DRIVERS FOR CHANGE IN U.S. SPACE POLICY

> Growing competition in space:
  - China
  - Russia
  - Europe

> Growth in orbital debris and collision risk

> Industry is pushing limits of current legal and policy framework:
  - New commercial launch actors
  - Smallsats
  - Larger constellations
  - Recent regulatory violations
  - non-traditional activities, such as on-orbit servicing
NATIONAL SPACE COUNCIL

> Reinstated through Executive Order in July 2017

> Members

- Vice President (Chair)
- Secretaries of State, Defense, Commerce, Transportation, Homeland Security, National Intelligence;
- Director of the Office of Management and Budget;
- Assistant to the President for National Security Affairs;
- Administrator of the National Aeronautics and Space Administration;
- Director of the Office of Science and Technology Policy;
- Assistant to the President for Homeland Security and Counterterrorism;
- Chairman of the Joint Chiefs of Staff; and
- Other senior officials as determined by the Chair.

> Executive Secretary – Scott Pace
NATIONAL SPACE COUNCIL - MISSION

> Review U.S. space policy, including long-range goals, and develop a strategy for national space activities;

> Develop recommendations for the President on space policy and space-related issues;

> Monitor and coordinate implementation of the objectives of the President’s national space policy and strategy;

> Foster close coordination, cooperation, and technology and information exchange among the civil, national security, and commercial space sectors;

> Advise on participation in international space activities conducted by the United States Government; and

> Facilitate the resolution of differences concerning major space and space-related policy matters.
SPACE POLICY DIRECTIVES

- Three Directives have been published (most recent on Monday).
- **SPD-1**: minor change to existing space policy:
  - Restored human spaceflight to the moon as a goal
- **SPD’s 2 and 3** are broader and have more direct bearing on licensing of commercial remote sensing satellites:
  - SPD-2 Streamlining Regulations on Commercial Use of Space
  - SPD-3 Space Traffic Management
SPACE POLICY DIRECTIVE 3

> Announced at June 18, 2018 meeting of National Space Council.

> Overlooked by some due to President Trump’s announcement of a Space Force.

> Objective: “provide guidelines and direction to ensure that the United States is a leader in providing a safe and secure environment as commercial and civil space traffic increases.”

  – Reduce growing threat of orbital debris;
  – Manage space traffic more efficiently by spearheading new data initiatives; and
  – Develop standards and best practices on situational awareness and information sharing.
> **Department of Transportation**

  - **Commercial Launch** - No later than February 1, 2019, the Secretary of Transportation shall review regulations adopted by the Department of Transportation that provide for and govern licensing of commercial space flight launch and re-entry.

> **Department of Commerce**

  - **Review of Spectrum Policy** - Within 120 days, provide a report on improving the global competitiveness of the United States space sector through radio frequency spectrum policies, regulation.

  - **Review of Export Licensing Regulations** - initiate a review of export licensing regulations affecting commercial space flight activity and develop recommendations to revise such regulations within 180 days.

> **Secretary Ross (Commerce) and Secretary Chao (Transportation) discussed the status of new regulations at the National Space Council on Monday.**
Commercial Remote Sensing:

- Within 90 days the Secretary of Commerce shall review the regulations adopted by the Department of Commerce under Title II of the Land Remote Sensing Policy Act of 1992 (51 U.S.C. 60101 et seq.) for consistency with the policy and shall rescind or revise those regulations, or publish for notice and comment proposed rules rescinding or revising those regulations, as appropriate and consistent with applicable law.

- In carrying out the review the Secretary of Commerce shall coordinate with the Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, and, as appropriate, the Chairman of the Federal Communications Commission.

- Within 120 days of the date of the completion of the review, the Secretary of Commerce, in coordination with the Secretary of State and the Secretary of Defense, shall transmit to the Director of the Office of Management and Budget a legislative proposal to encourage expansion of the licensing of commercial remote sensing activities.
On Monday, Secretary Ross updated National Space Council:

- Creating a new SPACE Administration, creating a “one-stop shop” for promoting, administrating and regulating commercial space: remote sensing, exports, spectrum policy, GPS, standards, Space Traffic Management (STM).
- Combining two offices currently within Commerce: Office of Space Commerce (advocacy); and Commercial Remote Sensing Regulatory Affairs Office (regulation).
- Newly appointed Director of office will report directly to Secretary Ross.
  - Kevin O’Connell was selected (spoke at last year’s USGIF CLE)
- New regulations for licensing of commercial remote sensing satellites have been prepared and are to be published this week.
H.R.2809 passed House in April.

Goal of Act:
- To provide greater transparency, greater efficiency, and less administrative burden for U.S. companies seeking to conduct space activities; and
- to ensure that the United States remains the world leader in commercial space activities.

Addresses a wide range of issues, including: certifications and permits, space debris, launch and reentry.

Raises the profile of the Office of Space Commerce (OSC) within the Department of Commerce and giving OSC greater regulatory authority.
Commercial Remote Sensing

- OSC to issue commercial remote sensing permits. Operating without a permit is prohibited.
- Only one permit is required for the operation of a space-based remote sensing system to:
  - conduct multiple operations using such a system,
  - operate multiple such systems that carry out similar operations, or
  - use those systems to carry out a single remote sensing operation.

> Permit does not cover acts of distribution, sale, or transfer of data, information, or services.

OSC shall provide for the transfer of a permit.

> Waivers of permit allowed in some circumstances.
Impact

– Streamlines application process for a permit.
– An application would be automatically approved if no action is taken within 90 days, subject to a one-time Presidential extension of 60 days in the event of serious national security concerns.
– Reasons for denials must be clearly articulated.
  • National security concerns must be significant – imminent and not able to mitigated.
– OSC may only place a condition on a permit that is achievable using reasonably commercially available efforts.
– An application may not be denied and a permit may not be conditioned for a system with similar capabilities to systems that are already commercially available or expected to be available in the next three years.
Current license holders can elect to be immediately considered permitted, or apply for a permit and continue to operate pursuant to such license until a permit is issued.

Those with a pending application for a remote sensing license can either rescind application or have the application be deemed for a permit.
Please note: This presentation contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Individuals with particular needs on specific issues should retain the services of competent counsel.