Suspend the Rules and Pass the Bill, H.R. 2809, with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

115TH CONGRESS
2D Session

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. Bridenstone, 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 (a) Short Title.—This Act may be cited as the
5 “American Space Commerce Free Enterprise Act of
6 2017”.


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

3 SEC. 2. FINDINGS; POLICY; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The United States, through existing authorization and supervision mechanisms, satisfies and is in conformity with its obligation under the Outer Space Treaty to authorize and supervise nongovernmental space activities to assure such activities are carried out in conformity with the international obligations of the United States under the Outer Space Treaty.

(2) The United States has a robust and innovative private sector that is investing in, developing, and placing into outer space, spacecraft and payloads.

(3) Authorization and supervision mechanisms as of the date of enactment of this Act could be improved to relieve administrative burdens on new and innovative nongovernmental space actors.
(4) It serves the national interest to address misperceptions of legal uncertainty through the establishment of a general authorization and supervision certification authority for nongovernmental outer space activities.

(5) The private exploration and use of outer space by nongovernmental entities will further the national security, foreign policy, and economic interests of the United States.

(b) Policy.—It is the policy of the United States that—

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

(2) this freedom is only to be limited when necessary to assure United States national security interests are met and to authorize and supervise nongovernmental space activities to assure such activities are carried out in conformity with the international obligations of the United States under the Outer Space Treaty;

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

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

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

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

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

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

(d) DEFINITIONS.—In this Act—
(1) the term “Agreement on the Rescue of Astronauts and the Return of Space Objects” means the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (signed at Washington, Moscow, and London on April 22, 1968, ratified by the United States on December 3, 1968; 19 UST 7570);

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

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

(A) the Outer Space Treaty;

(B) the Agreement on the Rescue of Astronauts and the Return of Space Objects;

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

(D) the Liability Convention;

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


SEC. 3. CERTIFICATION TO OPERATE SPACE OBJECTS.

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

“Subtitle VIII—Authorization and Supervision of Nongovernmental Space Activities

“CHAPTER 801—CERTIFICATION TO 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.
§80101. Definitions

“In this subtitle:

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

“(2) AGREEMENT ON THE RESCUE OF ASTRONAUTS AND THE RETURN OF SPACE OBJECTS.—The term ‘Agreement on the Rescue of Astronauts and the Return of Space Objects’ means the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (signed at Washington, Moscow, and London on April 22, 1968, ratified by the United States on December 3, 1968; 19 UST 7570).

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

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

“(A) the Outer Space Treaty;

“(B) the Agreement on the Rescue of Astronauts and the Return of Space Objects;
“(C) the Convention on Registration of Space Objects; and

“(D) the Liability Convention.


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


“(8) SECRETARY.—The term ‘Secretary’ means, except as otherwise provided in this subtitle, the Secretary of Commerce, acting through the Office of Space Commerce.
“(9) **Space-based remote sensing system.**—The term ‘space-based remote sensing system’ means a space object in Earth orbit that is—

“(A) designed to image the Earth; or

“(B) capable of imaging a space object in Earth orbit operated by the Federal Government.

“(10) **Space debris mitigation.**—The term ‘space debris mitigation’ means efforts to—

“(A) prevent on-orbit break-ups;

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

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

“(11) **Space object.**—

“(A) **In general.**—The term ‘space object’ means—

“(i) a human-made object located in outer space, including on the Moon and other celestial bodies, with or without human occupants, that was launched from Earth, such as a satellite or a spacecraft, including component parts of the object; and
“(ii) all items carried on such object that are intended for use in outer space outside of, and independent of, the operation of such object.

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

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

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

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

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

“(ii) an article manufactured or processed in outer space that is a material; or

“(iii) an article intended for use outside of a space object as part of the certified operations of the space object.

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

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

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

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

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

“§ 80102. Certification authority

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of the American Space Commerce Free Enterprise Act of 2017, the Secretary shall begin issuing certifications for the operation of a space object to any United States entity who submits an application for a certification in satisfaction of the requirements of this chapter.

“(b) CONSULTATION.—

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

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

“(c) CERTIFICATION REQUIRED FOR OPERATION.—
Beginning on the date that is 1 year after the date of
enactment of the American Space Commerce Free Enter-
prise Act of 2017, a United States entity may not operate
a space object unless the entity holds a certification issued
under this chapter for the operation of such object or the
entity holds a valid payload approval for launch or reentry
under section 50904 as part of a license issued under
chapter 509, and that satisfies the requirements of section
80108(a).

“(d) FOREIGN ENTITIES PROHIBITED.—The Sec-
retary may not issue a certification under this chapter to
any person who is not a United States entity.
“(e) COVERAGE OF CERTIFICATION.—The Secretary shall, to the maximum extent practicable, require only 1 certification under this chapter for a United States entity to—

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

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

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

“§ 80103. Certification application and requirements

“(a) APPLICATION PROCESS.—

“(1) IN GENERAL.—To be eligible for a certification or transfer of a certification to operate a space object under this chapter, a United States entity shall submit an application to the Secretary as provided in paragraph (2). Such application shall include, for each required item or attestation, sufficient evidence to demonstrate each fact or assertion.

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

“(A) The name, address, and contact information of one or more nationals of the
United States designated by the applicant as
responsible for the operation of the space ob-
ject.

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

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

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

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

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

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

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

“(G) Information about third-party liability
insurance obtained, if any, by the applicant
for operations of the space object, including the
amount and coverage of such liability insurance.
“(H) Whether the space object will include a space-based remote sensing system.

“(I) Whether the operations will involve exploitation and integration of waveforms other than publicly available or standard public waveforms and, if so, information about such operations as proscribed in advance by regulation by the Secretary.

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

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

“(B) The space object will not carry a nuclear weapon or weapon of mass destruction.

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

“(D) All information in the application and supporting documents is true, complete, and accurate.

“(b) REVIEW OF APPLICATION.—

“(1) VERIFICATION OF INFORMATION AND ATTESTATIONS.—Not later than 90 days after receipt
of an application under this section, the Secretary shall verify that—

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

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

“(C) the application contains each attestation required under subsection (a)(3).

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

“(A) if the Secretary verifies that the applicant has met the application requirements described in paragraph (1), the Secretary shall approve the application and issue a certification to the applicant with or without conditions on the proposed operation of the space object pursuant to subsection (c)(1)(A); or

“(B) if the Secretary cannot verify that the applicant has met the application requirements described in paragraph (1) or if the Secretary determines it is necessary to deny the application pursuant to subsection (c)(1)(B), the Secretary—

“(i) shall issue a denial of the application signed by the Secretary (a duty that
may not be delegated, including to the Office of Space Commerce); and

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

“(I) provide the applicant with a written notification containing a clearly articulated rationale for the denial that provides, to the maximum extent practicable, guidance to the applicant as to how such rationale for denial could be addressed in a subsequent application; and

“(II) notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such rationale.

“(3) AUTOMATIC APPROVAL.—If the Secretary has not approved or denied the application before the deadline under paragraph (2), the certification shall be approved without condition. The Secretary may not allow tolling of the 90-day period under such paragraph.
“(4) IMPROPER BASIS FOR DENIAL.—The Secretary may not deny an application for a certification under this section in order to protect an existing certification holder from competition.

“(5) SUBSEQUENT REVIEW.—The Secretary may not prejudice a new application for the proposed operations denied pursuant to paragraph (2)(B) if such new application contains remedies addressing the rationale for such denial.

“(c) COMPLIANCE WITH THE OUTER SPACE TREATY.—

“(1) IN GENERAL.—If the Secretary determines, with clear and convincing evidence, that the proposed operation of a space object under an application for a certification under this chapter is a violation of an international obligation of the United States pertaining to a nongovernmental entity of the United States under the Outer Space Treaty—

“(A) the Secretary may condition the proposed operation covered by the certification only to the extent necessary to prevent a violation of such international obligation; or

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

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

“(A) The Federal Government shall interpret and fulfill its international obligations under the Outer Space Treaty in a manner that minimizes regulations and limitations on the freedom of United States nongovernmental entities to explore and use space.

“(B) The Federal Government shall interpret and fulfill its international obligations under the Outer Space Treaty in a manner that promotes free enterprise in outer space.

“(C) The Federal Government shall not presume all obligations of the United States under the Outer Space Treaty are obligations to be imputed upon United States nongovernmental entities.

“(D) Guidelines promulgated by the Committee on Space Research may not be considered international obligations of the United States.
“(3) PREMPTIONS.—In making a determination under paragraph (1), the Secretary shall presume, absent clear and convincing evidence to the contrary, that—

“(A) any attestation made by an applicant pursuant to subsection (a)(3) is sufficient to meet the international obligations of the United States pertaining to nongovernmental entities of the United States under the Outer Space Treaty addressed by such attestation; and

“(B) reasonably commercially available efforts are sufficient to be in conformity with the international obligations of the United States pertaining to nongovernmental entities of the United States under the Outer Space Treaty.

“(4) PROHIBITION ON RETROACTIVE CONDITIONS.—No other modifications may be made, or additional conditions placed, on a certification after the date on which the certification is issued (except to account for a material change as provided in section 80105(c) or the removal of a condition pursuant to subsection (d)).

“(5) NONDELEGABLE.—The responsibilities of the Secretary under this subsection may not be delegated, including to the Office of Space Commerce.
“(d) Authority To Remove Conditions.—The Secretary, as determined appropriate, may remove a condition placed on a certification pursuant to subsection (c).

§ 80104. Mitigation of space debris

“(a) Plan Submission.—To be eligible for a certification under this chapter, each application shall include a space debris mitigation plan for the space object. Such plan—

“(1) shall take into account best practice guidelines promulgated by the United States and the Interagency Debris Coordinating Committee; and

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

“(b) Implementation.—To the maximum extent practicable, a holder of a certification under this chapter shall notify the Secretary not later than 30 days before beginning to implement the disposal phase of a space debris mitigation plan described in subsection (a). Such certification holder shall, not later than 30 days after completing implementation of such phase, update the Secretary of the results of any space debris mitigation efforts.
§ 80105. Continuing certification requirements

(a) Notification Requirement.—A certification holder shall, in a timely manner, notify the Secretary if—

(1) a certified space object has terminated operations; or

(2) a catastrophic event has occurred to a certified space object, such as the unplanned destruction of a space object.

(b) Material Change.—The Secretary shall require certification holders to inform the Secretary of—

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

(2) any material anomalies or departures from the planned operations during the course of operations.

(c) Update to Certification.—Not later than 14 days after the date of receipt of information regarding a material change pursuant to subsection (b), the Secretary shall make a determination of whether such material change is substantial enough to warrant additional review under section 80103(b). Not later than 90 days after a determination that such review is warranted, the Secretary shall complete a similar such review process for such material change as is required for a certification applicant under such section.
§ 80106. Certification transfer

(a) In general.—Subject to subsections (b) and (c), the Secretary shall provide for the transfer of a certification under this chapter from the certification holder to another United States entity to continue the operations allowed under such certification.

(b) Transfer request requirements.—To be eligible for a transfer under subsection (a), the certification holder shall submit to the Secretary a request that includes—

(1) any identifying information regarding the proposed transferee, including accompanying supporting documents, that would be required under an initial application under section 80103; and

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

(c) Determination.—Not later than 90 days after a certification holder submits a request under subsection (b), the Secretary shall complete a similar review process for the request for transfer as required for a certification applicant under section 80103(b).

§ 80107. Certification expiration and termination

(a) Certification expiration.—A certification issued under this chapter shall expire on the earlier of—
“(1) the date on which all operations approved
under such certification cease, including carrying out
a space debris mitigation plan of any space object
approved under such certification;

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

“(3) the date that is 5 years after the date on
which the certification was approved, if no oper-
ations approved under the certification have com-

[(b) Certification Termination.—]

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

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

“(3) SPACE DEBRIS MITIGATION PLAN.—Upon
termination of a certification under paragraph (1),
the Secretary may require the certification holder to
carry out the space debris mitigation plan submitted
by the certification holder under section 80104.
§ 80108. Existing license or pending application for launch or reentry

(a) Continuation of existing license.—Any United States entity for whom a payload has been approved (and not subject to an exemption under section 80110) on or before the effective date of this section for launch or reentry under section 50904 as part of a license issued under chapter 509 may—

(1) elect to be immediately considered certified for operation under this chapter on such effective date, in which case all terms and conditions applicable to the payload as approved for launch or reentry as part of a license issued under chapter 509 shall apply for the duration of the operation of the payload; or

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

(b) Rescinding or transfer of pending license.—A payload of a United States entity that, on the effective date of this section, is pending approval under section 50904 as part of a launch or reentry license issued under chapter 509 may be, at the election of the applicant for payload approval—

(1) rescinded without prejudice; or
“(2) transferred to the Office of Space Commerce and deemed to be a pending application for certification under this chapter.

“(c) Effective Date.—This section shall take effect on the date that is 1 year after the date of enactment of the American Space Commerce Free Enterprise Act of 2017.

“§ 80109. Private Space Activity Advisory Committee

“(a) Establishment.—The Secretary shall establish a Private Space Activity Advisory Committee (in this section referred to as the ‘Committee’) consisting of 15 members who shall be appointed by the Secretary.

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

“(c) Membership.—

“(1) Limitation.—Members of the Committee may not be Federal Government employees or officials.

“(2) Travel Expenses.—Members of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with the applicable provisions under subchapter I of chapter 57 of title 5.

“(3) Qualifications.—Members of the Committee shall include a variety of space policy, engi-
engineering, technical, science, legal, and finance professionals. Not less than 3 members shall have significant experience working in the commercial space industry.

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

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

“(1) analyze the status and recent developments of nongovernmental space activities;

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

“(3) provide recommendations to the Secretary and Congress on how the United States can facilitate and promote a robust and innovative private sector that is investing in, developing, and operating space objects;

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

“(A) with the authorization and supervision of the operation of space objects under this chapter;
“(B) more generally, with international obligations of the United States relevant to private sector activities in outer space;

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

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

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

“(6) review existing best practices for United States entities to avoid adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter;

“(7) provide information, advice, and recommendations on matters relating to United States private sector activities in outer space; and

“(8) provide information, advice, and recommendations on matters related to the authority of the Secretary under this chapter or to private sector space activities authorized pursuant to this chapter that the Committee determines necessary.

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

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

“§ 80110. Exemptions

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

“(1) Space object activities authorized by another country that is a party to the Outer Space Treaty.

“(2) Launch or reentry vehicle operations licensed by the Department of Transportation under chapter 509.

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

“(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt any entity from the requirement to obtain a permit to operate a space-based remote sensing system under chapter 802.

“§ 80111. Protecting the interests of United States entity space objects

“The President shall—
“(1) protect the interests of United States entity exploration and use of outer space, including commercial activity and the exploitation of space resources, from acts of foreign aggression and foreign harmful interference;

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

“(3) ensure that United States entities operating in outer space are given due regard.”.

SEC. 4. PERMITTING OF SPACE-BASED REMOTE SENSING SYSTEMS.

(a) FINDINGS.—Congress finds the following:


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

(3) Since the passage of the Land Remote Sensing Policy Act of 1992, the National Oceanic and Atmospheric Administration’s Office of Commercial Remote Sensing has experienced a signifi-
cant increase in applications for private remote sensing space system licenses as authorized under section 60121 of title 51, United States Code.

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

(5) The current licensing paradigm must be updated as to not discourage the continued growth of the United States space-based remote sensing industry. It must be updated in a way that satisfies the needs of commercial remote sensing market as well as the national security of the United States.

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

(b) Policy.—It is the policy of the United States that, to the maximum extent practicable, the Federal Government shall take steps to protect the national security interests of the United States that do not involve regulating or limiting the freedoms of United States non-
governmental entities to explore and use space. Federal
Government agencies shall mitigate any threat to national
security posed by the exploration and use of outer space
by United States citizens and entities, to the maximum
extent practicable, changing Federal Government activi-
ties and operations.
(e) AMENDMENT.—Title 51, United States Code, is
further amended by adding at the end the following:
“CHAPTER 802—PERMITTING OF SPACE-
BASED REMOTE SENSING SYSTEMS

§ 80201. Permitting authority

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

“(b) CONSULTATION.—The Secretary shall, as the
Secretary considers necessary, consult with the heads of
other relevant agencies in carrying out the requirements
of this chapter, pursuant to section 80310.
“(c) LIMITATION WITH RESPECT TO SYSTEM USED FOR OTHER PURPOSES.—In the case of a space object that is used for remote sensing and other purposes, the authority of the Secretary under this chapter shall be limited to the remote sensing operations of such space object.

“(d) DE MINIMIS EXCEPTION.—

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

“(A) ancillary to the primary design purpose of the space object; or

“(B) too trivial to require a determination under section 80202(c) relating to national security.

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

“(e) COVERAGE OF PERMIT.—The Secretary shall, to the maximum extent practicable, ensure that only one permit is required under this chapter to—
“(1) conduct multiple operations carried out using a space-based remote sensing system;

“(2) operate multiple space-based remote sensing systems that carry out substantially similar operations; or

“(3) use multiple space-based remote sensing systems to carry out a single remote sensing operation.

“(f) Prohibition on Operation.—Not later than 1 year after the date of enactment of the American Space Commerce Free Enterprise Act of 2017, no person may, directly or through any subsidiary or affiliate, operate any space-based remote sensing system without a permit issued under this chapter.

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

“(h) Operation of Space-Based Remote Sensing System.—For purposes of this chapter, the operation of a space-based remote sensing system—

“(1) begins when the system—

“(A) is located in outer space; and
“(B) can meet the minimum threshold and
objective capabilities for the system’s stated
need; and
“(2) shall not cover the acts of distribution,
sale, or transfer of data, information, or services to
persons, foreign or domestic, including any such acts
taken pursuant to an agreement with such persons.

§ 80202. Application for permit

“(a) Application Process.—

“(1) In general.—To receive a permit to op-
erate a space-based remote sensing system under
this chapter, a person shall submit an application to
the Secretary as provided in paragraph (2). Such
application shall include, for each required item, suff-
ficient evidence to demonstrate each fact or asser-
tion.

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

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

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

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

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

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

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

“(iii) any additional information nec-
ecessary to make a determination under sub-
section (e) regarding a significant threat to
national security, as prescribed in advance
in regulation by the Secretary.

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

“(F) Information about third-party liability insurance obtained, if any, by the applicant
for operations of the space-based remote sensing system, including the amount and coverage
of such liability insurance.

“(b) REVIEW OF APPLICATION.—

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

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

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

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

“(A) if the Secretary verifies that the ap-
plicant has met the application requirements
described in paragraph (1), the Secretary shall
approve the application and issue a permit to
the applicant with or without conditions on the
proposed operation of the space-based remote
sensing system pursuant to subsection
(e)(1)(A); or
“(B) if the Secretary cannot verify that the applicant has met the application requirements described in paragraph (1) or if the Secretary makes a determination to deny the application under subsection (c)(1)(B), the Secretary—

“(i) shall issue a denial of the application signed by the Secretary (a duty that may not be delegated, including to the Office of Space Commerce); and

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

“(I) provide the applicant with a written notification containing a clearly articulated rationale for the denial that, to the maximum extent practicable—

“(aa) provides guidance to the applicant as to how the articulated rationale for denial could be addressed in a subsequent application; and

“(bb) includes all classified information included in such rationale for which the applicant
has the required security clearance; and

“(II) submit a notification of the denial to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

“(aa) contains the clearly articulated rationale for the denial; and

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

“(AA) includes an explanation of how, and clear and convincing evidence that, to the maximum extent practicable, the Federal Government took steps to mitigate a significant threat to the national security of the United States posed by the operation of the appli-
cant’s space-based remote sensing system by changing Federal Government activities and operations; and

“(BB) may contain classified information.

“(3) AUTOMATIC APPROVAL.—

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

“(4) DELAY OF AUTOMATIC APPROVAL.—

“(A) IN GENERAL.—The President is permitted to extend the 90-day period under paragraph (2) once for each application for an additional 60 days to further evaluate the national security implications of the application only if the President notifies the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the need, with clear and convincing evi-
dence, to extend the review period. Such notification shall include—

“(i) details on the efforts taken to review the application during the 90-day period, including staff time, studies produced, and interim conclusions; and

“(ii) a plan for assuring a final decision within the additional 60 days.

“(B) NONDELEGABLE.—The responsibilities of the President under this paragraph may not be delegated

“(5) IMPROPER BASIS FOR DENIAL.—The Secretary may not deny an application for a permit under this section in order to protect an existing permit holder from competition.

“(6) SUBSEQUENT REVIEW.—The Secretary may not prejudice a new application for the proposed operations denied pursuant to paragraph (2)(B) if such new application contains remedies addressing the rationale for such denial.

“(c) ADDRESSING NATIONAL SECURITY THREAT.—

“(1) IN GENERAL.—If the Secretary determines, in consultation with the Secretary of Defense and with clear and convincing evidence, that the proposed operation of a space-based remote sensing sys-
tem under an application for a permit under this chapter poses a significant threat to the national security of the United States as provided in paragraph (2)—

“(A) the Secretary may condition the proposed operation covered by the permit only to the extent necessary to address such threat; or

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

“(2) SIGNIFICANT THREAT TO NATIONAL SECURITY.—For purposes of a determination under paragraph (1), a significant threat to the national security of the United States is a threat—

“(A) that is imminent; and

“(B) that cannot practicably be mitigated through changes to Federal Government activities or operations.

“(3) REASONABLY COMMERCIALY AVAILABLE EFFORTS.—To the maximum extent practicable, the Secretary shall only place a condition on a permit that is achievable using reasonably commercially available efforts.
“(4) NOTIFICATION.—Not later than 10 days after the decision to condition the proposed operation covered by a permit pursuant to this subsection, the Secretary shall—

“(A) provide the applicant with a written notification containing a clearly articulated rationale for the condition that, to the maximum extent practicable—

“(i) provides guidance to the applicant as to how the articulated rationale for condition could be addressed in a subsequent application; and

“(ii) includes all necessary classified information included in such rationale for which the applicant has the required security clearance; and

“(B) submit a notification of the condition to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that—

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

“(ii) includes an explanation of how, and clear and convincing evidence that, to
the maximum extent practicable, the Federal Government took steps to mitigate a significant threat to the national security of the United States posed by the operation of the applicant’s space-based remote sensing system by changing Federal Government activities and operations; and

“(iii) may contain classified information.

“(5) Prohibition on retroactive conditions.—No other modifications may be made, or additional conditions placed, on a permit after the date on which the permit is issued except to account for a material change as provided in section 80203(c).

“(6) Nondelegable.—The responsibilities of the Secretary under this subsection may not be delegated, including to the Office of Space Commerce.

“(d) Limitations on conditions.—

“(1) Same or similar capability.—No operational condition under subsection (c) may be placed on a space-based remote sensing system that has the same or substantially similar space-based remote sensing capabilities as another system permitted under this chapter with no such condition.
“(2) Conditions that exceed permitted conditions.—The Secretary may not place a condition on a permit for a space-based remote sensing system that exceeds a condition placed on an existing permitted system that has the same or substantially similar capabilities.

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

“(e) Commercially available capability.—

“(1) Exception.—The Secretary may not deny an application for, or place a condition on, a permit for the operation of a space-based remote sensing system for which the same or substantially similar capabilities, derived data, products, or services are already commercially available or reasonably expected to be made available in the next 3 years in the international or domestic marketplace. The exception in the previous sentence applies regardless of whether the marketplace products and services originate from the operation of aircraft, unmanned air-
craft, or other platforms or technical means or are assimilated from a variety of data sources.

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

“(3) DATABASE.—The President shall—
“(A) maintain a database of commercially available capabilities described in paragraph (1);
“(B) update such database not less than once every 3 months; and
“(C) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report containing the contents of the database upon each update required under subparagraph (B).

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

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

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

“§ 80203. Continuing permitting requirements

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

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

“(2) a catastrophic event has occurred to a
space-based remote sensing system, such as the un-
planned destruction of such system.
“(b) MATERIAL CHANGE.—The Secretary shall require permit holders to inform the Secretary of—

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

“(2) any material anomalies or departures from the planned operations during the course of operations.

“(c) UPDATE TO PERMIT.—Not later than 14 days after the date of receipt of information regarding a material change pursuant to subsection (b), the Secretary shall make a determination of whether such material change is substantial enough to warrant additional review under section 80202(b). Not later than 90 days after a determination that such review is warranted, the Secretary shall complete a similar such review process for such material change as is required for a permit applicant under such section.

“§ 80204. Permit transfer

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

“(b) TRANSFER REQUEST REQUIREMENTS.—To be eligible for a transfer under subsection (a), the permit
holder shall submit to the Secretary a request that includes any identifying information regarding the transferee that would be required under an initial application under section 80202.

“(c) Determination.—Not later than 14 days after the date on which the Secretary receives a transfer request pursuant to subsection (b), the Secretary shall make a determination of whether such material change is substantial enough to warrant additional review under section 80202(b). Not later than 90 days after a determination that such review is warranted, the Secretary shall complete a similar such review process for such transferee as is required for a permit applicant under such section.

“(d) Material Change.—Any transfer of a permit under this chapter constitutes a material change under section 80203(b).

“§ 80205. Agency activities

“(a) Utilization of Federal Government Vehicle.—A person may apply for a permit to operate a space-based remote sensing system that utilizes, on a space-available basis, a civilian Federal Government satellite or vehicle as a platform for such system. The Secretary, pursuant to this chapter, may permit such system if it meets all conditions of this chapter.
“(b) Assistance.—The Secretary may offer assistance to persons in finding appropriate opportunities for the utilization described in subsection (a).

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

“§ 80206. Annual reports

“(a) In general.—The Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 180 days after the date of enactment of the American Space Commerce Free Enterprise Act of 2017, and annually thereafter, on—

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

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

“(B) a list of all applications that resulted in a permit;
“(C) a list of all applications denied and an explanation of why each application was denied, including any information relevant to the adjudication process of a request for a permit; “(D) a list of all applications that required additional information; and “(E) a list of all applications whose disposition exceeded the 90-day deadline, the total days overdue for each application that exceeded such deadline, and an explanation for the delay; and “(2) a description of all actions taken by the Secretary under the administrative authority granted by section 80301. “(b) CLASSIFIED ANNEXES.—Each report under subsection (a) may include classified annexes as necessary to protect the disclosure of sensitive or classified information. “§ 80207. Advisory Committee on Commercial Remote Sensing “(a) ESTABLISHMENT.—The Secretary shall establish an Advisory Committee on Commercial Remote Sensing (in this section referred to as the ‘Committee’) consisting of 15 members who shall be appointed by the Secretary.
“(b) CHAIR.—The Committee shall designate one member as the chair of the Committee.

“(c) MEMBERSHIP.—

“(1) LIMITATION.—Members of the Committee may not be Federal Government employees or officials.

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

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

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

“(1) provide information, advice, and recommendations on matters relating to the United States commercial space-based remote sensing industry;

“(2) analyze the effectiveness and efficiency of the implementation of the space-based remote sensing system permitting process under this chapter;
“(3) provide recommendations to the Secretary and Congress on how the United States can facilitate and promote a robust and innovative private sector that is investing in, developing, and operating space-based remote sensing systems;

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

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

“(f) ANNUAL REPORT.—The Committee shall submit to Congress, the President, the Secretary, and the Director of the Office of Space Commerce, an annual report that includes the information, analysis, findings, and recommendations described in subsection (e).

“(g) SUNSET.—The Committee shall terminate on the date that is 10 years after the date on which the Committee is established.
§ 80208. Continuation of existing license or pending application

(a) Continuation of Existing License.—Any United States entity for whom a license for the operation of a space-based remote sensing system issued under subchapter III of chapter 601 that is valid on the effective date of this section may—

(1) elect to be immediately considered permitted for operation under this chapter, in which case all terms and conditions of a license issued under such subchapter with respect to the operation of such system shall apply for the duration of the license; or

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

(b) Rescind or Transfer of Pending License.—An applicant with an application for a remote sensing license under subchapter III of chapter 601 that is pending on the effective date of this section may be, at the election of the applicant—

(1) rescinded without prejudice; or

(2) transferred to the Office of Space Commerce and deemed to be a pending application for a permit under this chapter.
“(c) EFFECTIVE DATE.—This section shall take effect on the date that is 1 year after the date of enactment of the American Space Commerce Free Enterprise Act of 2017.

§ 80209. Commercial Remote Sensing Regulatory Affairs Office

“On the date that is 1 year after the date of enactment of the American Space Commerce Free Enterprise Act of 2017, the Commercial Remote Sensing Regulatory Affairs Office of the National Oceanic and Atmospheric Administration is abolished.”.

SEC. 5. ADMINISTRATIVE PROVISIONS RELATED TO CERTIFICATION AND PERMITTING.

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

“CHAPTER 803—ADMINISTRATIVE PROVISIONS RELATED TO CERTIFICATION AND PERMITTING

Sec.
80301. Administrative authority.
80302. Consultation.
80303. Appeal of denial or condition of certification or permit.
80304. Limitation on certain agency supervision.
80305. Commercial exploration and use of outer space.
80306. Rule of construction on concurrent application submission.
80307. Federal jurisdiction.
80308. Global commons.
80309. Regulatory authority.
80310. Consultation with relevant agencies.
80311. Authorization of appropriations.
§ 80301. Administrative authority

(a) FUNCTIONS.—In order to carry out the responsibilities specified in this subtitle, the Secretary may—

(1) seek an order of injunction or similar judicial determination from a district court of the United States with personal jurisdiction over the certification or permit holder to terminate certifications or permits under this subtitle and to terminate certified or permitted operations on an immediate basis, if the Secretary determines that the certification or permit holder has substantially failed to comply with any provisions of this subtitle, or with any terms of a certification or permit;

(2) provide for civil penalties not to exceed $10,000 (each day of operation constituting a separate violation) and not to exceed $500,000 in total, for—

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

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

(3) compromise, modify, or remit any such civil penalty;
“(4) seize any object, record, or report, or copies of materials, documents, or records, pursuant to a warrant from a magistrate based on a showing of probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this subtitle or the requirements of a certification or permit or regulation issued thereunder; and

“(5) make investigations and inquiries concerning any matter relating to the enforcement of this subtitle.

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

“(c) No Cost for Certification or Permit.—The Secretary may not impose a fee or other cost on a holder of, or applicant for—

“(1) a certification under chapter 801; or
“(2) a permit under chapter 802.

“(d) No Authority To Set Conditions.—The Secretary may not impose a substantive condition on, or any other requirement for, the issuance of a certification or permit except as specifically provided in this subtitle.

“(e) FOIA Exemption.—Paragraph (3) of section 552(b) of title 5 shall apply with respect to any filing relating to a certification or a permit under this subtitle.

“(f) Limitation On Exceptions To Administrative Procedures.—The exceptions under section 553(a)(1), section 553(b)(B), or section 554(a)(4) of title 5 shall not apply with respect to a certification or permit under this subtitle.

“§ 80302. Consultation

“(a) Sense Of Congress.—It is the sense of the Congress that—

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

“(2) such assets represent a considerable investment of United States taxpayers; and

“(3) it is in the national interest of the United States to facilitate opportunities to provide for the protection of such assets.
“(b) REVIEW.—Not later than 30 days after the Secretary issues a certification under chapter 801, the Secretary shall review the operations of any space objects covered by the certification to determine whether the interaction between such operations and the operations of a Federal Government space object present a substantial risk to the physical safety of a space object operated by either party.

“(c) REQUIREMENT TO PARTICIPATE IN CONSULTATION.—If the Secretary makes a determination that a substantial risk identified under subsection (b) exists, the Secretary may require that the certification holder participate in a consultation under this section.

“(d) PARTIES TO A CONSULTATION.—

“(1) IN GENERAL.—A consultation under this section may be held, with respect to a substantial safety risk identified under subsection (b), between—

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

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

“(2) PARTICIPATION.—The Secretary may not impose any requirement on a party pursuant to participation in the consultation.
“(e) Mitigation of Safety Risk.—In carrying out a consultation, the Secretary shall—

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

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

“(3) encourage, to the maximum extent practicable, voluntary agreements between the parties to the consultation to improve the physical safety of affected space object operations or mitigate the physical safety risk.

“(f) Duration of Consultation; Notice.—Not later than 90 days after the Secretary requires a consultation under this section, the Secretary shall—

“(1) complete all activities related to the consultation; and

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

“(A) the names of each party to the consultation;

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

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

“(D) the content of any such agreement.
“(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to grant any additional authority to the Secretary to regulate, or place conditions on, any activity for which a certification or permit is required under this subtitle.

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

“An applicant who is denied a certification under section 80103(b)(2)(B), an applicant who is denied a permit under section 80202(b)(2)(B), or an applicant whose certification or permit is conditioned pursuant to section 80103(e) or section 80202(e), respectively, may appeal the denial or placement of a condition to the Secretary. The Secretary shall affirm or reverse the denial or placement of a condition after providing the applicant notice and an opportunity to be heard. The Secretary shall dispose of the appeal not later than 60 days after the appeal is submitted. If the Secretary denies the appeal, the applicant may seek review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

§ 80304. Limitation on certain agency supervision

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

“(1) the Department of Transportation with respect to launch or reentry vehicle operations licensed under chapter 509; and

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

“(b) AGREEMENT LIMITATIONS.—Nothing in this section shall be construed to prevent an agency from including additional terms, conditions, limitations, or requirements, consistent with applicable provisions of law, beyond those required in this subtitle in a contract or other agreement with—

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

“(2) the holder of a permit under chapter 802 for the operation of the applicable space-based remote sensing system.
§ 80305. Commercial exploration and use of outer space

“To the maximum extent practicable, the President, acting through appropriate Federal agencies, shall interpret and fulfill international obligations, including under the covered treaties on outer space, to minimize regulations and limitations on the freedom of United States non-governmental entities to explore and use space.

§ 80306. Rule of construction on concurrent application submission

“Nothing in this subtitle shall be construed to prevent an applicant from submitting to the Secretary concurrent applications for a certification under chapter 801 and a permit under chapter 802. The Secretary shall provide for applications under chapter 801 and chapter 802 to be filed concurrently or at different times, at the discretion of the applicant. To the maximum extent practicable, the Secretary shall avoid duplication of information required in concurrently filed applications.

§ 80307. Federal jurisdiction

“The district courts shall have original jurisdiction, exclusive of the courts of the States, of any civil action resulting from the operation of a space object for which a certification or permit is required under this subtitle.
§ 80308. Global commons

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

§ 80309. Regulatory authority

(a) In General.—The Secretary shall issue such regulations as are necessary to carry out this subtitle.

(b) Reducing Regulatory Burden.—In issuing regulations to carry out this subtitle, the Secretary shall avoid, to the maximum extent practicable, the placement of inconsistent, duplicative, or otherwise burdensome requirements on the operations of United States nongovernmental entities in outer space.

(c) Administrative Procedures Act.—All activities carried out pursuant to this section shall comply with the requirements of chapter 5 of title 5.

§ 80310. Consultation with relevant agencies

(a) In General.—Subject to subsection (b), the Secretary shall, as the Secretary considers necessary, consult with the heads of other relevant agencies in carrying out this subtitle.

(b) Exclusive Authority of the Secretary.—The consultation authority provided by subsection (a) shall not be interpreted to alter the exclusive authority of the Secretary to authorize, place conditions on, and supervise the operation of space objects under chapter 801 and space-based remote sensing systems under chapter 802,
as provided in, and subject to, the limitations of section 80304.

“§ 80311. Authorization of appropriations

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

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Table of Chapters.—The table of chapters of title 51, United States Code, is amended by adding at the end the following:

“Subtitle VIII—Authorization and Supervision of Nongovernmental Space Activities

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

(b) Repeals.—

(1) In general.—Title 51, United States Code, is amended as follows:

(A) Subchapter III of chapter 601 is repealed.

(B) Section 60147 is repealed.

(C) The table of sections for chapter 601 is amended by striking the item relating to section 60147.

(D) The table of sections for chapter 601 is amended by striking the items relating to subchapter III.
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 1 year after the date of enactment of this Act.

(c) TECHNICAL CORRECTIONS.—

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

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

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

(C) in section 71102(1), by striking “tracking device” and inserting “tracking device to”.

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

“513. Space Resource Commercial Exploration and Utilization ........................................................................................................ 51301”.

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

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


SEC. 7. OFFICE OF SPACE COMMERCE.

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

(1) in subsection (a), by adding at the end before the period “, which shall be located in the principal physical location of the Office of the Secretary of Commerce”;

(2) in subsection (b), by striking “a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5 as determined by the Secretary of Commerce” and inserting “appointed by the President and confirmed by the Senate. The Director shall be the Assistant Secretary of Commerce for Space Commerce and shall report directly to the Secretary of Commerce”;

and

(3) in subsection (c)—

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

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) to authorize and supervise the operations of United States nongovernmental entities in outer space, pursuant to chapter 801 of this title;
“(7) to authorize and supervise the operations of space-based remote sensing systems pursuant to chapter 802 of this title; and

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

SEC. 8. RESTRICTION ON PREVENTINGLaunches AND RE-_ENTRIES OF CERTIFIED SPACE OBJECTS.

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

SEC. 9. REPORT ON REGISTRATION OF SPACE OBJECTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, acting through the Office of Space Commerce and in consultation with the Private Space Activity Advisory Committee established under section 80109 of title 51, United States Code, shall issue a report to Congress on the registration of space objects under this subtitle.
States Code, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the implementation of the space object registration obligations of the United States and other countries under Article VIII of the Outer Space Treaty and the Convention on Registration of Space Objects.

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

(1) an identification of the practices and procedures among countries that are members of the Outer Space Treaty and the Convention on Registration of Space Objects in implementing and complying with the registration obligations contained in the treaties;

(2) a description of any existing practices and procedures of the Federal Government for the registration of nongovernmental space objects; and

(3) recommendations on how the registration of space objects in the United States could be improved to benefit the United States, including enabling United States leadership in commercial space activities.
SEC. 10. COMPTROLLER GENERAL REPORT.

Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on removing the Office of Commercial Space Transportation from under the jurisdiction of the Federal Aviation Administration and reestablishing the Office under the jurisdiction of the Secretary of Transportation. Such report shall include—

(1) the identification of key practices for successful organizational transitions;

(2) the advantages and disadvantages of the removal and reestablishment with respect to the ability of the Office to continue to coordinate and communicate with Federal Aviation Administration on airspace issues; and

(3) the identification of any issues that are preventing the Office from fully carrying out its statutory mandate, and if such issues would persist regardless of organizational location of the Office within the Department of Transportation.

SEC. 11. RADIOFREQUENCY MAPPING REPORT.

(a) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, shall complete and submit
to the Advisory Committee on Commercial Remote Sensing a report on space-based radiofrequency mapping.

(b) CONTENTS.—The report required under subsection (a) shall include—

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

(2) any immitigable impacts of space-based radiofrequency mapping on national security, U.S. competitiveness and space leadership, and constitutional freedoms; and

(3) findings, conclusions, and recommendations regarding the costs and benefits of additional regulatory authority over space-based radiofrequency mapping; and

(4) an evaluation of—

(A) whether the development of voluntary consensus industry standards in coordination with the Department of Defense is more appropriate than issuing regulations with respect to space-based radiofrequency mapping; and

(B) how existing authorities, regulations, and laws could be applied in a manner that prevents the need for additional regulation of such mapping.
(c) ADVISORY COMMITTEE ON COMMERCIAL REMOTE SENSING REVIEW.—Not later than 90 days after the date of receipt of the report required under subsection (a), the Advisory Committee on Commercial Remote Sensing shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the report submitted under subsection (a) and the opinion of the Advisory Committee with respect to such report, including any critiques, concerns, recommendations, and endorsements. Such opinion shall be submitted directly from the Chair of the Advisory Committee to those Committees of Congress without any review or change by the Administration.