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**September 20, 2022**

## **Orbital Debris Remediation Actions: ORBITS Act and FCC Report and Order**

**ORBITS Act.** On September 13, 2022, U.S. Senator Hickenlooper (D-CO) introduced the "Orbital Sustainability Act of 2022, or the "ORBITS Act." A copy of the ORBITS Act Senate Bill can be found [Here](#). The ORBITS Act attempts to develop an early, test bed effort to address the growing crisis of orbital debris and the dangers posed by it to satellites, manned space vehicles, other orbital activity and terrestrial/environmental concerns. The ORBITS Act focuses on development of protocols and early efforts for "Active Debris Remediation," meaning intentional, as opposed to passive, de-orbiting, re-purposing and other disposal of orbital debris by "Eligible Entities," consisting of commercial (non-governmental), not-for-profit and higher education entities.

The ORBITS Act provides that within 90 days of its enactment, the National Air and Space Administration ("NASA") Administrator, in concert with other U.S. government agencies, will publish a list of the highest priority orbital debris posing the greatest risk to on-orbit operations and terrestrial and/or environmental impact. Within 180 days of enactment, the NASA Administrator will establish a demonstration program for Active Debris Remediation competitive awards to Eligible Entities, including protocols for shared or jointly developed technology and intellectual property. The awards program is to culminate with an Active Debris Remediation mission drawn from the published list of highest priority debris. The ORBITS Act proposes an appropriation of \$150 million to fund the awards program, acquire Active Debris Remediation services and administer the Act through fiscal year 2027.

The ORBITS Act also provides for the updating, within 90 days of enactment, of the existing Orbital Debris Mitigation Standard

Practices to take account of planned satellite constellations and on-orbit space traffic coordination. Finally, the ORBITS Act provides for the development of standard practices for on-orbit space traffic coordination.

**FCC Draft Report and Order.** Meanwhile, on September 8, the Federal Communications Commission ("FCC"), the U.S. satellite regulator, issued a draft Second Report and Order ("R&O") that would require LEO - Low Earth Orbit - operators of satellites ending their mission in, or passing through, LEO to de-orbit their satellites as soon as practicable and no more than 5 years after mission-end, down from the currently recommended benchmark of passive de-orbiting of 25 years. A copy of the draft Report and Order, to be taken up at the FCC's September 29 open meeting (IB Docket nos. 22-271 and 18-313), can be found [Here](#). The R&O notes that there are currently over 4,800 orbiting satellites, the vast majority orbiting at under 2,000 km (1,200 miles) altitude, the upper limit of LEO (traditional geosynchronous orbits, including geostationary "GEO" orbits - geosynchronous at 0 degrees inclination to the equator and 0 eccentricity, or circular rather than elliptical - are at 35,786 km, or 22,236 miles). Many of the LEO satellites were launched within the last two years alone and may have shorter service lives than geosynchronous satellites, due to greater atmospheric drag than orbits at higher altitudes.

Accordingly, the R&O states that a 25-year de-orbiting "recommendation" for LEO satellites is no longer adequate to protect the burgeoning LEO industry from collisions and other interference, and that a 5-year post mission-end legal/regulatory requirement is necessary to protect satellite constellations and the industry. The 5-year LEO de-orbiting requirement proposed in the R&O is irrespective of maneuverability; in other words, the fact that a decommissioned LEO satellite might have remaining propellant and be under control sufficient to maneuver it out of harm's way of collision will not relieve its operator of the de-orbiting obligation. The R&O goes on to state that further consideration may be given to even shorter mandatory de-orbiting requirements, like 1 year after end-of-mission, for large LEO satellite constellations.

The R&O does not prescribe any methods of satellite or debris disposal, nor does it grant exceptions to the de-orbiting requirement for satellite failures. Satellites already in orbit will be grandfathered from compliance with the de-orbiting requirement, and those authorized by the FCC but not yet launched will be grandfathered for 2 years from Sept. 29, 2022. Flexibility and waivers may be provided for research and academic missions.

**NASA Release.** NASA also weighed in on orbital debris remediation on September 13, announcing in Release 22-085 awards to fund three university studies, one from MIT and U. Texas, one from U. Colorado and one from U. Central Florida.

The ORBITS Act Bill and FCC action follow by one month the FCC's opening of a proceeding to address the Space Economy that includes orbital debris and de-orbiting as necessary developments (see, "FCC Opens Proceeding on Information and Transformation in the Space Economy, Aug. 18, 2022, available at [Kurtin PLLC Satellites & Space](#)). Orbital debris remediation is finally front-burner.

Owen D. Kurtin

For additional information or for information on our professional services, please visit our website at the button link below and contact us at +1.212.554.3373 or [info@kurtinlaw.com](mailto:info@kurtinlaw.com).

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Kurtin PLLC | One Rockefeller Plaza, Floor 11, New York, NY 10020

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