

What Opt-In Framework Means For Novel Space Activities

By **Stephanie Roy and Connor Haffey** (September 28, 2026, 2:56 PM EDT)

The U.S. Department of Commerce's Office of Space Commerce is moving from proposal to implementation of a voluntary certification framework for commercial space activities that do not fit squarely within the existing U.S. licensing regime.

On Aug. 20, the OSC published a call for interest in the Federal Register, seeking initial applications for its proposed Space Commerce Certification by Oct. 5.

Certification to Fill a Regulatory Gap

The initiative addresses an issue that has become more pronounced as commercial space activity moves beyond communications, Earth observation, launch and reentry.

The existing U.S. regime is largely sectoral. The Federal Aviation Administration regulates launch and reentry, while the Federal Communications Commission regulates radio frequency communications.

Meanwhile, the OSC's Commercial Remote Sensing Regulatory Affairs division, or CRSRA, licenses private remote sensing.

Novel activities such as satellite servicing, in-space manufacturing, orbital computing, commercial space stations and lunar operations may implicate those regimes without falling directly within any one agency's statutory mandate.

The OSC's Space Commerce Certification proposal identifies that gap as both a source of uncertainty for operators and a consideration for the government's ability to authorize and supervise commercial activity in space.

This potential gap also has an international law dimension. Article VI of the Outer Space Treaty requires governmental authorization and continuing supervision of nongovernmental space activities.

Executive Order No. 14335, issued in August 2025, directed the Department of Commerce to propose individualized mission authorizations for activities covered by Article VI of the Outer Space Treaty but "not clearly or straightforwardly governed by existing regulatory frameworks."

The order also directed the department to include affected-agency input, a definitive decision timeline



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and clear applicant requirements in its proposal.

The OSC's answer is not a new mandatory license but rather a voluntary, opt-in certification administered by the department.

How the Proposed Certification Process Would Work

Under the certification proposal, an operator would submit an application to the OSC describing the mission, spacecraft specifications, planned operations, and information relevant to national security, foreign policy, international obligations and safety.

The OSC would then conduct due diligence and circulate the application for interagency review. The framework creates a presumption of approval, and generally requires a decision within 120 days, subject to an extension of up to 60 additional days for dispute resolution.

Denial would be limited to specified grounds, including unmitigable national security, international obligation, foreign relations or safety concerns. The proposal also contemplates continuing, risk-based supervision, and possible revocation for unresolved noncompliance.

Voluntary certification would not displace FAA, FCC or CRSRA oversight. If a mission requires a launch license, spectrum authorization or remote-sensing license, the statutory requirement would still control.

Instead, the OSC envisions playing the role of a regulatory clearinghouse. Information could be collected by one agency, reviewed across agencies, and — where another agency determines it is legally sufficient — used to satisfy or waive portions of the first agency's review.

The OSC specifically suggests that the FCC could rely on certification for certain orbital debris requirements, and the FAA could use the OSC's interagency review to satisfy portions of its payload review, creating efficiencies while allowing each agency to retain its statutory responsibilities.

The OSC website now similarly describes the process as a consolidated, whole-of-government review, while emphasizing that separate legal permissions from the FAA, FCC or CRSRA may still be necessary.

OSC Director's Testimony Before House Panel

On July 15, the House Science, Space and Technology Subcommittee on Space and Aeronautics held a hearing on the OSC. The hearing sharpened both the rationale for the certification proposal and its legal limits.

OSC Director Taylor Jordan told lawmakers that some missions would still require FAA or FCC licenses. He described the certification's primary purpose as filling regulatory gaps for novel in-space activities.

He also explained that the OSC could ask questions on behalf of other agencies — e.g., FAA payload review questions or FCC orbital debris questions — aiming to reduce duplicative review.

The hearing supplied a concrete illustration of why those gaps matter. Ranking Member Rep. Zoe Lofgren, D-Calif., discussed a recently licensed satellite, Earendil-1, intended to reflect sunlight toward Earth, about which the FCC had stated that concerns regarding the satellite's purpose were outside the agency's jurisdiction.

Jordan later made the broader point: Existing regulators are confined to the authority that Congress has given them, such as the FCC's authority over radio frequency transmission, and those authorities do not necessarily answer who should authorize and supervise the underlying novel in-space activity.

Novel Implementation of a Novel Process for Novel Missions

The OSC is also presently confined to its own statutory jurisdiction under the Department of Commerce's mandate.

But the certification proposal takes the position that the department's existing Title 51 authorities — to foster the growth of U.S. space commerce and seek the removal of legal, policy and institutional impediments — are sufficient to establish an opt-in, voluntary certification scheme.

Jordan acknowledged during the July 15 hearing that fully filling regulatory gaps may require statutory authority that the OSC does not presently possess, and that additional legislation could give the program stronger enforcement mechanisms.

In other words, the OSC is drawing a meaningful line between coordinating a voluntary certification under existing authority and exercising plenary, mandatory regulatory power over novel space activities.

That line will become increasingly important as implementation proceeds. The proposal suggests that the voluntary framework may not require conventional rulemaking, and Jordan testified that the OSC intends to begin with mature missions and learn through early applications.

The July 15 hearing exposed ongoing issues, including public participation, interagency participation, liability and the OSC's independent enforcement authority. For example, Jordan acknowledged that the OSC needs to develop a mechanism for public comment, which appears to have been handled by inviting "expressions of interest" from U.S. entities by Oct. 5.

For now, the OSC's decision represents a pragmatic attempt to address the regulatory swing space between agencies without displacing their congressionally assigned jurisdictions.

The certification is designed to provide a direct government pathway for novel missions where one does not exist otherwise, while reducing the incentive for sector-specific regulators to stretch their statutes to reach broader in-space conduct.

Whether that approach ultimately becomes a durable U.S. mission authorization regime may depend on what the OSC learns from its first certifications — and whether Congress agrees to give the voluntary clearinghouse a more distinct statutory foundation.

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