

Necessary Updates to the Commercial Space Launch Act

House Committee on Science, Space, and Technology: Subcommittee on Space Hearing: “Necessary Updates to the Commercial Space Launch Act”

February 4, 2014

Witness Panel I

Dr. George Nield

Associate Administrator, Office of Commercial Space Transportation, Federal Aviation Association

Dr. Alicia Cackley

Director of Financial Markets and Community Investment Team, Government Accountability Office

Dr. Henry Hertzfeld

Research Professor of Space Policy and International Affairs, Elliott School of International Affairs, George Washington University

Committee Members Present

Lamar Smith (R-TX), Full Committee Chairman

Steven Palazzo (R-MS), Subcommittee Chairman

Donna Edwards (D-MD), Subcommittee Ranking Member

Ralph Hall (R-TX)

Dana Rohrabacher (R-CA)

Chris Collins (R-NY)

Bill Posey (R-FL)

Mo Brooks (R-AL)

Jim Bridenstine (R-OK)

Frederica Wilson (D-FL)

Suzanne Bonamici (D-OR)

Marc Veasey (D-TX)

David Schweikert (R-AZ)

On February 2, the House Subcommittee on Space held a hearing titled, “Necessary Updates to the Commercial Space Launch Act (CSLA).” The CSLA, originally created in 1984, established payload restrictions and licensing requirements for operating commercial U.S. launch sites. The CSLA was amended in 1988, allowing for federal indemnification (risk sharing) for 3rd party liability up to \$1.5 billion, and in 2004 with the Commercial Space Launch Amendments Act of 2004, which provided an eight-year regulatory moratorium and learning period for government and industry alike. The moratorium has since been continued until 2015 by the Consolidated Appropriations Act, 2014. Both amendments represent efforts to bolster private development.

Republicans, led by Subcommittee Chairman Steven Palazzo (R-MS), urged further postponement of regulation because companies are still in testing phases. Democrats also championed the learning period scrutiny and emphasized the importance of commercial spaceflight safety.

Associate Administrator of the Office of Commercial Transportation George Nield testified that in fiscal year (FY) 2013, eighteen permits and licenses were given for commercial launches, six times the amount given in FY 2012. Some companies, such as Virgin Galactic, are looking to exploit suborbital space for tourism, while others are looking for resources. Companies such as

SpaceX, Orbital Sciences Corp., Sierra Nevada, and Boeing are vying to work on the International Space Station (ISS), several in conjunction with the NASA Commercial Crew program.

Henry Hertzfeld, Professor of Space Policy at George Washington University, suggested updates to the CSLA to define which agencies have jurisdiction over commercial space launch and practices. Although it seems intuitive that the Department of Transportation (DOT) should regulate space travel, commercial activities of “resource extraction, energy generation or moon/asteroid landings,” Hertzfeld said, are better suited under the watch of other expert agencies. Dr. Nield, for example, voiced that with respect to common concerns of increased orbital traffic and potential space debris hazards, the Federal Aviation Association (FAA) has authority and experience with collision avoidance.

Nield supports continued federal indemnification for third party losses as it allows for “U.S. competitiveness and long-term planning” essential to the commercial space industry. According to Alicia Cackley’s Government Accountability Office Report, China, France, and Russia have no federal limit for indemnification. The report also stated that the U.S. insurance industry is currently willing to cover up to \$500 million per launch in losses. Hertzfeld considers fostering international agreements and incentives for the insurance industry to increase their coverage in order to limit future federal liability. He also said that ultimately, international politics and relations would dictate liability in the wake of a disaster.

Witnesses mentioned that NASA and the National Transportation and Safety Board (NTSB), which presided over the Columbia Shuttle Accident, have investigative experience in space disasters. According to Nield, the FAA already has data on hazards, toxic propellants, trajectories, and Memorandums of Understanding (MOU’s) with the Air Force and other agencies in case of an accident. Dana Rorhbacher (R-CA) expressed concerns that the current eighteen federal agencies involved in launch regulations muddle commercial progress.

During the current moratorium, the FAA gathered data from government, academia, and private organizations to improve their future regulatory agenda. Nield believes that extending the moratorium past 2015 is a bad idea because the U.S. has over 50 years of spaceflight experience. He considers this knowledge applicable to research and commercial launches alike.

A full archived webcast of the hearing is available online at the committee web page.

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