

U.S. Commercial Regulatory Programs

The three U.S. governmental agencies most involved in the regulation of commercial activities in outer space are the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce¹, the Federal Communications Commission (FCC)², and the Department of Transportation (DOT).³ Each of these agencies is involved in promulgating regulations that fulfill three principal regulatory aims of the Federal Government: direct control of commerce and trade; protection of public health and the environment; and proper management and control of Federal funds and property.⁴ National Space Policy recommends a certain amount of regulatory restraint, in order not to “. . . unnecessarily prejudice the development and international competitiveness of the U.S. commercial space industry.”⁵

Federal Communications Commission. The role of FCC in regulating commercial space activities is connected to its authority to allocate radio frequencies and to manage their use.⁶ Because FCC authorizes construction, launch, and operations of U.S. commercial communications satellites, it is necessarily involved in activities to promote orbital safety for the purposes of maintaining communications capabilities in GEO as well as to promote general safety of life and property. President Bush’s National Space Policy (November, 1989) includes a mandate to all

governmental and private-sector entities involved in outer space activities to reduce and control space debris. By implication, FCC licensing of communication satellite activities should address debris control and prevention through both design and operational stages. The U.S. report, *Orbital Debris* suggests that in the same way the FCC coordinates its regulations with the Federal Aviation Administration, so it should coordinate with DOT to address on-orbit safety and space debris issues.⁷

National Oceanic and Atmospheric Administration. NOAA is responsible for licensing private land remote sensing systems⁸ in order to phase-in commercial land remote sensing while providing up-to-date information to the Federal Government and advancing its commitment to international obligations and national security. The U.S. *Report on Orbital Debris* states that NOAA has the specific authority to control the disposition of the entire spacecraft, and this authority should include directing reasonable conditions for keeping a spacecraft in one piece during its operations. NOAA’s authority does not extend to activities of the launch itself.

Department of Transportation. The DOT involvement in space debris issues is by far the most comprehensive, as it attempts to address the orbital debris problem in commercial space launch activities through licensing and enforcement, research and standards

¹NOAA’s authority with respect to commercial space activities derives from Title IV of the Land Remote-Sensing Commercialization Act of 1984.

²The authority of the FCC is derived from the Communications Act of 1934.

³DOT’s authority is granted to the Secretary of Transportation under the Commercial Space Launch Act of 1984.

⁴National Security Council, *Report on Orbital Debris by Interagency Group(Space)* (Washington, DC: National Security Council, February 1989).

⁵National Security Council, p. 49.

⁶National Security Council, p. 47.

⁷*Ibid.*

⁸The Land Remote-Sensing Commercialization Act of 1984, Title IV, 402(b)(3).

development, and setting financial responsibility and risk allocation requirements.⁹ Under the Commercial Space Launch Act of 1984,¹⁰ DOT's authority as a safety and regulatory agency covers all nongovernmental launches made by U.S. citizens or from U.S. territory, including the safety at prelaunch, launch, and in-space transportation stages of these operations. The U.S. *Report on Orbital Debris* suggests that Federal regulations to-

duce and control space debris should be a direct result of DOT's Safety Review and Mission Review procedures.¹¹ As part of the launch license application evaluation, DOT examines proposed commercial launches to ensure no other activities in space are directly at risk. The interagency review of the application, which includes input from NASA and DOD, assists in this process.

⁹DOT's focus as to safety and transportation for remote-sensing systems is combined with the economic focus of NOAA and the regulatory focus of the FCC.

¹⁰49 U.S.C. 2601-2623 (1984 & supp. 1988)

¹¹National Security Council, op. cit., footnote 4, pp. 48-49.