 title 51, United States Code, is amended by striking
22 the item related to chapter 701 and inserting the
23 following:

“701. Use of Space Launch System or Alternatives70101”.

1 **SEC. 7. OFFICE OF SPACE COMMERCE.**

2 Section 50702 of title 51, United States Code, is
3 amended—

4 (1) in subsection (a), by adding at the end be-
5 fore the period “, which shall be located in the prin-
6 cipal physical location of the Office of the Secretary
7 of Commerce”;

8 (2) in subsection (b), by striking “a senior exec-
9 utive and shall be compensated at a level in the Sen-
10 ior Executive Service under section 5382 of title 5
11 as determined by the Secretary of Commerce” and
12 inserting “appointed by the President and confirmed
13 by the Senate. The Director shall be the Assistant
14 Secretary of Commerce for Space Commerce and
15 shall report directly to the Secretary of Commerce”;
16 and

17 (3) in subsection (c)—

18 (A) in paragraph (4), by striking “and” at
19 the end;

20 (B) in paragraph (5), by striking the pe-
21 riod at the end and inserting a semicolon; and

22 (C) by adding at the end the following:

23 “(6) to authorize and supervise the operations
24 of United States nongovernmental entities in outer
25 space, pursuant to chapter 801 of this title;

1 “(7) to authorize and supervise the operations
2 of space-based remote sensing systems pursuant to
3 chapter 802 of this title; and

4 “(8) to facilitate and promote the development
5 of best practices among operators of space objects
6 and space-based remote sensing systems under this
7 subtitle to address substantial risks to the physical
8 safety of Federal Government space objects, includ-
9 ing the risk of on-orbit collisions.”.

10 **SEC. 8. RESTRICTION ON PREVENTING LAUNCHES AND RE-**
11 **ENTRIES OF CERTIFIED SPACE OBJECTS.**

12 Section 50904(c) of title 51, United States Code, is
13 amended by adding at the end the following: “No launch
14 or reentry may be prevented under this authority on the
15 basis of national security, foreign policy, or international
16 obligations of the United States, including under the cov-
17 ered treaties on outer space (as defined in section 80101)
18 if the payload has received a certification to operate as
19 a space object under chapter 801.”.

20 **SEC. 9. REPORT ON REGISTRATION OF SPACE OBJECTS.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of enactment of this Act, the Secretary of Commerce,
23 acting through the Office of Space Commerce and in con-
24 sultation with the Private Space Activity Advisory Com-
25 mittee established under section 80109 of title 51, United

1 States Code, shall submit to the Committee on Science,
2 Space, and Technology of the House of Representatives
3 and the Committee on Commerce, Science, and Transpor-
4 tation of the Senate a report on the implementation of
5 the space object registration obligations of the United
6 States and other countries under Article VIII of the Outer
7 Space Treaty and the Convention on Registration of Space
8 Objects.

9 (b) CONTENTS OF REPORT.—The report required
10 under subsection (a) shall include—

11 (1) an identification of the practices and proce-
12 dures among countries that are members of the
13 Outer Space Treaty and the Convention on Registra-
14 tion of Space Objects in implementing and com-
15 plying with the registration obligations contained in
16 the treaties;

17 (2) a description of any existing practices and
18 procedures of the Federal Government for the reg-
19 istration of nongovernmental space objects; and

20 (3) recommendations on how the registration of
21 space objects in the United States could be improved
22 to benefit the United States, including enabling
23 United States leadership in commercial space activi-
24 ties.

1 **SEC. 10. COMPTROLLER GENERAL REPORT.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Comptroller General of the United States
4 shall submit to Congress a report on removing the Office
5 of Commercial Space Transportation from under the juris-
6 diction of the Federal Aviation Administration and rees-
7 tablishing the Office under the jurisdiction of the Sec-
8 retary of Transportation. Such report shall include—

9 (1) the identification of key practices for suc-
10 cessful organizational transitions;

11 (2) the advantages and disadvantages of the re-
12 moval and reestablishment with respect to the ability
13 of the Office to continue to coordinate and commu-
14 nicate with Federal Aviation Administration on air-
15 space issues; and

16 (3) the identification of any issues that are pre-
17 venting the Office from fully carrying out its statu-
18 tory mandate, and if such issues would persist re-
19 gardless of organizational location of the Office with-
20 in the Department of Transportation.

21 **SEC. 11. RADIOFREQUENCY MAPPING REPORT.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, the Secretary of Commerce,
24 in consultation with the Secretary of Defense and the Di-
25 rector of National Intelligence, shall complete and submit

1 to the Advisory Committee on Commercial Remote Sens-
2 ing a report on space-based radiofrequency mapping.

3 (b) CONTENTS.—The report required under sub-
4 section (a) shall include—

5 (1) whether there is a need to regulate space-
6 based radiofrequency mapping;

7 (2) any immitigable impacts of space-based ra-
8 diofrequency mapping on national security, U.S.
9 competitiveness and space leadership, and constitu-
10 tional freedoms; and

11 (3) findings, conclusions, and recommendations
12 regarding the costs and benefits of additional regu-
13 latory authority over space-based radiofrequency
14 mapping; and

15 (4) an evaluation of—

16 (A) whether the development of voluntary
17 consensus industry standards in coordination
18 with the Department of Defense is more appro-
19 priate than issuing regulations with respect to
20 space-based radiofrequency mapping; and

21 (B) how existing authorities, regulations,
22 and laws could be applied in a manner that pre-
23 vents the need for additional regulation of such
24 mapping.

1 (c) ADVISORY COMMITTEE ON COMMERCIAL REMOTE
2 SENSING REVIEW.—Not later than 90 days after the date
3 of receipt of the report required under subsection (a), the
4 Advisory Committee on Commercial Remote Sensing shall
5 submit to the Committee on Science, Space, and Tech-
6 nology of the House of Representatives and the Committee
7 on Commerce, Science, and Transportation of the Senate
8 the report submitted under subsection (a) and the opinion
9 of the Advisory Committee with respect to such report,
10 including any critiques, concerns, recommendations, and
11 endorsements. Such opinion shall be submitted directly
12 from the Chair of the Advisory Committee to those Com-
13 mittees of Congress without any review or change by the
14 Administration.

Passed the House of Representatives April 24, 2018.

Attest:

KAREN L. HAAS,

Clerk.