

115TH CONGRESS
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H. R. 2809

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2017

Mr. SMITH of Texas (for himself, Mr. BABIN, Mr. BRIDENSTINE, Mr. PERLMUTTER, Mr. ROHRABACHER, Mr. HULTGREN, Mr. WEBER of Texas, Mr. HIGGINS of Louisiana, and Mr. KILMER) introduced the following bill; which was referred to the Committee on Science, Space, and Technology

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 This Act may be cited as the “American Space Com-
5 merce Free Enterprise Act of 2017”.

Sec. 1. Short title; table of contents.

Sec. 2. Findings; policy; purposes.

Sec. 3. Certificates 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.

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-
22 vision certification authority for nongovernmental
23 outer space activities.

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

5 (b) POLICY.—It is the policy of the United States
6 that—

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

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

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

23 (4) to the maximum extent practicable, the
24 Federal Government shall take steps to protect the
25 physical safety of space objects operated by the

1 United States that do not involve limitations on the
2 freedoms of nongovernmental entities of the United
3 States; and

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

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

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

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

19 (d) DEFINITIONS.—In this Act—

20 (1) the term “Agreement on the Rescue of As-
21 tronauts and the Return of Space Objects” means
22 the Agreement on the Rescue of Astronauts, the Re-
23 turn of Astronauts and the Return of Objects
24 Launched into Outer Space (signed at Washington,
25 Moscow, and London on April 22, 1968, ratified by

1 the United States on December 3, 1968; 19 UST
2 7570);

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

9 (3) the term “covered treaties on outer space”
10 means—

11 (A) the Outer Space Treaty;

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

14 (C) the Convention on Registration of
15 Space Objects; and

16 (D) the Liability Convention;

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

23 (5) the term “Outer Space Treaty” means the
24 Treaty on Principles Governing the Activities of
25 States in the Exploration and Use of Outer Space,

1 including the Moon and Other Celestial Bodies
 2 (signed at Washington, Moscow, and London on
 3 January 27, 1967, ratified by the United States on
 4 October 10, 1967; 18 UST 2410).

5 **SEC. 3. CERTIFICATES TO OPERATE SPACE OBJECTS.**

6 Title 51, United States Code, is amended by adding
 7 at the end the following:

8 **“Subtitle VIII—Authorization and**
 9 **Supervision of Nongovern-**
 10 **mental Space Activities**

11 **“CHAPTER 801—CERTIFICATION TO**
 12 **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.

13 **“§ 80101. Definitions**

14 “In this subtitle:

15 “(1) **AGENCY.**—The term ‘agency’ has the
 16 meaning given the term Executive Agency in section
 17 105 of title 5.

18 “(2) **AGREEMENT ON THE RESCUE OF ASTRO-**
 19 **NAUTS AND THE RETURN OF SPACE OBJECTS.**—The

1 term ‘Agreement on the Rescue of Astronauts and
2 the Return of Space Objects’ means the Agreement
3 on the Rescue of Astronauts, the Return of Astro-
4 nauts and the Return of Objects Launched into
5 Outer Space (signed at Washington, Moscow, and
6 London on April 22, 1968, ratified by the United
7 States on December 3, 1968; 19 UST 7570).

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

15 “(4) COVERED TREATIES ON OUTER SPACE.—
16 The term ‘covered treaties on outer space’ means—

17 “(A) the Outer Space Treaty;

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

20 “(C) the Convention on Registration of
21 Space Objects; and

22 “(D) the Liability Convention.

23 “(5) LIABILITY CONVENTION.—The term ‘Li-
24 ability Convention’ means the Convention on the
25 International Liability for Damage Caused by Space

1 Objects (signed at Washington, Moscow, and Lon-
2 don on March 29, 1972, ratified by the United
3 States on October 9, 1973; 24 UST 2389).

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

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

16 “(8) SECRETARY.—The term ‘Secretary’
17 means, except as otherwise provided in this subtitle,
18 the Secretary of Commerce, acting through the Of-
19 fice of Space Commerce.

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

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

1 “(B) capable of imaging a space object in
2 Earth orbit operated by the Federal Govern-
3 ment.

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

6 “(A) prevent on-orbit break-ups;

7 “(B) remove spacecraft that have reached
8 the end of their mission operation from useful
9 densely populated orbit regions; and

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

12 “(11) SPACE OBJECT.—

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

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

22 “(ii) all items carried on such object
23 that are intended for use in outer space
24 outside of, and independent of, the oper-
25 ation of such object.

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

3 “(i) manufactured or assembled in
4 outer space; and

5 “(ii) intended for operations in outer
6 space outside of, and independent of, the
7 operations of such object in which the
8 manufacturing or assembly occurred.

9 “(C) EXCLUSIONS.—Such term does not
10 include—

11 “(i) an article on board a space object
12 that is only intended for use inside the
13 space object;

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

16 “(iii) an article intended for use out-
17 side of a space object as part of the cer-
18 tified operations of the space object.

19 “(12) STATE.—The term ‘State’ means each of
20 the several States of the United States, the District
21 of Columbia, the Commonwealth of Puerto Rico, the
22 United States Virgin Islands, Guam, American
23 Samoa, the Commonwealth of the Northern Mariana
24 Islands, and any other commonwealth, territory, or
25 possession of the United States.

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

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

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

7 “(B) a nongovernmental entity organized
8 or existing under, and subject to, the laws of
9 the United States or a State.

10 **“§ 80102. Certification authority**

11 “(a) IN GENERAL.—Not later than 1 year after the
12 date of enactment of the American Space Commerce Free
13 Enterprise Act of 2017, the Secretary shall issue a certifi-
14 cation for the operation of a space object to any United
15 States entity who submits an application for a certification
16 in satisfaction of the requirements of this chapter.

17 “(b) CONSULTATION.—The Secretary may, as the
18 Secretary considers necessary, consult with the heads of
19 other relevant agencies in carrying out the requirements
20 of this chapter, pursuant to section 80311.

21 “(c) CERTIFICATION REQUIRED FOR OPERATION.—
22 Beginning on the date that is 1 year after the date of
23 enactment of the American Space Commerce Free Enter-
24 prise Act of 2017, a United States entity may not operate
25 a space object unless the entity holds a certification issued

1 under this chapter for the operation of such object or the
2 entity holds a valid payload approval for launch or reentry
3 under section 50904 as part of a license issued under
4 chapter 509, and that satisfies the requirements of section
5 80108(a).

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

9 “(e) COVERAGE OF CERTIFICATION.—The Secretary
10 shall, to the maximum extent practicable, require only 1
11 certification under this chapter for a United States entity
12 to—

13 “(1) conduct multiple operations carried out
14 using a single space object;

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

17 “(3) use multiple space objects to carry out a
18 single space operation.

19 **“§ 80103. Certification application and requirements**

20 “(a) APPLICATION PROCESS.—

21 “(1) IN GENERAL.—To be eligible for a certifi-
22 cation or transfer of a certification to operate a
23 space object under this chapter, a United States en-
24 tity shall submit an application to the Secretary as
25 provided in paragraph (2). Such application shall in-

1 include, for each required item or attestation, suffi-
2 cient evidence to demonstrate each fact or assertion.

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

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

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

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

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

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

23 “(i) when and where the space object
24 will operate; and

1 “(ii) when and where the operation of
2 the space object will terminate.

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

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

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

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

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

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

19 “(C) The space object will not be operated
20 or used for testing of any weapon on a celestial
21 body.

22 “(D) All information in the application and
23 supporting documents is true, complete, and ac-
24 curate.

25 “(b) REVIEW OF APPLICATION.—

1 “(1) VERIFICATION OF INFORMATION AND AT-
2 TESTATIONS.—Not later than 60 days after receipt
3 of an application under this section, the Secretary
4 shall verify that—

5 “(A) the application is complete, including
6 any required supporting documents;

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

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

11 “(2) DETERMINATION.—Not later than 60 days
12 after receipt of an application under this section—

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

20 “(B) if the Secretary cannot verify that
21 the applicant has met the application require-
22 ments described in paragraph (1) or if the Sec-
23 retary determines it is necessary to deny the
24 application pursuant to subsection (c)(1)(B),
25 the Secretary—

1 “(i) shall issue a denial of the applica-
2 tion signed by the Secretary (a duty that
3 may not be delegated, including to the Of-
4 fice of Space Commerce); and

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

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

16 “(II) notify the Committee on
17 Commerce, Science, and Transpor-
18 tation of the Senate and the Com-
19 mittee on Science, Space, and Tech-
20 nology of the House of Representa-
21 tives of such rationale.

22 “(3) AUTOMATIC APPROVAL.—If the Secretary
23 has not approved or denied the application before
24 the deadline under paragraph (2), the certification
25 shall be approved without condition. The Secretary

1 may not allow tolling of the 60-day period under
2 such paragraph.

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

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

12 “(c) COMPLIANCE WITH THE OUTER SPACE TREA-
13 TY.—

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

21 “(A) the Secretary may condition the pro-
22 posed operation covered by the certification only
23 to the extent necessary to prevent a violation of
24 such international obligation; or

1 “(B) if the Secretary determines that there
2 is no practicable way to condition such certifi-
3 cation to prevent such a violation, the Secretary
4 may deny the application.

5 “(2) LIMITATION FOR DETERMINATIONS.—A
6 determination under paragraph (1) shall be limited
7 as follows:

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

14 “(B) The Federal Government shall inter-
15 pret and fulfill its international obligations
16 under the Outer Space Treaty in a manner that
17 promotes free enterprise in outer space.

18 “(C) The Federal Government shall not
19 presume all obligations of the United States
20 under the Outer Space Treaty are obligations to
21 be imputed upon United States nongovern-
22 mental entities.

23 “(D) Guidelines promulgated by the Com-
24 mittee on Space Research may not be consid-

1 ered international obligations of the United
2 States.

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

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

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

18 “(4) PROHIBITION ON RETROACTIVE CONDI-
19 TIONS.—No other modifications may be made, or
20 additional conditions placed, on a certification after
21 the date on which the certification is issued (except
22 to account for a material change as provided in sec-
23 tion 80105(c) or the removal of a condition pursuant
24 to subsection (d)).

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

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

7 **“§ 80104. Mitigation of space debris**

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

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

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

19 “(b) IMPLEMENTATION.—To the maximum extent
20 practicable, a holder of a certification under this chapter
21 shall notify the Secretary not later than 30 days before
22 beginning to implement the disposal phase of a space de-
23 bris mitigation plan described in subsection (a). Such cer-
24 tification holder shall, not later than 30 days after com-

1 pleting implementation of such phase, update the Sec-
2 retary of the results of any space debris mitigation efforts.

3 **“§ 80105. Continuing certification requirements**

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

6 “(1) a certified space object has terminated op-
7 erations; or

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

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

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

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

19 “(c) UPDATE TO CERTIFICATION.—Not later than 14
20 days after the date of receipt of information regarding a
21 material change pursuant to subsection (b), the Secretary
22 shall make a determination of whether such material
23 change is substantial enough to warrant additional review
24 under section 80103(b). Not later than 60 days after a
25 determination that such review is warranted, the Secretary

1 shall complete a similar such review process for such mate-
2 rial change as is required for a certification applicant
3 under such section.

4 **“§ 80106. Certification transfer**

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

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

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

18 “(2) each attestation required under section
19 80103(a)(3), including accompanying supporting
20 documents, completed by the proposed transferee.

21 “(c) DETERMINATION.—Not later than 60 days after
22 a certification holder submits a request under subsection
23 (b), the Secretary shall complete a similar review process
24 for the request for transfer as required for a certification
25 applicant under section 80103(b).

1 **“§ 80107. Certification expiration and termination**

2 “(a) CERTIFICATION EXPIRATION.—

3 “(1) IN GENERAL.—A certification issued under
4 this chapter shall expire on the earlier of—

5 “(A) the date on which all operations ap-
6 proved under such certification cease, including
7 carrying out a space debris mitigation plan of
8 any space object approved under such certifi-
9 cation;

10 “(B) the date on which all space objects
11 approved under the certification no longer exist;
12 or

13 “(C) the date that is 5 years after the date
14 on which the certification was approved, if no
15 operations approved under the certification have
16 commenced by such date.

17 “(b) CERTIFICATION TERMINATION.—

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

23 “(2) ELIGIBILITY.—A certification holder
24 whose certification is terminated under this sub-
25 section shall be ineligible to apply for or receive a
26 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 2017.

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; and

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

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

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

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

23 “(8) provide information, advice, and rec-
24 ommendations on matters related to the authority of
25 the Secretary under this chapter or to private sector

1 space activities authorized pursuant to this chapter
2 that the Committee determines necessary.

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

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

10 **“§ 80110. Exemptions**

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

13 “(1) Space object activities authorized by an-
14 other country that is a party to the Outer Space
15 Treaty.

16 “(2) Launch or reentry vehicle operations li-
17 censed by the Department of Transportation under
18 chapter 509.

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

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

1 **“§ 80111. Protecting the interests of United States en-**
2 **tity space objects**

3 “The President shall ensure that United States entity
4 exploration and use of outer space, including commercial
5 activity and the exploitation of space resources, is secure
6 from acts of foreign aggression and foreign harmful inter-
7 ference and is given due regard, and the President shall
8 uphold the ownership rights of space objects of United
9 States entities. Space objects certified under this chapter
10 shall receive the full protection of the United States.”.

11 **SEC. 4. PERMITTING OF SPACE-BASED REMOTE SENSING**
12 **SYSTEMS.**

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

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

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

22 (3) Since the passage of the Land Remote
23 Sensing Policy Act of 1992, the National Oceanic
24 and Atmospheric Administration’s Office of Com-
25 mercial Remote Sensing has experienced a signifi-
26 cant increase in applications for private remote sens-

1 ing space system licenses as authorized under sec-
2 tion 60121 of title 51, United States Code.

3 (4) Many of the applicants for commercial
4 space-based remote sensing licenses have encoun-
5 tered significant delays and unnecessary obstacles in
6 the application process.

7 (5) The current licensing paradigm must be up-
8 dated as to not discourage the continued growth of
9 the United States space-based remote sensing indus-
10 try. It must be updated in a way that satisfies the
11 needs of commercial remote sensing market as well
12 as the national security of the United States.

13 (6) In order to protect United States leadership
14 and commercial viability in remote sensing tech-
15 nologies, the Federal Government should not limit
16 commercial entities from providing remote sensing
17 capabilities or data products that are available or
18 reasonably expected to be made available in the next
19 3 years in the international or domestic marketplace.

20 (b) POLICY.—It is the policy of the United States
21 that, to the maximum extent practicable, the Federal Gov-
22 ernment shall take steps to protect the national security
23 interests of the United States that do not involve regu-
24 lating or limiting the freedoms of United States non-
25 governmental entities to explore and use space. Federal

1 Government agencies shall mitigate any threat to national
 2 security posed by the exploration and use of outer space
 3 by United States citizens and entities, to the maximum
 4 extent practicable, changing Federal Government activi-
 5 ties and operations.

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

8 **“CHAPTER 802—PERMITTING OF SPACE-**
 9 **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.

10 **“§ 80201. Permitting authority**

11 “(a) IN GENERAL.—Not later than 1 year after the
 12 date of enactment of the American Space Commerce Free
 13 Enterprise Act of 2017, the Secretary is authorized to per-
 14 mit persons to operate space-based remote sensing sys-
 15 tems.

16 “(b) CONSULTATION.—The Secretary may, as the
 17 Secretary considers necessary, consult with the heads of
 18 other relevant agencies in carrying out the requirements
 19 of this chapter, pursuant to section 80311.

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

6 “(d) DE MINIMIS EXCEPTION.—

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

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

12 “(B) too trivial to require a determination
13 under section 80202(c) relating to national se-
14 curity.

15 “(2) GUIDANCE.—Not later than 1 year after
16 the date of enactment of this subsection, the Sec-
17 retary shall issue guidance providing a clear expla-
18 nation of the criteria used by the Secretary to grant
19 a de minimis waiver under paragraph (1)(B) for a
20 space-based remote sensing system that is too trivial
21 to require a determination under section 80202(c).

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

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

3 “(2) operate multiple space-based remote sens-
4 ing systems that carry out substantially similar op-
5 erations; or

6 “(3) use multiple space-based remote sensing
7 systems to carry out a single remote sensing oper-
8 ation.

9 “(f) PROHIBITION ON OPERATION.—Not later than
10 1 year after the date of enactment of the American Space
11 Commerce Free Enterprise Act of 2017, no person may,
12 directly or through any subsidiary or affiliate, operate any
13 space-based remote sensing system without a permit
14 issued under this chapter.

15 “(g) RESPONSIBLE PARTY.—In any case in which the
16 applicant for a permit under this chapter is not a United
17 States entity, the applicant shall identify a United States
18 entity that consents to be responsible for the permitted
19 operation of the space-based remote sensing system.

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

23 “(1) begins when the system—

24 “(A) is located in outer space; and

1 “(B) can meet the minimum threshold and
2 objective capabilities for the system’s stated
3 need; and

4 “(2) shall not cover the acts of distribution,
5 sale, or transfer of data, information, or services to
6 persons, foreign or domestic, including any such acts
7 taken pursuant to an agreement with such persons.

8 **“§ 80202. Application for permit**

9 “(a) APPLICATION PROCESS.—

10 “(1) IN GENERAL.—To receive a permit to op-
11 erate a space-based remote sensing system under
12 this chapter, a person shall submit an application to
13 the Secretary as provided in paragraph (2). Such
14 application shall include, for each required item, suf-
15 ficient evidence to demonstrate each fact or asser-
16 tion.

17 “(2) CONTENTS.—An application described in
18 paragraph (1) shall include only the following infor-
19 mation, with respect to each space-based remote
20 sensing system and the operations proposed to be
21 permitted:

22 “(A) The name, address, and contact in-
23 formation of one or more United States entity
24 identified by the applicant, pursuant to section

1 80201(g), as responsible for the operation of
2 the space-based remote sensing system.

3 “(B) If available at the time of submission
4 of the application, the planned date and loca-
5 tion of the launch of the applicable space object,
6 including the identity of the launch provider.

7 “(C) The general physical form and com-
8 position of the space-based remote sensing sys-
9 tem.

10 “(D) A description of the proposed oper-
11 ations of the space-based remote sensing system
12 that includes—

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

15 “(ii) when and where the operation of
16 the space-based remote sensing system will
17 terminate; and

18 “(iii) any additional information nec-
19 essary to make a determination under sub-
20 section (c) regarding a significant threat to
21 national security, as prescribed in advance
22 in regulation by the Secretary.

23 “(E) A description of how the space-based
24 remote sensing system will be operated and dis-

1 posed of in a manner to mitigate the generation
2 of space debris.

3 “(F) Information about third-party liabil-
4 ity insurance obtained, if any, by the applicant
5 for operations of the space-based remote sens-
6 ing system, including the amount and coverage
7 of such liability insurance.

8 “(b) REVIEW OF APPLICATION.—

9 “(1) VERIFICATIONS.—Not later than 60 days
10 after receipt of an application under this section, the
11 Secretary shall verify that—

12 “(A) the application is complete pursuant
13 to subsection (a); and

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

16 “(2) DETERMINATION.—Not later than 60 days
17 after receipt of an application under this section—

18 “(A) if the Secretary verifies that the ap-
19 plicant has met the application requirements
20 described in paragraph (1), the Secretary shall
21 approve the application and issue a permit to
22 the applicant with or without conditions on the
23 proposed operation of the space-based remote
24 sensing system pursuant to subsection
25 (c)(1)(A); or

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

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

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

13 “(I) provide the applicant with a
14 written notification containing a clear-
15 ly articulated rationale for the denial
16 that, to the maximum extent prac-
17 ticable—

18 “(aa) provides guidance to
19 the applicant as to how the ar-
20 ticulated rationale for denial
21 could be addressed in a subse-
22 quent application; and

23 “(bb) includes all classified
24 information included in such ra-
25 tionale for which the applicant

1 has the required security clear-
2 ance; and

3 “(II) submit a notification of the
4 denial to the Committee on Com-
5 merce, Science, and Transportation of
6 the Senate and the Committee on
7 Science, Space, and Technology of the
8 House of Representatives that—

9 “(aa) contains the clearly
10 articulated rationale for the de-
11 nial; and

12 “(bb) in the case of a denial
13 pursuant to a national security
14 determination under subsection
15 (c)—

16 “(AA) includes an ex-
17 planation of how, and clear
18 and convincing evidence
19 that, to the maximum extent
20 practicable, the Federal
21 Government took steps to
22 mitigate a significant threat
23 to the national security of
24 the United States posed by
25 the operation of the appli-

1 cant’s space-based remote
2 sensing system by changing
3 Federal Government activi-
4 ties and operations; and
5 “(BB) may contain
6 classified information.

7 “(3) AUTOMATIC APPROVAL.—If the Secretary
8 has not approved or denied the application before
9 the deadline under paragraph (2), the application
10 shall be approved without condition. The Secretary
11 may not allow tolling of the 60-day period under
12 such paragraph.

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

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

22 “(c) ADDRESSING NATIONAL SECURITY THREAT.—

23 “(1) IN GENERAL.—If the Secretary deter-
24 mines, with clear and convincing evidence, that the
25 proposed operation of a space-based remote sensing

1 system under an application for a permit under this
2 chapter poses a significant threat to the national se-
3 curity of the United States as provided in paragraph
4 (2)—

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

8 “(B) if the Secretary determines that there
9 is no practicable way to condition such permit
10 to address such threat, the Secretary may deny
11 the application.

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

16 “(A) that is imminent; and

17 “(B) that cannot practicably be mitigated
18 through changes to Federal Government activi-
19 ties or operations.

20 “(3) REASONABLY COMMERCIALY AVAILABLE
21 EFFORTS.—To the maximum extent practicable, the
22 Secretary shall only place a condition on a permit
23 that is achievable using reasonably commercially
24 available efforts.

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

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

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

13 “(ii) includes all classified information
14 included in such rationale for which the
15 applicant has the required security clear-
16 ance; and

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

22 “(i) contains the clearly articulated
23 rationale for the condition;

24 “(ii) includes an explanation of how,
25 and clear and convincing evidence that, to

1 the maximum extent practicable, the Fed-
2 eral Government took steps to mitigate a
3 significant threat to the national security
4 of the United States posed by the oper-
5 ation of the applicant’s space-based remote
6 sensing system by changing Federal Gov-
7 ernment activities and operations; and

8 “(iii) may contain classified informa-
9 tion.

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

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

19 “(d) LIMITATIONS ON CONDITIONS.—

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

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

7 “(e) COMMERCIALY AVAILABLE CAPABILITY.—

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

21 “(2) CLEAR AND CONVINCING EVIDENCE.—
22 Each denial of an application for, and each condition
23 placed on, a permit for the operation of a space-
24 based remote sensing system, shall include an expla-
25 nation of, and clear and convincing evidence that,

1 the exception under paragraph (1) does not apply
2 with respect to the proposed permitted operations of
3 such system.

4 “(3) DATABASE.—The President shall—

5 “(A) maintain a database of commercially
6 available capabilities described in paragraph
7 (1);

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

10 “(C) submit to the Committee on Com-
11 merce, Science, and Transportation of the Sen-
12 ate and the Committee on Science, Space, and
13 Technology of the House of Representatives a
14 report containing the contents of the database
15 upon each update required under subparagraph
16 (B).

17 “(4) APPLICANT SUBMISSIONS.—An applicant
18 for, or holder of, a permit for the operation of a
19 space-based remote sensing system may submit to
20 the Secretary evidence of, or information regarding,
21 a commercially available capability described in
22 paragraph (1) for consideration for inclusion in the
23 database.

24 “(5) NONAPPLICATION OF CONDITION.—In any
25 case in which the Secretary determines that the ex-

1 ception under paragraph (1) applies with respect to
2 a permit for the operation of a space-based remote
3 sensing system for which the Secretary has placed a
4 condition under subsection (c), such condition shall
5 no longer apply with respect to such permitted oper-
6 ations.

7 “(f) **AUTHORITY TO REMOVE CONDITIONS.**—Noth-
8 ing in this section shall be construed to prohibit the Sec-
9 retary from removing a condition placed on a permit pur-
10 suant to subsection (c).

11 **“§ 80203. Continuing permitting requirements**

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

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

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

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

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

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

4 “(c) UPDATE TO PERMIT.—Not later than 14 days
5 after the date of receipt of information regarding a mate-
6 rial change pursuant to subsection (b), the Secretary shall
7 make a determination of whether such material change is
8 substantial enough to warrant additional review under sec-
9 tion 80202(b). Not later than 60 days after a determina-
10 tion that such review is warranted, the Secretary shall
11 complete a similar such review process for such material
12 change as is required for a permit applicant under such
13 section.

14 **“§ 80204. Permit transfer**

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

19 “(b) TRANSFER REQUEST REQUIREMENTS.—To be
20 eligible for a transfer under subsection (a), the permit
21 holder shall submit to the Secretary a request that in-
22 cludes any identifying information regarding the trans-
23 feree that would be required under an initial application
24 under section 80202.

1 “(c) DETERMINATION.—Not later than 14 days after
2 the date on which the Secretary receives a transfer request
3 pursuant to subsection (b), the Secretary shall make a de-
4 termination of whether such material change is substantial
5 enough to warrant additional review under section
6 80202(b). Not later than 60 days after a determination
7 that such review is warranted, the Secretary shall com-
8 plete a similar such review process for such transferee as
9 is required for a permit applicant under such section.

10 “(d) MATERIAL CHANGE.—Any transfer of a permit
11 under this chapter constitutes a material change under
12 section 80203(b).

13 **“§ 80205. Agency activities**

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

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

24 “(c) AGREEMENTS.—To the extent provided in ad-
25 vance by appropriation Acts, an agency may enter into an

1 agreement for the utilization described in subsection (a)
2 if such agreement is consistent with the agency’s mission
3 and statutory authority, and if the space-based remote
4 sensing system is issued a permit by the Secretary under
5 this chapter before commencing operation.

6 **“§ 80206. Annual reports**

7 “(a) IN GENERAL.—The Secretary shall submit a re-
8 port to the Committee on Commerce, Science, and Trans-
9 portation of the Senate and the Committee on Science,
10 Space, and Technology of the House of Representatives
11 not later than 180 days after the date of enactment of
12 the American Space Commerce Free Enterprise Act of
13 2017, and annually thereafter, on—

14 “(1) the Secretary’s implementation of this
15 chapter, including—

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

18 “(B) a list of all applications that resulted
19 in a permit;

20 “(C) a list of all applications denied and
21 an explanation of why each application was de-
22 nied, including any information relevant to the
23 adjudication process of a request for a permit;

24 “(D) a list of all applications that required
25 additional information; and

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

10 “(e) DUTIES.—The duties of the Committee shall be
11 to—

12 “(1) provide information, advice, and rec-
13 ommendations on matters relating to the United
14 States commercial space-based remote sensing in-
15 dustry;

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

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

24 “(4) identify any challenges the United States
25 private sector is experiencing with the authorization

1 and supervision of the operation of space-based re-
2 mote sensing systems under this chapter; and

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

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

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

16 **“§ 80208. Continuation of existing license or pending**
17 **application**

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

23 “(1) elect to be immediately considered per-
24 mitted for operation under this chapter, in which
25 case all terms and conditions of a license issued

1 under such subchapter with respect to the operation
2 of such system shall apply for the duration of the li-
3 cense; or

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

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

12 “(1) rescinded without prejudice; or

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

16 “(c) EFFECTIVE DATE.—This section shall take ef-
17 fect on the date that is 1 year after the date of enactment
18 of the American Space Commerce Free Enterprise Act of
19 2017.

20 **“§ 80209. Commercial Remote Sensing Regulatory Af-**
21 **fairs Office**

22 “On the date that is 1 year after the date of enact-
23 ment of the American Space Commerce Free Enterprise
24 Act of 2017, the Commercial Remote Sensing Regulatory

1 Affairs Office of the National Oceanic and Atmospheric
2 Administration is abolished.”.

3 **SEC. 5. ADMINISTRATIVE PROVISIONS RELATED TO CER-**
4 **TIFICATION AND PERMITTING.**

5 Title 51, United States Code, is further amended by
6 adding at the end the following:

7 **“CHAPTER 803—ADMINISTRATIVE PROVI-**
8 **SIONS RELATED TO CERTIFICATION**
9 **AND PERMITTING**

“Sec.

“80301. Administrative authority.

“80302. Consultation.

“80303. Appeal of denial or condition of certification or permit.

“80304. Exclusive authority for determination of international obligations.

“80305. Limitation on certain agency supervision.

“80306. Commercial exploration and use of outer space.

“80307. Rule of construction on concurrent application submission.

“80308. Federal jurisdiction.

“80309. Global commons.

“80310. Regulatory authority.

“80311. Consultation with relevant agencies.

“80312. Authorization of appropriations.

10 **“§ 80301. Administrative authority**

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

13 “(1) seek an order of injunction or similar judi-
14 cial determination from a district court of the
15 United States with personal jurisdiction over the
16 certification or permit holder to terminate certifi-
17 cations or permits under this subtitle and to termi-
18 nate certified or permitted operations on an imme-
19 diate basis, if the Secretary determines that the cer-

1 tification or permit holder has substantially failed to
2 comply with any provisions of this subtitle, or with
3 any terms of a certification or permit;

4 “(2) provide for civil penalties not to exceed
5 \$10,000 (each day of operation constituting a sepa-
6 rate violation) and not to exceed \$500,000 in total,
7 for—

8 “(A) noncompliance with the certification
9 or permitting requirements or regulations
10 issued under this subtitle; or

11 “(B) the operation of a space object or
12 space-based remote sensing system without the
13 applicable certification or permit issued under
14 this subtitle;

15 “(3) compromise, modify, or remit any such
16 civil penalty;

17 “(4) seize any object, record, or report, or cop-
18 ies of materials, documents, or records, pursuant to
19 a warrant from a magistrate based on a showing of
20 probable cause to believe that such object, record, or
21 report was used, is being used, or is likely to be used
22 in violation of this subtitle or the requirements of a
23 certification or permit or regulation issued there-
24 under; and

1 “(5) make investigations and inquiries con-
2 cerning any matter relating to the enforcement of
3 this subtitle.

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

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

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

18 “(2) a permit under chapter 802.

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

23 “(e) FOIA EXEMPTION.—Paragraph (3) of section
24 552(b) of title 5 shall apply with respect to any filing re-
25 lating to a certification or a permit under this subtitle.

1 “(f) LIMITATION ON EXCEPTIONS TO ADMINISTRA-
2 TIVE PROCEDURES.—The exceptions under section
3 553(a)(1), section 553(b)(B), or section 554(a)(4) of title
4 5 shall not apply with respect to a certification or permit
5 under this subtitle.

6 **“§ 80302. Consultation**

7 “(a) SENSE OF CONGRESS.—It is the Sense of the
8 Congress that—

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

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

14 “(3) it is in the national interest of the United
15 States to facilitate opportunities to provide for the
16 protection of such assets.

17 “(b) REVIEW.—Not later than 30 days after the Sec-
18 retary issues a certification under chapter 801, the Sec-
19 retary shall review the operations of any space objects cov-
20 ered by the certification to determine whether the inter-
21 action between such operations and the operations of a
22 Federal Government space object present a substantial
23 risk to the physical safety of a space object operated by
24 either party.

1 “(c) REQUIREMENT TO PARTICIPATE IN CONSULTA-
2 TION.—If the Secretary makes a determination that a sub-
3 stantial risk identified under subsection (b) exists, the
4 Secretary may require that the certification holder partici-
5 pate in a consultation under this section.

6 “(d) PARTIES TO A CONSULTATION.—

7 “(1) IN GENERAL.—A consultation under this
8 section may be held, with respect to a substantial
9 safety risk identified under subsection (b), be-
10 tween—

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

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

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

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

20 “(1) facilitate a discussion among the parties to
21 the consultation;

22 “(2) encourage a mutual understanding of the
23 safety risk; and

24 “(3) encourage, to the maximum extent prac-
25 ticable, voluntary agreements between the parties to

1 the consultation to improve the physical safety of af-
2 fected space object operations or mitigate the phys-
3 ical safety risk.

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

7 “(1) complete all activities related to the con-
8 sultation; and

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

11 “(A) the names of each party to the con-
12 sultation;

13 “(B) a description of the physical safety
14 risk at issue;

15 “(C) whether any voluntary agreement was
16 made by the parties; and

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

18 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to grant any additional authority
20 to the Secretary to regulate, or place conditions on, any
21 activity for which a certification or permit is required
22 under this title.

1 **“§ 80303. Appeal of denial or condition of certifi-**
2 **cation or permit**

3 “An applicant who is denied a certification under sec-
4 tion 80103(b)(2)(B), an applicant who is denied a permit
5 under section 80202(b)(2)(B), or an applicant whose cer-
6 tification or permit is conditioned pursuant to section
7 80103(c) or section 80202(c), respectively, may appeal the
8 denial or placement of a condition to the Secretary. The
9 Secretary shall affirm or reverse the denial or placement
10 of a condition after providing the applicant notice and an
11 opportunity to be heard. The Secretary shall dispose of
12 the appeal not later than 60 days after the appeal is sub-
13 mitted. If the Secretary denies the appeal, the applicant
14 may seek review in the United States Court of Appeals
15 for the District of Columbia Circuit or in the court of ap-
16 peals of the United States for the circuit in which the per-
17 son resides or has its principal place of business.

18 **“§ 80304. Exclusive authority for determination of**
19 **international obligations**

20 “Except for the Secretary as authorized by this sub-
21 title, no agency may impose a requirement or make a find-
22 ing with regard to an international obligation of the
23 United States pertaining to a nongovernmental entity of
24 the United States under the Outer Space Treaty relating
25 to—

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

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

6 **“§ 80305. Limitation on certain agency supervision**

7 “(a) IN GENERAL.—Not later than 1 year after the
8 date of enactment of the American Space Commerce Free
9 Enterprise Act of 2017, no other agency shall have the
10 authority to authorize, place conditions on, or supervise
11 the operation of space objects required to be certified
12 under chapter 801 or space-based remote sensing systems
13 required to be permitted under chapter 802 except—

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

17 “(2) the Federal Communications Commission
18 with respect to space stations licensed under the
19 Communications Act of 1934 (47 U.S.C. 151 et
20 seq.).

21 “(b) AGREEMENT LIMITATIONS.—Nothing in this
22 section shall be construed to prevent an agency from in-
23 cluding additional terms, conditions, limitations, or re-
24 quirements beyond those required in this subtitle in a con-
25 tract or other agreement with—

1 **“§ 80308. Federal jurisdiction**

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

6 **“§ 80309. Global commons**

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

9 **“§ 80310. Regulatory authority**

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

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

18 **“§ 80311. Consultation with relevant agencies**

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

23 “(b) EXCLUSIVE AUTHORITY OF THE SECRETARY.—
24 The consultation authority provided by subsection (a)
25 shall not be interpreted to alter the exclusive authority of
26 the Secretary to authorize, place conditions on, and super-

1 vise the operation of space objects under chapter 801 and
 2 space-based remote sensing systems under chapter 802,
 3 as provided in and subject to the limitations of section
 4 80305.

5 **“§ 80312. Authorization of appropriations**

6 “There are authorized to be appropriated \$5,000,000
 7 to the Office of Space Commerce for fiscal year 2018 to
 8 carry out this subtitle.”.

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

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

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

“801. Certification of Operation of Space Objects	80101.
“802. Permitting of Space-Based Remote Sensing Sys- tems	80201.
“803. Administrative Provisions Related to Certification and Permitting	80301.”.

13 (b) REPEALS.—

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

16 (A) Subchapter III of chapter 601 is re-
 17 pealed.

18 (B) Section 60147 is repealed.

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

1 (D) The table of sections for chapter 601
 2 is amended by striking the items relating to
 3 subchapter III.

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

7 (c) TECHNICAL CORRECTIONS.—

8 (1) IN GENERAL.—Title 51, United States
 9 Code, is amended—

10 (A) in section 20302(c)(2), by striking
 11 “means has the meaning” and inserting “has
 12 the meaning”;

13 (B) in section 50702(c)(5), by striking
 14 “Space-Based Position” and inserting “Space-
 15 Based Positioning”; and

16 (C) in section 71102(1), by striking
 17 “tracking device” and inserting “tracking de-
 18 vice to”.

19 (2) CHAPTER 513.—The table of chapters of
 20 title 51, United State Code, is amended by striking
 21 the item related to chapter 513 and inserting the
 22 following:

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

23 (3) CHAPTER 701.—The table of chapters of
 24 title 51, United State Code, is amended by striking

1 the item related to chapter 701 and inserting the
2 following:

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

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

4 Section 50702 of title 51, United States Code, is
5 amended—

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

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

19 (3) in subsection (c)—

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

22 (B) in paragraph (5), by striking the pe-
23 riod at the end; and

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

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

4 “(7) to authorize and supervise the operations
5 of space-based remote sensing systems pursuant to
6 chapter 802 of this title; and

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

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

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

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

24 (a) IN GENERAL.—Not later than 1 year after the
25 date of enactment of this Act, the Secretary of Commerce,

1 acting through the Office of Space Commerce and in con-
2 sultation with the Private Space Activity Advisory Com-
3 mittee established under section 80109 of title 51, United
4 States Code, shall submit to the Committee on Science,
5 Space, and Technology of the House of Representatives
6 and the Committee on Commerce, Science, and Transpor-
7 tation of the Senate a report on the implementation of
8 the space object registration obligations of the United
9 States and other countries under Article VIII of the Outer
10 Space Treaty and the Convention on Registration of Space
11 Objects.

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

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

20 (2) a description of any existing practices and
21 procedures of the Federal Government for the reg-
22 istration of nongovernmental space objects; and

23 (3) recommendations on how the registration of
24 space objects in the United States could be improved
25 to benefit the United States, including enabling

- 1 United States leadership in commercial space activi-
- 2 ties.

