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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

**H. R.**

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

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

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

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

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

4 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 SENSING  
21          SYSTEM.—For purposes of this chapter, the operation of  
22          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.**—Nothing  
8       in this section shall be construed to prohibit the Secretary  
9       from removing a condition placed on a permit pursuant  
10      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.); or

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-  
zation .....51301.”.**

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 Alternatives .....70101.”.**

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.