

116TH CONGRESS  
1ST SESSION

# H. R. 3610

To amend title 51, United States Code, to provide for the authorization and supervision of nongovernmental space activities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 2, 2019

Mr. BABIN introduced the following bill; which was referred to the Committee on Science, Space, and Technology

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## A BILL

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,*

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

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “American Space Commerce Free Enterprise Act of  
6       2019”.

7       (b) TABLE OF CONTENTS.—The table of contents is  
8       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.

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

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

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

11 (2) The United States has a robust and innova-  
12 tive private sector that is investing in, developing,  
13 and placing into outer space, spacecraft and pay-  
14 loads.

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

19 (4) It serves the national interest to address  
20 misperceptions of legal uncertainty through the es-  
21 tablishment of a general authorization and super-

1 vision certification authority for nongovernmental  
2 outer space activities.

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

7 (b) POLICY.—It is the policy of the United States  
8 that—

9 (1) United States citizens and entities are free  
10 to explore and use space, including the utilization of  
11 outer space and resources contained therein, without  
12 conditions or limitations;

13 (2) this freedom is only to be limited when nec-  
14 essary to assure United States national security in-  
15 terests are met and to authorize and supervise non-  
16 governmental space activities to assure such activi-  
17 ties are carried out in conformity with the inter-  
18 national obligations of the United States under the  
19 Outer Space Treaty;

20 (3) to the maximum extent practicable, the  
21 Federal Government shall interpret and fulfill its  
22 international obligations to minimize regulations and  
23 limitations on the freedom of United States non-  
24 governmental entities to explore and use space;

1           (4) to the maximum extent practicable, the  
2       Federal Government shall take steps to protect the  
3       physical safety of space objects operated by the  
4       United States that do not involve limitations on the  
5       freedoms of nongovernmental entities of the United  
6       States; and

7           (5) nongovernmental activities in outer space  
8       shall only be authorized and supervised in a trans-  
9       parent, timely, and predictable manner, with mini-  
10      mal costs and burdens placed on the entities author-  
11      ized and supervised.

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

14           (1) to enhance the existing outer space author-  
15      ization and supervision framework to provide greater  
16      transparency, greater efficiency, and less administra-  
17      tive burden for nongovernmental entities of the  
18      United States seeking to conduct space activities;  
19      and

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

22      (d) DEFINITIONS.—In this Act—

23           (1) the term “Agreement on the Rescue of As-  
24      tronauts and the Return of Space Objects” means  
25      the Agreement on the Rescue of Astronauts, the Re-

1 turn of Astronauts and the Return of Objects  
2 Launched into Outer Space (signed at Washington,  
3 Moscow, and London on April 22, 1968, ratified by  
4 the United States on December 3, 1968; 19 UST  
5 7570);

6 (2) the term “Convention on Registration of  
7 Space Objects” means the Convention on Registra-  
8 tion of Objects Launched into Outer Space (signed  
9 at New York on January 14, 1975, ratified by the  
10 United States on September 15, 1976; 28 UST  
11 695);

12 (3) the term “covered treaties on outer space”  
13 means—

14 (A) the Outer Space Treaty;

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

17 (C) the Convention on Registration of  
18 Space Objects; and

19 (D) the Liability Convention;

20 (4) the term “Liability Convention” means the  
21 Convention on the International Liability for Dam-  
22 age Caused by Space Objects (signed at Washington,  
23 Moscow, and London on March 29, 1972, ratified by  
24 the United States on October 9, 1973; 24 UST  
25 2389); and

1           (5) the term “Outer Space Treaty” means the  
2           Treaty on Principles Governing the Activities of  
3           States in the Exploration and Use of Outer Space,  
4           including the Moon and Other Celestial Bodies  
5           (signed at Washington, Moscow, and London on  
6           January 27, 1967, ratified by the United States on  
7           October 10, 1967; 18 UST 2410).

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

9           Title 51, United States Code, is amended by adding  
10          at the end the following:

11 **“Subtitle VIII—Authorization and**  
12 **Supervision of Nongovernmen-**  
13 **tal Space Activities**

14 **“CHAPTER 801—CERTIFICATION TO**  
15 **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.

16 **“§ 80101. Definitions**

17           “In this subtitle:

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

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

13           “(3) CONVENTION ON REGISTRATION OF SPACE  
14 OBJECTS.—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           “(4) COVERED TREATIES ON OUTER SPACE.—  
21 The term ‘covered treaties on outer space’ means—

22                   “(A) the Outer Space Treaty;

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

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

3           “(D) the Liability Convention.

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

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

14          “(7) OUTER SPACE TREATY.—The term ‘Outer  
15          Space Treaty’ means the Treaty on Principles Gov-  
16          erning the Activities of States in the Exploration  
17          and Use of Outer Space, including the Moon and  
18          Other Celestial Bodies (signed at Washington, Mos-  
19          cow, and London on January 27, 1967, ratified by  
20          the United States on October 10, 1967; 18 UST  
21          2410).

22          “(8) SECRETARY.—The term ‘Secretary’  
23          means, except as otherwise provided in this subtitle,  
24          the Secretary of Commerce, acting through the Of-  
25          fice of Space Commerce.



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

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

5                   “(B) capable of imaging a space object in  
6           Earth orbit operated by the Federal Govern-  
7           ment.

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

10                   “(A) prevent on-orbit break-ups;

11                   “(B) remove spacecraft that have reached  
12           the end of their mission operation from useful  
13           densely populated orbit regions; and

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

16           “(11) SPACE OBJECT.—

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

19                   “(i) a human-made object located in  
20           outer space, including on the Moon and  
21           other celestial bodies, with or without  
22           human occupants, that was launched from  
23           Earth, such as a satellite or a spacecraft,  
24           including component parts of the object;  
25           and

1           “(ii) all items carried on such object  
2           that are intended for use in outer space  
3           outside of, and independent of, the oper-  
4           ation of such object.

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

7                   “(i) manufactured or assembled in  
8                   outer space; and

9                   “(ii) intended for operations in outer  
10                  space outside of, and independent of, the  
11                  operations of such object in which the  
12                  manufacturing or assembly occurred.

13           “(C) EXCLUSIONS.—Such term does not  
14           include—

15                   “(i) an article on board a space object  
16                   that is only intended for use inside the  
17                   space object;

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

20                   “(iii) an article intended for use out-  
21                   side of a space object as part of the cer-  
22                   tified operations of the space object.

23           “(12) STATE.—The term ‘State’ means each of  
24           the several States of the United States, the District  
25           of Columbia, the Commonwealth of Puerto Rico, the

1 United States Virgin Islands, Guam, American  
2 Samoa, the Commonwealth of the Northern Mariana  
3 Islands, and any other commonwealth, territory, or  
4 possession of the United States.

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

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

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

11 “(B) a nongovernmental entity organized  
12 or existing under, and subject to, the laws of  
13 the United States or a State.

14 **“§ 80102. Certification authority**

15 “(a) IN GENERAL.—Not later than 1 year after the  
16 date of enactment of the American Space Commerce Free  
17 Enterprise Act of 2019, the Secretary shall begin issuing  
18 certifications for the operation of a space object to any  
19 United States entity who submits an application for a cer-  
20 tification in satisfaction of the requirements of this chap-  
21 ter.

22 “(b) CONSULTATION.—The Secretary shall, as the  
23 Secretary considers necessary, consult with the heads of  
24 other relevant agencies in carrying out the requirements  
25 of this chapter, pursuant to section 80311.

1       “(c) CERTIFICATION REQUIRED FOR OPERATION.—  
2 Beginning on the date that is 1 year after the date of  
3 enactment of the American Space Commerce Free Enter-  
4 prise Act of 2019, a United States entity may not operate  
5 a space object unless the entity holds a certification issued  
6 under this chapter for the operation of such object or the  
7 entity holds a valid payload approval for launch or reentry  
8 under section 50904 as part of a license issued under  
9 chapter 509, and that satisfies the requirements of section  
10 80108(a).

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

14       “(e) COVERAGE OF CERTIFICATION.—The Secretary  
15 shall, to the maximum extent practicable, require only 1  
16 certification under this chapter for a United States entity  
17 to—

18               “(1) conduct multiple operations carried out  
19 using a single space object;

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

22               “(3) use multiple space objects to carry out a  
23 single space operation.

24 **“§ 80103. Certification application and requirements**

25       “(a) APPLICATION PROCESS.—

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

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

12                 “(A) The name, address, and contact in-  
13                 formation of one or more nationals of the  
14                 United States designated by the applicant as  
15                 responsible for the operation of the space ob-  
16                 ject.

17                 “(B) An affirmation, and a document of  
18                 proof, that the applicant is a United States en-  
19                 tity.

20                 “(C) If available at the time of submission  
21                 of the application, the planned date and loca-  
22                 tion of the launch of the space object, including  
23                 the identity of the launch provider.

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

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

3                   “(i) when and where the space object  
4           will operate; and

5                   “(ii) when and where the operation of  
6           the space object will terminate.

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

10           “(G) Information about third-party liabil-  
11           ity insurance obtained, if any, by the applicant  
12           for operations of the space object, including the  
13           amount and coverage of such liability insurance.

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

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 of  
14 2019.

15 **“§ 80109. Private Space Activity Advisory Committee**

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

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

22       “(c) MEMBERSHIP.—

23               “(1) LIMITATION.—Members of the Committee  
24 may not be Federal Government employees or offi-  
25 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 3 members shall have signifi-  
10          cant experience working in the commercial space in-  
11          dustry.

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 of 2019 the Secretary is authorized to per-  
5 mit persons to operate space-based remote sensing sys-  
6 tems.

7 “(b) CONSULTATION.—The Secretary shall, as the  
8 Secretary considers necessary, consult with the heads of  
9 other relevant agencies in carrying out the requirements  
10 of this chapter, pursuant to section 80311.

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

16 “(d) DE MINIMIS EXCEPTION.—

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

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

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

25 “(2) GUIDANCE.—Not later than 1 year after  
26 the date of enactment of this subsection, the Sec-



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

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

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

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

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

17       “(f) PROHIBITION ON OPERATION.—Not later than  
18       1 year after the date of enactment of the American Space  
19       Commerce Free Enterprise Act of 2019, no person may,  
20       directly or through any subsidiary or affiliate, operate any  
21       space-based remote sensing system without a permit  
22       issued under this chapter.

23       “(g) RESPONSIBLE PARTY.—In any case in which the  
24       applicant for a permit under this chapter is not a United  
25       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 Com-  
10 merce, Science, and Transportation of  
11 the Senate and the Committee on  
12 Science, Space, and Technology of the  
13 House of Representatives 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.—If the Secretary  
13 has not approved or denied the application before  
14 the deadline under paragraph (2), the application  
15 shall be approved without condition. The Secretary  
16 may not allow tolling of the 90-day period under  
17 such paragraph.

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

22 “(5) SUBSEQUENT REVIEW.—The Secretary  
23 may not prejudice a new application for the pro-  
24 posed operations denied pursuant to paragraph

1 (2)(B) if such new application contains remedies ad-  
2 dressing the rationale for such denial.

3 “(c) ADDRESSING NATIONAL SECURITY THREAT.—

4 “(1) IN GENERAL.—If the Secretary deter-  
5 mines, with clear and convincing evidence, that the  
6 proposed operation of a space-based remote sensing  
7 system under an application for a permit under this  
8 chapter poses a significant threat to the national se-  
9 curity of the United States as provided in paragraph  
10 (2)—

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

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

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

22 “(A) that is imminent; and

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



1           “(3) REASONABLY COMMERCIALY AVAILABLE  
2 EFFORTS.—To the maximum extent practicable, the  
3 Secretary shall only place a condition on a permit  
4 that is achievable using reasonably commercially  
5 available efforts.

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

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

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

18           “(ii) includes all classified information  
19 included in such rationale for which the  
20 applicant has the required security clear-  
21 ance; and

22           “(B) submit a notification of the condition  
23 to the Committee on Commerce, Science, and  
24 Transportation of the Senate and the Com-

1           mittee on Science, Space, and Technology of  
2           the House of Representatives that—

3                   “(i) contains the clearly articulated  
4                   rationale for the condition;

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

14                  “(iii) may contain classified informa-  
15                  tion.

16                  “(5) PROHIBITION ON RETROACTIVE CONDI-  
17                  TIONS.—No other modifications may be made, or  
18                  additional conditions placed, on a permit after the  
19                  date on which the permit is issued except to account  
20                  for a material change as provided in section  
21                  80203(c).

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

25                  “(d) LIMITATIONS ON CONDITIONS.—

1           “(1) SAME OR SIMILAR CAPABILITY.—No oper-  
2           ational condition under subsection (c) may be placed  
3           on a space-based remote sensing system that has the  
4           same or substantially similar space-based remote  
5           sensing capabilities as another system permitted  
6           under this chapter with no such condition.

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

13          “(e) COMMERCIALY AVAILABLE CAPABILITY.—

14                 “(1) EXCEPTION.—The Secretary may not deny  
15                 an application for, or place a condition on, a permit  
16                 for the operation of a space-based remote sensing  
17                 system for which the same or substantially similar  
18                 capabilities, derived data, products, or services are  
19                 already commercially available or reasonably ex-  
20                 pected to be made available in the next 3 years in  
21                 the international or domestic marketplace. The ex-  
22                 ception in the previous sentence applies regardless of  
23                 whether the marketplace products and services origi-  
24                 nate from the operation of aircraft, unmanned air-

1 craft, or other platforms or technical means or are  
2 assimilated from a variety of data sources.

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

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

12 “(A) maintain a database of commercially  
13 available capabilities described in paragraph  
14 (1);

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

17 “(C) submit to the Committee on Com-  
18 merce, Science, and Transportation of the Sen-  
19 ate and the Committee on Science, Space, and  
20 Technology of the House of Representatives a  
21 report containing the contents of the database  
22 upon each update required under subparagraph  
23 (B).

24 “(4) APPLICANT SUBMISSIONS.—An applicant  
25 for, or holder of, a permit for the operation of a

1 space-based remote sensing system may submit to  
2 the Secretary evidence of, or information regarding,  
3 a commercially available capability described in  
4 paragraph (1) for consideration for inclusion in the  
5 database.

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

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

18 **“§ 80203. Continuing permitting requirements**

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

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

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

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

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

6               “(2) any material anomalies or departures from  
7       the planned operations during the course of oper-  
8       ations.

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

19       **“§ 80204. Permit transfer**

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

24       “(b) TRANSFER REQUEST REQUIREMENTS.—To be  
25       eligible for a transfer under subsection (a), the permit

1 holder shall submit to the Secretary a request that in-  
2 cludes any identifying information regarding the trans-  
3 feree that would be required under an initial application  
4 under section 80202.

5 “(c) DETERMINATION.—Not later than 14 days after  
6 the date on which the Secretary receives a transfer request  
7 pursuant to subsection (b), the Secretary shall make a de-  
8 termination of whether such material change is substantial  
9 enough to warrant additional review under section  
10 80202(b). Not later than 90 days after a determination  
11 that such review is warranted, the Secretary shall com-  
12 plete a similar such review process for such transferee as  
13 is required for a permit applicant under such section.

14 “(d) MATERIAL CHANGE.—Any transfer of a permit  
15 under this chapter constitutes a material change under  
16 section 80203(b).

17 **“§ 80205. Agency activities**

18 “(a) UTILIZATION OF FEDERAL GOVERNMENT VEHI-  
19 CLE.—A person may apply for a permit to operate a  
20 space-based remote sensing system that utilizes, on a  
21 space-available basis, a civilian Federal Government sat-  
22 ellite or vehicle as a platform for such system. The Sec-  
23 retary, pursuant to this chapter, may permit such system  
24 if it meets all conditions of this chapter.

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

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

11      **“§ 80206. Annual reports**

12      “(a) IN GENERAL.—The Secretary shall submit a re-  
13      port to the Committee on Commerce, Science, and Trans-  
14      portation of the Senate and the Committee on Science,  
15      Space, and Technology of the House of Representatives  
16      not later than 180 days after the date of enactment of  
17      the American Space Commerce Free Enterprise Act of  
18      2019, and annually thereafter, on—

19              “(1) the Secretary’s implementation of this  
20      chapter, including—

21                      “(A) a list of all applications received in  
22                      the previous calendar year;

23                      “(B) a list of all applications that resulted  
24                      in a permit;





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

3       “(c) MEMBERSHIP.—

4           “(1) LIMITATION.—Members of the Committee  
5 may not be Federal Government employees or offi-  
6 cials.

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

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) provide information, advice, and rec-  
19 ommendations on matters relating to the United  
20 States commercial space-based remote sensing in-  
21 dustry;

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

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

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

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

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

20          “(g) SUNSET.—The Committee shall terminate on  
21          the date that is 10 years after the date on which the Com-  
22          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 **“§ 80304. Exclusive authority for determination of**  
2 **international obligations**

3 “Except for the Secretary as authorized by this sub-  
4 title, no agency may impose a requirement or make a find-  
5 ing with regard to an international obligation of the  
6 United States pertaining to a nongovernmental entity of  
7 the United States under the Outer Space Treaty relating  
8 to—

9 “(1) the operation of a space object certified  
10 under chapter 801; and

11 “(2) the carrying out of a space debris mitiga-  
12 tion plan of a space object for which a certification  
13 was issued under chapter 801.

14 **“§ 80305. Limitation on certain agency supervision**

15 “(a) IN GENERAL.—Not later than 1 year after the  
16 date of enactment of the American Space Commerce Free  
17 Enterprise Act of 2019, no other agency shall have the  
18 authority to authorize, place conditions on, or supervise  
19 the operation of space objects required to be certified  
20 under chapter 801 or space-based remote sensing systems  
21 required to be permitted under chapter 802 except—

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

25 “(2) the Federal Communications Commission  
26 with respect to space stations licensed under the

1       Communications Act of 1934 (47 U.S.C. 151 et  
2       seq.).

3       “(b) AGREEMENT LIMITATIONS.—Nothing in this  
4 section shall be construed to prevent an agency from in-  
5 cluding additional terms, conditions, limitations, or re-  
6 quirements, consistent with applicable provisions of law,  
7 beyond those required in this subtitle in a contract or  
8 other agreement with—

9               “(1) the holder of a certification under chapter  
10       801 for the operation of the applicable space object;  
11       or

12               “(2) the holder of a permit under chapter 802  
13       for the operation of the applicable space-based re-  
14       mote sensing system.

15       **“§ 80306. Commercial exploration and use of outer**  
16               **space**

17       “To the maximum extent practicable, the President,  
18 acting through appropriate Federal agencies, shall inter-  
19 pret and fulfill international obligations, including under  
20 the covered treaties on outer space, to minimize regula-  
21 tions and limitations on the freedom of United States non-  
22 governmental entities to explore and use space.

1 **“§ 80307. Rule of construction on concurrent applica-**  
2 **tion submission**

3 “Nothing in this subtitle shall be construed to pre-  
4 vent an applicant from submitting to the Secretary con-  
5 current applications for a certification under chapter 801  
6 and a permit under chapter 802. The Secretary shall pro-  
7 vide for applications under chapter 801 and chapter 802  
8 to be filed concurrently or at different times, at the discre-  
9 tion of the applicant. To the maximum extent practicable,  
10 the Secretary shall avoid duplication of information re-  
11 quired in concurrently filed applications.

12 **“§ 80308. Federal jurisdiction**

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

17 **“§ 80309. Global commons**

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

20 **“§ 80310. Regulatory authority**

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

23 “(b) REDUCING REGULATORY BURDEN.—In issuing  
24 regulations to carry out this subtitle, the Secretary shall  
25 avoid, to the maximum extent practicable, the placement  
26 of inconsistent, duplicative, or otherwise burdensome re-

1 requirements on the operations of United States nongovern-  
2 mental entities in outer space.

3 **“§ 80311. Consultation with relevant agencies**

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

8 “(b) EXCLUSIVE AUTHORITY OF THE SECRETARY.—  
9 The consultation authority provided by subsection (a)  
10 shall not be interpreted to alter the exclusive authority of  
11 the Secretary to authorize, place conditions on, and super-  
12 vise the operation of space objects under chapter 801 and  
13 space-based remote sensing systems under chapter 802,  
14 as provided in and subject to the limitations of section  
15 80305.

16 **“§ 80312. Authorization of appropriations**

17 “There are authorized to be appropriated \$5,000,000  
18 to the Office of Space Commerce for fiscal year 2020 to  
19 carry out this subtitle.”.

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

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

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

**“801. Certification to Operate Space Objects .....80101**

|  |                |
|--|----------------|
| <b>“802. Permitting of Space-Based Remote Sensing Systems .....</b>                  | <b>80201</b>   |
| <b>“803. Administrative Provisions Related to Certification and Permitting .....</b> | <b>80301”.</b> |

1 (b) REPEALS.—

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

4 (A) Subchapter III of chapter 601 is re-  
5 pealed.

6 (B) Section 60147 is repealed.

7 (C) The table of sections for chapter 601  
8 is amended by striking the item relating to sec-  
9 tion 60147.

10 (D) The table of sections for chapter 601  
11 is amended by striking the items relating to  
12 subchapter III.

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

16 (c) TECHNICAL CORRECTIONS.—

17 (1) IN GENERAL.—Title 51, United States  
18 Code, is amended—

19 (A) in section 20302(c)(2), by striking  
20 “means has the meaning” and inserting “has  
21 the meaning”;



1 (B) in section 50702(c)(5), by striking  
 2 “Space-Based Position” and inserting “Space-  
 3 Based Positioning”; and

4 (C) in section 71102(1), by striking  
 5 “tracking device” and inserting “tracking de-  
 6 vice to”.

7 (2) CHAPTER 513.—The table of chapters of  
 8 title 51, United States Code, is amended by striking  
 9 the item related to chapter 513 and inserting the  
 10 following:

**“513. Space Resource Commercial Exploration and Utili-  
 zation .....51301”.**

11 (3) CHAPTER 701.—The table of chapters of  
 12 title 51, United States Code, is amended by striking  
 13 the item related to chapter 701 and inserting the  
 14 following:

**“701. Use of Space Launch System or Alternatives .....70101”.**

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

16 Section 50702 of title 51, United States Code, is  
 17 amended—

18 (1) in subsection (a), by adding at the end be-  
 19 fore the period “, which shall be located in the prin-  
 20 cipal physical location of the Office of the Secretary  
 21 of Commerce”;

22 (2) in subsection (b), by striking “a senior exec-  
 23 utive and shall be compensated at a level in the Sen-

1       ior Executive Service under section 5382 of title 5  
2       as determined by the Secretary of Commerce” and  
3       inserting “appointed by the President and confirmed  
4       by the Senate. The Director shall be the Assistant  
5       Secretary of Commerce for Space Commerce and  
6       shall report directly to the Secretary of Commerce”;  
7       and

8               (3) in subsection (c)—

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

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

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

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

17                     “(7) to authorize and supervise the operations  
18                      of space-based remote sensing systems pursuant to  
19                      chapter 802 of this title; and

20                     “(8) to facilitate and promote the development  
21                      of best practices among operators of space objects  
22                      and space-based remote sensing systems under this  
23                      subtitle to address substantial risks to the physical  
24                      safety of Federal Government space objects, includ-  
25                      ing the risk of on-orbit collisions.”.

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

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

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

12 (a) IN GENERAL.—Not later than 1 year after the  
13 date of enactment of this Act, the Secretary of Commerce,  
14 acting through the Office of Space Commerce and in con-  
15 sultation with the Private Space Activity Advisory Com-  
16 mittee established under section 80109 of title 51, United  
17 States Code, shall submit to the Committee on Science,  
18 Space, and Technology of the House of Representatives  
19 and the Committee on Commerce, Science, and Transpor-  
20 tation of the Senate a report on the implementation of  
21 the space object registration obligations of the United  
22 States and other countries under Article VIII of the Outer  
23 Space Treaty and the Convention on Registration of Space  
24 Objects.

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

1           (1) an identification of the practices and proce-  
2           dures among countries that are members of the  
3           Outer Space Treaty and the Convention on Registra-  
4           tion of Space Objects in implementing and com-  
5           plying with the registration obligations contained in  
6           the treaties;

7           (2) a description of any existing practices and  
8           procedures of the Federal Government for the reg-  
9           istration of nongovernmental space objects; and

10          (3) recommendations on how the registration of  
11          space objects in the United States could be improved  
12          to benefit the United States, including enabling  
13          United States leadership in commercial space activi-  
14          ties.

15 **SEC. 10. COMPTROLLER GENERAL REPORT.**

16          Not later than 180 days after the date of enactment  
17          of this Act, the Comptroller General of the United States  
18          shall submit to Congress a report on removing the Office  
19          of Commercial Space Transportation from under the juris-  
20          diction of the Federal Aviation Administration and rees-  
21          tablishing the Office under the jurisdiction of the Sec-  
22          retary of Transportation. Such report shall include—

23                 (1) the identification of key practices for suc-  
24                 cessful organizational transitions;

1           (2) the advantages and disadvantages of the re-  
2           removal and reestablishment with respect to the ability  
3           of the Office to continue to coordinate and commu-  
4           nicate with Federal Aviation Administration on air-  
5           space issues; and

6           (3) the identification of any issues that are pre-  
7           venting the Office from fully carrying out its statu-  
8           tory mandate, and if such issues would persist re-  
9           gardless of organizational location of the Office with-  
10          in the Department of Transportation.

○