

The United States of America National Space Law Regime (or as much as is reasonable to attempt to address in a single presentation)

**Presented by
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to

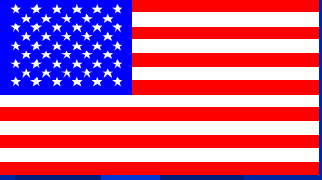
**United Nations/Nigeria Workshop on Space Law
*Meeting International Responsibilities and Addressing Domestic
Needs***

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Evolution

📁 1958: Infrastructure

- Response to Cold War exigencies
- Civil program and national security

📁 1980s: Commerce

- Added to civil and military sectors

📁 80s and 90s: Applications

- Launch
- Remote sensing/Earth observations

📁 2000s: Regulatory refinement

📁 Etc.



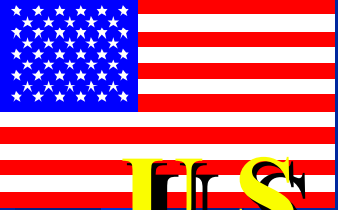


U.S. Domestic Space Law Regime

Infrastructure: The NAS Act of 1958

- ▣ The National Aeronautics and Space Act of 1958
 - “Space Act”
- ▣ Created the U.S. civil space program
- ▣ Established NASA
- ▣ Signed by President Eisenhower





U.S. Domestic Space Law Regime

Infrastructure: The NAS Act of 1958

Multiple bodies of law

- Contract, Tort, International, IP, Space

Wide variety of subjects

- ISS, space settlements, Congressional Space Medal of Honor, Science, Space, and Technology Education Trust Fund, space commerce agreements, life sciences strategic plan

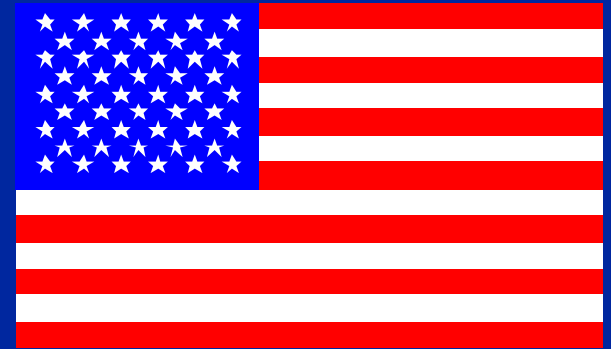


U.S. Domestic Space Law Regime

Infrastructure: The NAS Act of 1958

Purpose

“The Congress declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.”



U.S. Domestic Space Law Regime

Infrastructure: The NAS Act of 1958

Civil-Military Separation

“aeronautical and space activities...shall be directed by a civilian agency...except activities peculiar to or primarily associated with development of weapons systems, military operations or defense of the U.S...shall be directed by, DoD”

Relationship changes over time

Economics sensitive

Still, fundamentally civilian





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1980s: Commerce

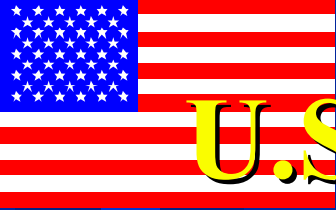


“Congress declares that the general welfare requires that NASA...seek and encourage, to the maximum extent possible, the fullest commercial use of space.”

– Commercial added to civil and military

Information access, invention property rights for small and large businesses, etc.





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1980s and 1990s: Applications

Launch

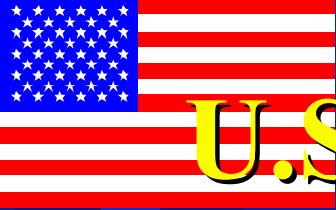
Commercial Space Launch Activities

- Space transportation law has consolidated:
 - '84 Commercial Space Launch Act
 - '88 Amendments
 - '04 Amendments
- On-going regulatory development

Commercial Space Act

Thurmond National Defense Authorization Act





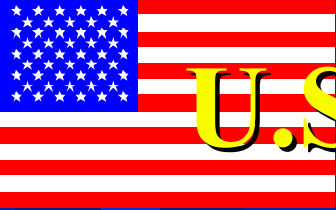
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1980s and 1990s: Applications

Launch

- ✦ Includes launches and launch infrastructure
- ✦ Part of overall transportation law
- ✦ Martin Marietta v Intelsat
 - Dormant but important issue
 - "Best efforts"





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1980s and 1990s: Applications

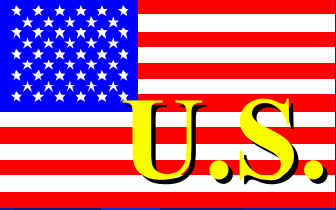
Launch

Export licenses

Launch licenses

- Applications
- Requirements
- Suspensions, revocations, sanctions
- Administrative hearings, judicial review
- Preemption of of scheduled launches
- Acquisition of USG Property and Services
- Acquisition costs, direct costs, insurance





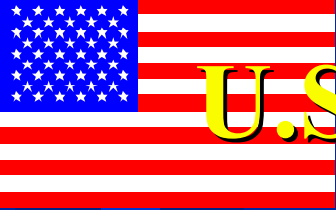
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1980s and 1990s: Applications

Remote Sensing - Earth Observations

- ✦ 1984 Land Remote Sensing Commercialization Act
- ✦ 1990 Global Change Research Act
- ✦ 1992 Land Remote Sensing Policy Act
 - Amended '84 Act
- ✦ 1998 Commercial Space Act





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1980s and 1990s: Applications

Remote Sensing - Earth Observations

📁 1984: Commercialization focus

- Attempt to privatize Landsat
- Envisioned no need for public systems in future

📁 1992: Public/environmental focus

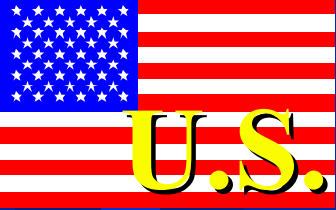
- Public and private distinction
- "Proper" commercialization

📁 2001: Commercialization focus again

- Landsat Data Continuity Mission data buy failed

📁 2005: Landsat decision literally in progress now

- Office of Science and Technology Policy: Landsat is “public good”

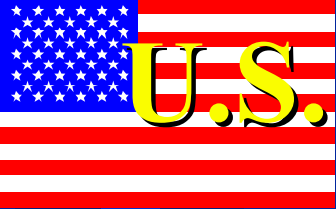


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2000s: Regulatory Refinement

- ✦ 2000 NOAA private systems licensing regulations
 - Remote sensing - Earth observations
 - Under regulatory review now; comment period closed
- ✦ 2000 NASA Authorization Act
 - Defines "commercialization," "privatization" and related terms
 - All space activities
 - "Sense of Congress"
- ✦ Commercial Space Launch Amendments Act of 2004





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2000s: Regulatory Refinement

NOAA License Regulations

The Public - Private Spectrum

Public

Hybrid

Private

**All Tax
\$\$**

**Public and Private
\$\$**

**All Private
\$\$**

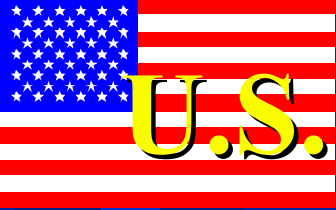


**Full
Nondiscriminatory
Access**

**Case-by-case
determination**

**Access to sensed
states only**





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2000s: Regulatory Refinement

NOAA License Regulations

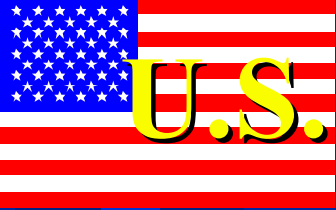
☞ Company must disclose

- Amount of government resources that went into, or will contribute toward, the development, fabrication, launch, or operation of the system

☞ If fully government funded

- All unenhanced data available on nondiscriminatory basis





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2000s: Regulatory Refinement

NOAA License Regulations

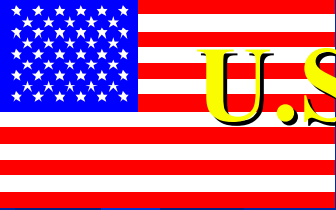
If entirely privately funded

- Data provided according to reasonable commercial terms and conditions
- "Sensed state"

If partial government support

- Some access to unenhanced data on a nondiscriminatory basis
- NOAA makes case-by-case determination with provisions included in the individual license





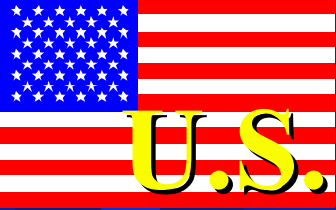
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2000s: Regulatory Refinement

FAA/AST Launch Regulations

- ✦ **2000:** licensing process for RLV missions, including with on-board crew, and reentry of a reentry vehicle
- ✦ **2004:** Commercial Space Launch Amendments Act
 - Distinct regulatory framework for private human space flights
 - “Experimental permits” allow RLV research and development
 - Requires “space flight participants” informed consent to assume risk
 - Protects safety of uninvolved public
 - Extends federal government indemnification to licensed commercial human space flights





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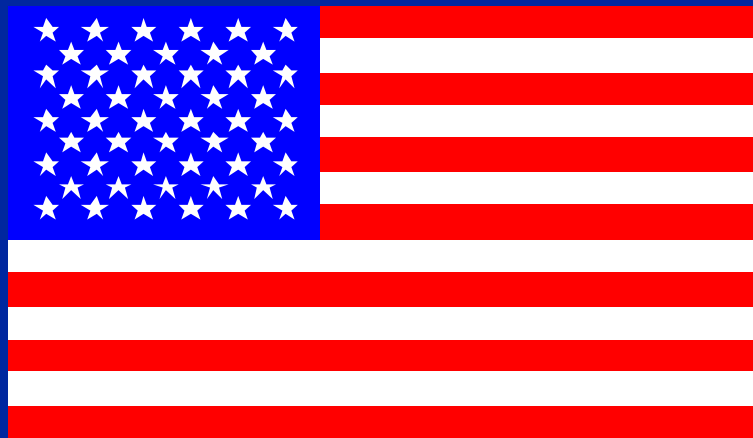
Etc.

- ✦ 1968 Hazardous Material Transportation Act
- ✦ 1976 National Science and Technology Policy, Organization and Priorities Act
- ✦ IRS Code - Source Rules for Space and Certain Ocean Activities
- ✦ Joint Resolution to Designate Jan. 28, 1989 as "National Challenger Day"
- ✦ World Ag Outlook Board, Dept. of Agriculture





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📖 Questions?

📖 Comments?

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