NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek 05/18/2004
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 03/26/2004.

TITLE: Licensing of Private Remote-Sensing Space Systems

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE
OMB NO.: 0648-0174
EXPIRATION DATE: 05/31/2007

BURDEN:	RESPONSES	HOURS	COSTS($,000)
Previous	67	314	1
New	55	295	1
Difference	-12	-19	0
Program Change		0	0
Adjustment		-19	0

TERMS OF CLEARANCE: None

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request
DOC/NOAA/NESDIS

2. OMB control number b. [ ] None
a. 0648 - 0174

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [ ] Revision of a currently approved collection
c. [✔] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [✔] Three years from approval date b. [ ] Other Specify:____/____

7. Title Licensing of Private Remote-Sensing Space Systems

8. Agency form number(s) (*if applicable*)

9. Keywords 'satellites, natural resources'

10. Abstract

NOAA has established requirements for the licensing of private operators of remote-sensing space systems. The information in applications and subsequent reports is needed to ensure compliance with the Land remote-Sensing Policy Act of 1992 and with the national security and international obligations of the United States.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. ___ Individuals or households d. ___ Farms
b. P Business or other for-profit e. ___ Federal Government
c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [ ] Required to obtain or retain benefits
c. [✔] Mandatory

13. Annual recordkeeping and reporting burden
a. Number of respondents 18
b. Total annual responses 55
1. Percentage of these responses collected electronically 75 %
c. Total annual hours requested 295
d. Current OMB inventory 314
e. Difference -19
f. Explanation of difference
1. Program change
2. Adjustment -19

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)
a. Total annualized capital/startup costs 0
b. Total annual costs (O&M) 1
c. Total annualized cost requested 1
d. Current OMB inventory 1
e. Difference 0
f. Explanation of difference
1. Program change
2. Adjustment

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits e. ___ Program planning or management
b. x Program evaluation f. ___ Research
c. ___ General purpose statistics g. P Regulatory or compliance
d. x Audit

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [✔] Recordkeeping b. [ ] Third party disclosure
c. [✔] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [✔] Quarterly 5. [ ] Semi-annually 6. [✔] Annually
7. [ ] Biennially 8. [ ] Other (describe) ____

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Douglas Brauer
Phone: 301-713-2024, ext. 213

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention period for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):

- (i) Why the information is being collected;
- (ii) Use of information;
- (iii) Burden estimate;
- (iv) Nature of response (voluntary, required for a benefit, mandatory);
- (v) Nature and extent of confidentiality; and
- (vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee	Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature Gregory Withee	Date 01/15/2004
Signature of NOAA Clearance Officer	
Signature Eugene C. McDowell	Date 03/22/2004

SUPPORTING STATEMENT
LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS
OMB CONTROL NO. 0648-0174

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The information is being collected in order to issue licenses and related amendments to operate space based private Remote-sensing systems, to review foreign agreements entered into by licensees, and to perform monitoring and compliance functions for licensed systems. The National Oceanic and Atmospheric Administration (NOAA) has issued regulations for its licensing program under Title II of the Land Remote Sensing Policy Act of 1992, 15 U.S.C. 5601 et seq. (1992 Act), the 1997 National Defense Authorization Act section 1064, and the Commercial Space Act of 1998, 42 U.S.C. 70101 et seq. They facilitate the development of the U.S. commercial remote-sensing industry and thus promote of the collection and widespread availability of Earth Remote-sensing data while preserving essential U.S. national security and foreign policy interests.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

NOAA is the Collection Agency. Applications are made in response to the requirements in Public Law 102-555 as amended, and no collection forms are used. The application information received is used to determine if the applicant meets the legal criteria for issuance of a license to operate a private remote-sensing space system i.e., the proposed system will be operated in accordance with the Act, U.S. national security concerns and international obligations. Application information includes: corporate information; launch segment information; space segment information; ground segment information; plans and/or pricing policy for providing access to or distributing the unenhanced data generated by the system; the plan for post-mission disposition of any remote-sensing satellites; and an executive summary of the application that can be provided to the public.

- Corporate information is required to verify that the applicant is a legitimate corporate entity in good standing and to ascertain ownership, control, and influence over that entity.

- Launch segment, space segment, and ground segment information contain the technical specifications, operational performance parameters, and concept of operations necessary to make determinations on impacts to national security and intelligence concerns and the corresponding level of protections required (e.g., encryption, operational security) to address such concerns.

- Information on data access and dissemination policies and plans, including provision of data to the National Archive and the sensed state, is necessary to ensure licensee activities are consistent with statutory requirements under sections 201 and 202 of the Act.

- Information on planned post-mission disposition of the spacecraft is necessary to ensure public safety and minimize orbital debris.

- In the interest of taxpayers having access to basic information concerning NOAA's regulatory activities, NOAA requires licensees to provide an executive summary of their application that can be made available to the public.

Once an applicant holds a license, he/she is subject to amendment filings and notification requirements concerning foreign agreements, deviation in orbits, planned disposition of the spacecraft; and notification of system demise or decision to discontinue operations.

- Notification of foreign agreements, including certain investment agreements, is required to ensure that the agreement is consistent with the terms of the license with regards to national security and foreign policy and international obligations and, specifically, that positive control of licensed systems is at all times maintained by the license holder which is under US jurisdiction.

- Notification of deviation in orbits is an important change that could significantly impact imaging capabilities and affect other space vehicles or platforms.

- Notification of system demise or of a licensee's decision to discontinue or suspend operations is necessary so that NOAA may terminate the subject license in a timely manner and verify that the licensee continues to adhere to the obligations of the licensee that survive termination.

Monitoring and compliance information is used to ascertain that the licensee's activities meet the requirements of the Act, applicable regulations, and license conditions. The following information collections serve as part of the monitoring and compliance function: annual compliance audits; data collection restriction plans; operation plans for restricting collection and dissemination of imaging Israeli territory; data flow diagrams; satellite sub-system diagrams and imaging system specification sheets; operational declarations; quarterly reports; purge notifications; and annual operational audits.

- Annual compliance audits address previous information filed with NOAA as part of the original license application process: for example, any changes in corporate structure, ownership, financial investments, etc. Licensees are required to produce copies of documents which reflect changes to the original submissions.

- Data Collection Restriction plans are required to document the methodology the licensee will employ to comply with the restricted area provisions in the license. Usually these

plans are produced for internal company use and are then provided to NOAA for review and concurrence. This plan will be submitted 12 months prior to launch.

- Operation plans for restricting collection or dissemination of imagery of Israeli territory are required by the Kyl-Bingaman Amendment to the 1997 Defense Authorization Act. Usually these plans are produced for internal company use and are then provided to NOAA for review and concurrence. This plan will be submitted 12 months prior to launch.

- Data flow diagrams are used to verify the data path the licensee will use to communicate tasking requests to the satellite and subsequently download the collected images to a ground station for processing and sale. As with the restricted area plans these diagrams are used extensively within the company and are simply provided to NOAA for review. This diagram will be submitted 6 months prior to launch.

- Satellite sub-system diagrams and imaging system specification sheets are used to verify that the physical satellite represented to NOAA as the actual system, can be confirmed through technical review. This assures that the licensee is complying with the specifications outlined in the operating license. These documents will be submitted 6 months prior to launch.

- An operational declaration is required to officially inform the government of the status of the satellite system. A one page questionnaire is completed and submitted to NOAA in order to establish the baseline of actual operating parameters. This declaration will be submitted when the licensee declares the system to be operational.

- Quarterly reports require the licensee to verify to the government in writing of any occasion in which the system was operated outside of the terms of the license or any applicable laws. The reporting cycle for the quarterly reports will begin three months after the system is declared operational.

- Purge notifications are to be sent to Department of Interior National Satellite Land Remote Sensing Archive to satisfy the requirements in the Act, will be provided by the licensee for review. Purge audits will include time, location, sensor, format, and media for the data the licensee intends to discard.

- Annual operational audits review 12 months of the satellite tasking log and associated meta-data, which the regulations require the licensees to maintain, in order to verify the their operational activities during the past 12 months. In addition, the Annual operational audits will include information that is required for the Annual Compliance Audit.

It is anticipated that the information collected relating to applications, amendments, and foreign agreements will be disseminated, as specified in the Act, to other appropriate U.S. Government agencies as part of NOAA's requirement for consultation when making licensing decisions. As explained in the preceding paragraphs, the information gathered has utility. NOAA will retain

control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

NOAA is requesting that applicants provide an electronic copy of the application and executive summary to facilitate more timely dissemination of information to reviewing agencies and USG response to the applicant. Applications will not be made available to the public since almost all this information is proprietary. However, once the license is issued, the executive summary will be posted on NOAA's licensing Web site.

4. Describe efforts to identify duplication.

The information collected relates to a unique benefit and no duplication has been identified. Information that is required by other agencies will not be required and NOAA will obtain this information directly from the relevant USG agency. Examples of these include Securities and Exchange Commission forms 10K and 10Q, and Committee on Foreign Investment in the United States reviews.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

While small businesses may be respondents, the collection would not have any significant impact upon them and the information requested is the minimum needed to make the necessary determinations.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without collecting the information described in the regulations, NOAA would be unable to ascertain whether the proposed or actual operations of the applicant's system comply with applicable statutory requirements and conditions, and would therefore be unable to issue operating licenses or conduct associated regulatory actions.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The collection is consistent with the OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice (copy attached) solicited public comment. None was received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts are made to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Protection of proprietary information would be in accordance with the Federal Trade Secrets Act and the Freedom of Information Act, and the Departmental procedures for compliance with the Freedom of Information Act (see 15 CFR 4). NOAA believes that adequate protection for proprietary information is contained in the Freedom of Information Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated burdens for the licensing, monitoring, and compliance activities are calculated as follows:

1 license application with 40 hour burden = 40 hrs
5 amendments with 10 hour burden = 50 hrs
4 foreign agreement notifications (including investment) with 2 hour burden = 8 hrs
1 executive summary with 1 hour burden = 1 hr
1 notification of the demise of a system or a decision to discontinue system operations with 2 hour burden = 2 hrs
2 notifications of any operational deviation with 2 hour burden = 4 hrs
1 submission of data collection restriction plans with 5 hour burden = 5 hrs
1 submission of operational plans for restricting collection or dissemination of Israeli territory with 3 hour burden = 3 hrs
1 submission of data flow diagrams with 3 hour burden = 3 hrs

1 submission of satellite sub-systems drawings with 2 hour burden = 2 hrs
1 submission of final imaging system specifications with 3 hour burden = 3 hrs
1 submission of spacecraft operational information when a spacecraft becomes operational with 2 hour burden = 2 hrs
1 notification of disposition/orbital debris change with 2 hour burden = 2 hrs
2 notifications of planned purges of information with 2 hour burden = 4 hrs
20 operational quarterly reports with 3 hour burden = 60 hrs
7 Annual compliance audits with 8 hour burden = 56 hrs
5 Annual operational audits with 10 hour burden = 50 hrs

Totals: 18 respondents, 55 responses, 295 hours.

Estimating respondent time at $40 an hour, respondent costs would be $11,800. Calculations were made based on past history in licensing process as well as projected industry trends.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The total capital and start-up costs are expected to be zero because the reporting requirements will utilize equipment and software that will be used as part of customary and usual business practices. The total annual costs (operations and maintenance) are expected to be $1000. This figure includes charges for postage, photocopies, diskettes for electronic filings, and facsimiles.

14. Provide estimates of annualized cost to the Federal government.

The annual cost to the Federal Government to process the information obtained is estimated at $900,000. This estimate is the relevant portions of the licensing and compliance budgets (i.e., supplies, equipment, communications, and salary/benefits).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

The change in item 13 of the OMB 83-I is the result of the growth of the commercial remote sensing industry over the last three years and NOAA having more experience in estimating the number of licensing and enforcement events that would trigger a record keeping requirement.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of the collection will not be published.

17. <u>If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate</u>.

No application form is used. NOAA does not seek a waiver of the requirement to display the OMB expiration date.

18. <u>Explain each exception to the certification statement identified in Item 19 of the OMB 83-I</u>.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Name of product/data/publication/information/service	Current fee	Commercial user fee
Unlimited Access	200.00	200.00
In-situ Datasets:		
Limited Access	20.00	20.00
Unlimited Access	200.00	200.00
CD–ROM Access (unlimited)	20.00	20.00
Guide/Inventory/Browse Access	(1)	(1)
Additional National Climatic Data Center User Fees		
Local Climatological Data Publication	4.00	5.00
Climatological Data Publication	5.00	7.00
Storm Data Publication	5.00	7.00
Monthly Climatic Data of the World Publication	5.00	7.00
Hourly Precipitation Data Publication	5.00	7.00
Local Climatological Data Subscription	24.00	32.00
Climatological Data Subscription	32.00	45.00
Storm Data Subscription	53.00	70.00
Monthly Climatic Data of the World Subscriptions	43.00	55.00
Hourly Precipitation Data Subscription	47.00	65.00
Selected Data Elements (6250/Cart./8mm/4mm/FTP)	230.00	300.00
Diskette (Data Selection)	195.00	260.00'
Additional National Oceanographic Data Center User Fees		
Data Selection/Retrieval:		
Printout	103.00	140.00
Magnetic Tape	199.00	265.00
Magnetic Diskette	64.00	85.00
CD–ROM, Recordable	205.00	270.00
Computer Data Transfer (FTP)	145.00	190.00
CD–ROM Sets:		
World Ocean Atlas 1994:		
Individual Discs	36.00	50.00
Complete Set (10 Discs)	360.00	480.00
NOAA Buoy Database:		
Initial Set (thru July 1992):		
Individual Discs	42.00	55.00
Complete Set (14 Discs)	588.00	780.00
Update Discs (8/92–12/94)		
Individual Discs	42.00	55.00
Complete Set (7 Discs)	294.00	390.00
Update Disc 1995 (Full Year, Compressed)	75.00	100.00
Geosat Altimeter Crossover Difference (T2 GDRs):		
Individual Discs	28.00	40.00
Complete Set (6 Discs)	168.00	225.00
Geosat Altimeter Crossover Difference:		
Individual Discs	22.00	30.00
Complete Set (8 Discs)	176.00	235.00
Geosat Geodetic Mission Data:		
Individual Discs	38.00	50.00
Complete Set (4 Discs)	152.00	200.00

*Under Development.
[1] No charge.

[62 FR 24813, May 7, 1997]

PART 960—LICENSING OF PRIVATE REMOTE SENSING SYSTEMS

Subpart A—General

Sec.

960.1 Purpose.
960.2 Scope.
960.3 Definitions.

Subpart B—Licenses

960.4 Application.
960.5 Confidentiality of information.
960.6 Review procedures for license applications.
960.7 Amendments to licenses.
960.8 Notification of foreign agreements.
960.9 License term.
960.10 Appeals/hearings.
960.11 Conditions for operation.
960.12 Data policy for remote sensing space systems.

Subpart C—Prohibitions

960.13 Prohibitions.

Subpart D—Enforcement Procedures

960.14 In general.
960.15 Penalties and sanctions.
APPENDIX 1 TO PART 960—FILING INSTRUCTIONS AND INFORMATION TO BE INCLUDED IN THE LICENSING APPLICATION
APPENDIX 2 TO PART 960—FACT SHEET REGARDING THE MEMORANDUM OF UNDERSTANDING CONCERNING THE LICENSING OF PRIVATE REMOTE SENSING SATELLITE SYSTEMS DATED FEBRUARY 2, 2000

AUTHORITY: 15 U.S.C. 5624.

SOURCE: 65 FR 46829, July 31, 2000, unless otherwise noted.

Subpart A—General

§ 960.1 Purpose.

(a) The regulations in this part set forth the procedural and informational requirements for obtaining a license to operate a private remote sensing space system under Title II of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 *et seq.*) (Public Law 102–555, 106 Stat. 4163) and the President's Policy announced on March 10, 1994, entitled, ''U.S. Policy on Foreign Access to Remote Sensing Space Capabilities'' (PDD 23) (Available from NOAA, National Environmental Satellite Data and Information Service, 1335 East-West Highway, Room 7311, Silver Spring, MD 20910). In addition, this part describes NOAA's regulation of such systems, pursuant to the Act and PDD 23. The regulations in this part are intended to:

(1) Facilitate development of the commercial space remote sensing industry in the United States and promote the broad use of remote sensing data;

(2) Preserve the national security of the United States;

(3) Observe the foreign policies and international obligations of the United States;

(4) Ensure that unenhanced data collected by licensed private remote sensing space systems concerning the territory of any country are made available to the government of that country upon its request, as soon as such data are available and on reasonable commercial terms and conditions as appropriate;

(5) Ensure that remotely sensed data are widely available for research, particularly environmental and global change research; and

(6) Maintain a permanent comprehensive U.S. government archive of global land remote sensing data for long-term monitoring and study of the changing global environment and other archival purposes.

(b) In accordance with the Act and the PDD 23, decisions regarding the issuance of licenses and operational conditions (*See* subpart B of this part) will be made by the Secretary of Commerce, or his/her designee. Determinations of conditions to meet national security, foreign policy and international obligations are made by the Secretaries of Defense and State respectively. Determinations will be made in accordance with the process described in the Interagency MOU Fact Sheet contained in Appendix 2 of this part.

§ 960.2 Scope.

(a) The Act and the regulations in this part apply to any person subject to the jurisdiction or control of the United States who operates or proposes to operate a private remote sensing space system, either directly or through an affiliate or subsidiary, and/or establishes substantial connections with the United States regarding the operation of a private remote sensing system.

(b) In determining whether substantial connections exist with regard to a specific system, the factors NOAA may consider include, but are not limited to: the location of a system control center or operations centers and stations; the administrative control of the system; use of a U.S. launch vehicle; location or administrative control of ground receiving stations; the investment, ownership, or technology included in the system.

(c) The regulations in this part apply to any action taken on or after August 30, 2000 with respect to any license, and to pre-existing licenses.

(d) If any provision of the regulations in this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder

of the regulations in this part or the application of such provision to other persons and circumstances shall not be affected.

(e) Issuance of a license under the regulations in this part does not affect the authority of any Department or Agency of the U.S. Government including, but not limited to, the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 *et seq.*), the Department of Transportation under the Commercial Space Launch Act of 1984 (49 U.S.C. app.2601 *et seq.*), the Department of Commerce under the Export Administration Regulations (15 CFR parts 730–774), or the Department of State under the Arms Export Control Act (22 U.S.C. 2778) and the International Traffic in Arms Regulations (22 CFR parts 120–130).

§960.3 Definitions.

For purposes of the regulations in this part, the following terms have the following meanings:

Act means the Land Remote Sensing Policy Act of 1992 (Public Law 102–555, 106 Stat. 4163) as amended by the 1998 Commercial Space Act (Public Law 105–303, 112 Stat. 2846), 15 U.S.C. 5601 *et seq.*

Administrative control means the power or authority, direct or indirect, whether or not exercised through the legal or defacto ownership or possession thereof, ownership of voting securities of a licensee, or by proxy voting, contractual arrangements or other means, to determine, direct or decide matters affecting the operations of the system; specifically, to determine, direct, take, manage, administer, influence, reach, or cause decisions regarding the:

(1) Sale, lease, mortgage pledge, or other transfer of any or all of the system or system control assets of the licensee, whether in the ordinary course of business or not;

(2) Operation of the system(s), including but not limited to orbit maintenance and other housekeeping functions, tasking and tasking prioritization, data acquisition, data storage, data transmission, processing and dissemination;

(3) Dissolution of the licensee;

(4) Closing and/or relocation of the command and control center of the system;

(5) Execution, substantive modification and/or termination or non-fulfillment of any significant or substantial foreign agreement of the licensee regarding direct readout or tasking obligations; or

(6) Amendment of the Articles of Incorporation or constituent agreement of the licensee with respect to the matters described in paragraphs (1) through (4) of this definition.

Administrator means the Administrator of NOAA and Under Secretary of Commerce for Oceans and Atmosphere or his/her designee.

Affiliate means any person: (1) Which owns or controls more than a 5% interest in the applicant or licensee; or (2) Which is under common ownership or control with the applicant or licensee.

Applicant means a person who has submitted an application for a NOAA license to operate a remote sensing space system.

Archive means the National Satellite Land Remote Sensing Data Archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in Section 502 of the Act.

Assistant Administrator means the Assistant Administrator of NOAA for Satellite and Information Services or his/her designee.

Authorized Officer means an individual designated by the Secretary of Commerce or his/her designee to enforce the regulations in this part.

Basic data set means those unenhanced data generated by the Landsat system or by any remote sensing space system licensed under the Act that have been selected by the Secretary of the Interior to be maintained in the Archive, as described in Section 502(c) of the Act.

Beneficial owner means any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise, has or shares: the right to exercise administrative control over a licensee; and the power to dispose of, or to direct the disposition of, any security interest in a license. All securities of the

same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person. A person shall be deemed to be the beneficial owner of a security interest if that person has the right to acquire beneficial ownership, as defined in this definition, within sixty (60) days from acquiring that interest, including, but not limited to, any right to acquire beneficial ownership through: the exercise of any option, warrant or right; the conversion of a security; the power to revoke a trust, discretionary account, or similar arrangement; or the automatic termination of a trust, discretionary account or similar arrangement.

License means a grant of authority under the Act by the Administrator to a person to operate a private remote-sensing space system.

Licensee means a person who holds a NOAA license to operate a remote sensing space system.

NOAA means the National Oceanic and Atmospheric Administration.

Operate means to manage, run, authorize, control, or otherwise affect the functioning of a remote sensing space system, directly or through an affiliate or subsidiary. This includes:

(1) Commanding, controlling, tasking, and navigation of the system; or

(2) Data acquisition, storage, processing, and dissemination.

Operational control means the ability to operate the system or override commands issued by any operations center or station.

Orbital debris means all human-generated debris in Earth orbit. This includes, but is not limited to, payloads that can no longer perform their mission, rocket bodies and other hardware (*e.g.*, bolt fragments and covers) left in orbit as a result of normal launch and operational activities, and fragmentation debris produced by failure or collision. Gases and liquids in free state are not considered orbital debris.

Person means any individual (whether or not a citizen of the United States) subject to U.S. jurisdiction; a corporation, partnership, association, or other entity organized or existing under the laws of the United States; a subsidiary (foreign or domestic) of a U.S. parent company; an affiliate (foreign or domestic) of a U.S. company; or any other private remote sensing space system operator having substantial connections with the United States or deriving substantial benefits from the United States that support its international remote sensing operations sufficient to assert U.S. jurisdiction as a matter of common law.

President's Policy means the President's Policy entitled, ''U.S. Policy on Foreign Access to Remote Sensing Space Capabilities'' announced on March 10, 1994 (PDD 23).

Proprietary information means any business or trade secrets or commercial or financial information explicitly designated as proprietary or confidential by the submitter, the public release of which would cause substantial harm to the competitive position of the submitter. Once the information is publicly-released by the submitter, it is no longer considered proprietary.

Remote sensing space system, Licensed system, or *System* means any device, instrument, or combination thereof, the space-borne platform upon which it is carried, and any related facilities capable of actively or passively sensing the Earth's surface, including bodies of water, from space by making use of the properties of the electromagnetic waves emitted, reflected, or diffracted by the sensed objects. For purposes of the regulations in this part, a licensed system consists of a finite number of satellites and associated facilities, including those for tasking, receiving, and storing data, designated at the time of the license application. Small, hand-held cameras shall not be considered remote sensing space systems.

Secretary means the Secretary of Commerce.

Security means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral trust certificate, pre-organization certificate or subscription, transferable share, investment contract, voting trust certificate, or certificate of deposit for a security; any put, call, straddle, option, or privilege on any security, certificate

of deposit, or group or index of securities (including any interest therein or based on the value thereof); any put, call, straddle, option, or privilege entered into a national securities exchange relating to foreign currency; any interest or instrument commonly known as a ''security''; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Significant or Substantial foreign agreement (also referred to in this part as foreign agreement or agreement) means an agreement with a foreign nation, entity, consortium, or person that provides for one or more of the following:

(1) Administrative control which may include distributorship arrangements involving the routine receipt of high volumes of the system's unenhanced data;

(2) Participation in the operations of the system;

(3) Direct access to the system's unenhanced data; or

(4) An equity interest in the licensee held by a foreign nation and/or person, if such interest equals or exceeds or will equal or exceed ten (10) percent of total outstanding shares, or entitles the foreign person to a position on the licensee's Board of Directors.

Subsidiary means a person over which the applicant or licensee may exercise administrative control.

Tasking means any action taken to command a remote sensing space system or its sensor to acquire data for transmission or storage on the satellite's recording subsystem. Such action can be in the form of commands sent to the system for execution or for storage in the satellite's memory for execution at a specified time or location within a given orbit.

Under Secretary means the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of NOAA or his/her designee.

Unenhanced data means remote sensing signals or imagery products that are unprocessed or subject only to data preprocessing. Data preprocessing may include rectification of system and sensor distortions in remote sensing data as it is received directly from the satellite; registration of such data with respect to features of the Earth; and calibration of spectral response with respect to such data. It does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data. It also excludes phase history data for synthetic aperture radar systems or other space-based radar systems.

Subpart B—Licenses

§960.4 Application.

No person subject to the jurisdiction and/or control of the United States may operate a private remote sensing space system without a license issued pursuant to this part.

(a) Filing instructions, as well as a list of information to be included in the license application, are included in Appendix 1 of this part.

(b) If information in an application becomes inaccurate or incomplete prior to issuance of the license, the applicant must, within 14 days, file the new or corrected information with the Assistant Administrator. If new or revised information is filed during the application process, the Assistant Administrator shall, within fourteen (14) days, determine whether the deadline imposed by Section 201(c) of the Act and §960.6(a) must be extended to allow adequate review of the revised application and, if so, for how long.

§960.5 Confidentiality of information.

(a) Any proprietary information contained in a license application or application for amendment and submitted to NOAA will be treated as business confidential or proprietary information, if that information is explicitly designated and marked as such by the submitter. This does not preclude the United States Government from citing information in the public domain provided by the licensee in another venue (*e.g.*, the licensee's website or a press release).

(b) Concurrently with the filing of a license application or an application for an amendment, the applicant or licensee shall provide the Assistant Administrator with a publicly-releasable

summary of the application or amendment. This summary shall be available for public review at a location designated by the Assistant Administrator and shall include:

(1) The name, mailing address and telephone number of the applicant and any affiliates or subsidiaries;

(2) A general description of the system, its orbit(s) and the type of data to be acquired;

(3) The name and address upon whom service of all documents may be made;

(4) A general description of the information being modified by an amendment request.

§ 960.6 Review procedures for license applications.

The following procedures are consistent and have been harmonized with those procedures, including time lines, described in the Fact Sheet, at Appendix 2 of this part, which governs in lieu of this section and §§ 960.7 and 960.8 with respect to the process for reaching determinations of conditions necessary to meet national security, international obligations and foreign policy and which is outside the scope of the regulations in this part.

(a) The Assistant Administrator shall within three (3) working days of receipt of an application, forward a copy of the application to the Department of Defense, the Department of State, the Department of the Interior, and any other Federal agencies determined to have a substantial interest in the license application. The Assistant Administrator shall advise such agencies of the deadline prescribed by paragraph (b) of this section to require additional information from the applicant. The Assistant Administrator shall make a determination to issue the license, in accordance with the Act and § 960.1(b), within 120 days of its receipt. If a determination has not been made within 120 days, the Assistant Administrator shall inform the applicant of any pending issues and any action required to resolve them.

(b) The reviewing agencies have ten (10) working days from receipt of application to notify the Assistant Administrator in writing whether the application omits any of the information listed in Appendix 1 of this part or whether additional information may be necessary to complete the application. If these agencies cannot complete their review in the time allotted, they must notify NOAA in writing of the additional time needed to complete review, not to exceed ten (10) working days. This notification shall state the specific reasons why the additional information is sought. The Assistant Administrator shall then notify the applicant, in writing, what information is required to complete the license application. The 120-day review period prescribed in Section 201(c) of the Act will be stopped until the Assistant Administrator determines that the license application is complete.

(c) Within thirty (30) days of receipt of a complete application, as determined by the Assistant Administrator, each Federal agency consulted in paragraph (a) of this section shall recommend, in writing, to the Assistant Administrator approval or disapproval of the application in writing. If a reviewing agency is unable to complete its review in thirty days, it is required to notify NOAA in writing of additional time necessary to complete the review.

(d) If the license application is denied, the Assistant Administrator shall provide the applicant with written notification along with a concise statement of the facts in the record determined to support the denial. This denial will be considered final agency action twenty-one (21) days after the date the notice was mailed, unless the applicant files an appeal, as provided in § 960.10.

(e) The Assistant Administrator shall terminate the license application review process if:

(1) The application is withdrawn before the decision approving or denying it is issued; or

(2) The applicant, after receiving a request for additional information pursuant to paragraph (c) of this section, does not provide such information within the time stated in the request.

(f) No license shall be granted by the Secretary unless the Secretary determines, in writing, that the applicant will comply with the requirements of the Act, any regulations issued pursuant to the Act, and that the granting of

such license and the operation of the license and system by the licensee would be consistent with the national security interest, foreign policy and international obligations of the United States.

§960.7 Amendments to licenses.

(a) Prior to taking any of the following actions a licensee must obtain an amendment to the license:

(1) assignment of any interest in or transfer of the license from one entity to another, renaming, or any change in identity of the license holder;

(2) change in or transfer of administrative control;

(3) change of operational control; or

(4) deviation from orbital characteristics, performance specifications, data collection and exploitation capabilities, operational characteristics identified under Appendix 1.C(6) of this part, or any other change in license parameters.

(b) Applications for an amendment to an existing license shall contain all relevant new information and shall be filed at the same address identified in Appendix 1 of this part. Amendment applications shall be filed in accordance with the procedures in §960.4 and Appendix 1 of this part for original license applications.

(c) The Assistant Administrator, in consultation with other appropriate agencies, shall review amendment applications within 120 days of the receipt of such completed applications. The Assistant Administrator shall advise such agencies of the deadline prescribed by paragraph (d) of this section to require additional information from the applicant. If a determination has not been made within 120 days, the Assistant Administrator shall inform the licensee of any pending issues and any actions necessary to resolve them.

(d) The reviewing agencies have ten (10) working days from receipt of the amendment request to notify the Assistant Administrator in writing whether the request omits any of the information listed in Appendix 1 of this part or whether additional information may be necessary to complete the request. If these agencies cannot complete their review in the time allotted, they must notify NOAA in writing of the additional time needed to complete review, not to exceed ten (10) working days. This notification shall state the specific reasons why the additional information is sought. The Assistant Administrator shall then notify the licensee, in writing, what information is required to complete the amendment request. The 120 day review period prescribed in Section 201(c) of the Act will be stopped until the Assistant Administrator determines that the amendment request is complete.

(e) Within thirty (30) days of receipt of a complete amendment application, as determined by the Assistant Administrator, each Federal agency consulted in paragraph (a) of this section shall recommend, in writing, to the Assistant Administrator approval or disapproval of the amendment application in writing.

(f)(1) When the licensee is seeking an amendment in order to transfer administrative control or change in the participation of the operations of the system to a foreign person or nation, pursuant to paragraph (a)(2) of this section, the licensee must provide the following information:

(i) The identity, residence and citizenship of the foreign person(s) or nation(s) who will acquire control;

(ii) The applicant's proposed plan to ensure that the licensee will protect the operational control of the licensed system from foreign influence and prevent technology transfer that would adversely impact national security, foreign policy or international obligations; and

(iii) Such additional information as the Assistant Administrator may prescribe as necessary or appropriate to protect the national security, foreign policy or international obligations of the United States.

(2) Such an amendment request will be reviewed to determine whether the foreign person(s) or nation(s) that will exercise administrative control of the licensee will take no action that impairs the national security interests, foreign policy or international obligations of the United States.

(g) If the license amendment application is denied, the Assistant Administrator shall provide the applicant with

written notification along with a concise statement of the facts in the record determined to support the denial. This denial will be considered final agency action twenty-one (21) days after the date the notice was mailed, unless the applicant files an appeal, as provided in § 960.10.

§ 960.8 Notification of foreign agreements.

Pursuant to the Act, the 1998 Commercial Space Act and licenses issued under this part, licensees must notify the Assistant Administrator of any significant or substantial agreement that they intend to enter into with any foreign nation, entity, or consortium, not later than sixty (60) days prior to concluding the agreement.

(a) Upon notification by a licensee, pursuant to § 960.11(b)(5), the Assistant Administrator shall initiate review of the proposed agreement in light of the national security interests, foreign policy and international obligations of the U.S. Government.

(b) The Assistant Administrator, in consultation with other appropriate agencies, will review the proposed foreign agreement. As part of this review, the Assistant Administrator will ensure that the proposed foreign agreement contains the appropriate provisions to ensure compliance with all requirements concerning national security interests, foreign policy and international obligations under the Act or the licensee's ability to comply with the Act, these regulations and the terms of the license, are appropriately accommodated in the proposed agreement. These requirements include:

(1) The ability to implement, as appropriate, restrictions on the foreign party's acquisition and dissemination of imagery as imposed by the license or by the Secretary of Commerce;

(2) The obligations of the licensee to provide access to data for the Archive; and

(3) The obligations of the licensee to convey to the foreign party the license's reporting and recordkeeping requirements and to facilitate any monitoring and compliance activities identified in the license.

(c) Within thirty (30) days of receipt of the proposed agreement, other agencies reviewing the agreement will notify the Assistant Administrator that the proposed agreement sufficiently addresses the requirements in paragraph (b) of this section or identify what changes will need to be made to the agreement to meet these requirements.

(d)(1) Within sixty (60) days of notification by the licensee, if the Assistant Administrator determines that a proposed agreement will impair his or her ability to enforce the Act, or the licensee's ability to comply with the Act, these regulations, or the terms or conditions of the license, the licensee will be notified which terms and conditions of the license are affected and, specifically, how the agreement impairs their enforcement.

(2) The proposed agreement may not be implemented by the licensee until the licensee has been advised by the Assistant Administrator that the provisions of the proposed agreement are acceptable.

(e) Following approval of the agreement, if the factual circumstances surrounding this transaction change, the licensee must notify NOAA within twenty-one (21) days of the change. The licensee's failure to notify NOAA in a timely manner may result in penalties for noncompliance being levied, pursuant to Section 203(a)(3) of the Act.

(f) A licensee seeking to enter into a foreign agreement that would require the modification of the terms of an existing license shall also submit a license amendment request and the proposed foreign agreement shall be considered in the context of the amendment review process.

§ 960.9 License term.

(a) Each license for operation of a system shall be valid for the operational lifetime of the system or until the Secretary determines that the licensee is not in compliance with the requirements of the Act, the regulations issued pursuant to the Act, the terms and conditions of the license, or that the licensee's activities or system operations are not consistent with the national security, foreign policy and international obligations of the United States.

(b) The licensee shall notify the Assistant Administrator within seven (7) days of financial insolvency, dissolution, the demise of its system or of its decision to discontinue system operation. Upon notification, the Assistant Administrator will terminate the license. However, termination will not affect the obligations of the licensee with regard to provisions in its license, requiring the licensee to:

(1) Provide data to the Archive for the basic data set;

(2) Make data available to the Archive that the licensee intends to purge from its holdings;

(3) Make data available to a sensed state; and

(4) Restrict acquisition and dissemination of imagery as imposed by the license or by the Secretary of Commerce; and

(5) Manage the re-entry segment, including but not limited to, the disposal of the system.

§ 960.10 Appeals/hearings.

(a) An applicant or licensee may submit a written appeal to the Administrator involving the granting, denial, or conditioning of a license; a license amendment; a foreign agreement; or enforcement action under this part. The appeal must state the action(s) appealed, must set forth a detailed explanation of the reasons for the appeal, and must be submitted within twenty-one (21) days of the action appealed. The appellant may request a hearing on the appeal before a designated hearing officer.

(b) The hearing shall be held no later than thirty (30) days after receipt of the appeal, unless the hearing officer extends the time. The appellant and other interested persons may appear personally or by counsel and submit information and present arguments, as determined appropriate by the hearing officer. Hearings may be closed to the public as necessary to protect classified or proprietary information. Hearings shall be transcribed, and transcripts made available to the public, as required by statute. Classified and proprietary information shall not be included in the public transcripts. Within thirty (30) days of the conclusion of the hearing, the hearing officer shall recommend a decision to the Administrator.

(c) The hearing requested under paragraph (a) of this section may be granted unless the issues being appealed involve the conduct of military or foreign affairs functions. Determinations concerning limitations on data collection or distribution, license conditions, or enforcement actions necessary to meet national security concerns, foreign policies or international obligations are not subject to a hearing under this Section. A determination to deny an appeal/hearing on this basis shall constitute final agency action.

(d) The Administrator may adopt the hearing officer's recommended decision or may reject or modify it. The Administrator will notify the appellant of the decision, and the reason(s) therefor, in writing, within thirty (30) days of receipt of the hearing officer's recommended decision. The Administrator's action shall constitute final Agency action.

(e) Any time limit prescribed in this section may be extended for a period not to exceed thirty (30) days by the Administrator for good cause, upon his/her own motion or written request from the appellant.

(f) The licensee shall be entitled to an expedited hearing on the review of a foreign agreement if the request is filed with the Administrator within seven (7) days of the date of mailing of the Assistant Administrator's notice under § 960.8(d)(1). The request shall set forth the licensee's response to the determinations contained in the notice, and demonstrate that the time necessary to complete the normal hearing process will jeopardize the agreement.

(1) Expedited hearings shall commence within five (5) days after the filing of the request with the Administrator unless the Administrator or the Hearing Officer postpones the date of the hearing or the parties agree that it shall commence at a later time.

(2) Within five (5) days of the conclusion of the hearing, the Hearing Officer shall prepare findings and conclusions for consideration by the Administrator.

(3) Within fourteen (14) days after receipt of such material, the Administrator shall issue his/her findings and

conclusions and a statement of the reasons on which they are based. This decision constitutes final agency action.

§ 960.11 Conditions for operation.

(a) Each license issued for the operation of a system shall require the licensee to comply with the Act and the regulations in this part. The licensee shall ensure that its license information is kept current and accurate. A licensee's failure to notify NOAA in a timely manner of any changes to that information on which the determination to issue the license or a subsequent licensing action was or will be made may result in penalties for noncompliance being levied, pursuant to Section 203(a)(3) of Public Law 102–555.

(b) The following conditions, as a minimum, shall be included in all licenses:

(1) The licensee shall operate its system in a manner that preserves the national security and observes the foreign policy and international obligations of the United States. Specific limitations on operational performance, including, but not limited to, limitations on data collection and dissemination, as appropriate, will be specified in each license.

(2) The licensee shall maintain operational control from a location within the United States at all times, including the ability to override all commands issued by any operations centers or stations.

(3) The licensee will maintain and make available to the Assistant Administrator records of system tasking, operations and other data as specified in the license for the purposes of monitoring and compliance. Periodic reporting and record keeping requirements will be specified in the license. The licensee shall allow the Administrator access, at all reasonable times, to all facilities which comprise the remote sensing space system for the purpose of conducting license monitoring and compliance inspections.

(4) The licensee may be required by the Secretary to limit data collection and/or distribution by the system as determined to be necessary to meet significant national security or significant foreign policy concerns, or international obligations of the United States, in accordance with the procedures set forth in the Interagency MOU Fact Sheet. During such limitations, the licensee shall, on request, provide unenhanced restricted images on a commercial basis exclusively to the U.S. Government using U.S. government-approved rekeyable encryption on the down-link and shall use a data down-link format that allows the U.S. Government access to these data during such periods.

(5) A licensee shall notify the Administrator of its intent to enter into any significant or substantial foreign agreement, and shall submit this agreement for review in accordance with § 960.8. The proposed agreement may not be implemented by the licensee until the licensee has been advised by the Administrator that the document's provisions are acceptable.

(i) Notification of any agreement that provides for an on-going or a continuous relationship serves as notification of specific transactions carried out within the scope of that agreement for purposes of the regulations in this part and the Act. Such notification does not relieve a licensee of any obligation under any other laws including U.S. export laws or regulations to secure necessary USG authorizations and/or licenses, to provide notification, or to comply with other requirements.

(ii) A licensee seeking to enter a foreign agreement that would require the modification of the terms of an existing license shall submit a license amendment, as provided in § 960.7.

(6) In accordance with Section 201 (e) of the Act and § 960.12, a licensee shall make available on reasonable commercial terms and conditions, in accordance with the Act and § 960.12, any unenhanced data designated by the Assistant Administrator.

(7) A licensee shall provide to the U.S. Government, upon request, a complete list of all archived, unenhanced data which has been generated by its licensed system which is not already maintained in a public catalog. Any information on this list which is deemed proprietary by the licensee should be so noted by the licensee when the list is provided to the U.S. Government.

(8) A licensee shall make available unenhanced data requested by the National Satellite Land Remote Sensing Data Archive (''the Archive'') in the Department of the Interior on reasonable cost terms and conditions as agreed by the licensee and the Archive. After the expiration of any exclusive right to sell, or after a reasonable period of time, as agreed with the licensee, the Archive shall make these data available to the public at a price equivalent to the cost of fulfilling user requests.

(9) Before purging any licensed data in its possession, the licensee shall offer such data to the Archive at the cost of reproduction and transmission. The Archive shall make these data available immediately to the public at a price equivalent to the cost of fulfilling user requests.

(10) A licensee shall make available to the government of any country (including the United States) upon request by that government, unenhanced data collected by its system concerning the territory under the jurisdiction of such government. The data shall be provided as soon as the licensee is able to distribute the data commercially or as soon as the licensee has processed them into a format that the licensee uses for its own purposes, whichever occurs sooner, on reasonable terms and conditions. However, no data shall be provided to the sensed state if such release is contrary to U.S. national security concerns, foreign policy or international obligations or is otherwise prohibited by law, *e.g.* where transactions with the sensed state are prohibited by the laws of the United States. The USG may require, as a specific license condition, coordination with NOAA prior to fulfilling specific sensed state requests for unenhanced data.

(11) A licensee shall inform the Assistant Administrator immediately of any operational deviation or proposed deviation of the system which would violate the conditions of the license. If advance notice is not possible because of an emergency posing an imminent and substantial threat to human life, property, the environment or the system itself, the licensee shall notify the Assistant Administrator of the deviation as soon as circumstances permit.

(12) A licensee shall dispose of any satellites operated by the licensee upon termination of operations under the license in a manner satisfactory to the President. The licensee shall obtain approval from the Assistant Administrator of all plans and procedures for the disposition of satellites as part of the application process.

§ 960.12 Data policy for remote sensing space systems.

(a) In accordance with the Act, if the U.S. Government has or will directly fund all or a substantial part of the development, fabrication, launch, or operation costs of a licensed system, the license shall require that all of the unenhanced data from the system be made available on a nondiscriminatory basis except on the basis of national security, foreign policy or international obligations.

(b) If the U.S. Government has not funded and will not fund, either directly or indirectly, any of the development, fabrication, launch, or operations costs of a licensed system, the licensee may provide access to its unenhanced data in accordance with reasonable commercial terms and conditions, subject to the requirement of providing data to the government of any sensed state, pursuant to § 960.11(b)(10), and to implementation of the licensee's plan, as contained in its application, to provide widespread access to its unenhanced data for noncommercial scientific, educational or other public benefit purposes.

(c) If the U.S. Government has (either directly or indirectly) funded some of the development, fabrication, launch, or operations costs of a licensed system, the Assistant Administrator, in consultation with other appropriate U.S. agencies, shall, subject to national security concerns, determine whether the interest of the United States in promoting widespread availability of remote sensing data on reasonable cost terms and conditions requires that some or all of the unenhanced data from the system be made available on a nondiscriminatory basis in accordance with the Act. The license shall specify any data subject

to this requirement. In making this determination, the Assistant Administrator may consider:

(1) The extent and proportion of private and federal funding of the system;

(2) The extent of the governmental versus the commercial market for the unenhanced data;

(3) The effect of a nondiscriminatory data access designation on the applicant's commercial activity;

(4) The extent to which the applicant's proposed commercial data policies would encourage foreign operators to limit access, particularly for research and public benefit purposes; or

(5) The extent to which the U.S. interest in promoting widespread data availability can be satisfied through license conditions that ensure access to the data for scientific, educational, or other public benefit purposes.

Subpart C—Prohibitions

§ 960.13 Prohibitions.

It is unlawful for any person who is subject to the jurisdiction or control of the United States, directly or through any subsidiary or affiliate to:

(a) Operate a private remote sensing space system in such a manner as to jeopardize the national security or foreign policy and international obligations of the United States;

(b) Operate a private remote sensing space system without possession of a valid license issued under the Act and/or the regulations in this part;

(c) Operate a private remote sensing space system in violation of the terms and conditions of the license issued for such system under the Act and the regulations in this part;

(d) Violate any provision of the Act or the regulations in this part or any term, condition, or restriction of the license;

(e) Violate or fail to comply with any order, directive, or notice issued by the Secretary or his/her designee, pursuant to the Act and/or the regulations in this part, with regard to the operation of the licensed private remote sensing space system;

(f) Fail or refuse to provide to the Secretary or his/her designee all reports and/or information required to be submitted to the Secretary under the Act or the regulations in this part;

(g) Fail to update the information required to be submitted to the Secretary in the license application; or

(h) Interfere with the enforcement of this part by:

(1) Refusing to permit access by the Secretary or his/her designee to any facilities which comprise the remote sensing space system for the purposes of conducting any search or inspection in connection with the enforcement of the regulations in this part;

(2) Assaulting, resisting, opposing, impeding, intimidating, or interfering with any authorized officer in the conduct of any search or inspection performed under the regulations in this part;

(3) Submitting false information to the Secretary, his/her designee or any authorized officer; or

(4) Assaulting, resisting, opposing, impeding, intimidating, harassing, bribing, or interfering with any person authorized by the Secretary or his/her designee to implement the provisions of the regulations in this part.

Subpart D—Enforcement Procedures

§ 960.14 In general.

(a) The Secretary shall conduct such enforcement activities as are necessary to carry out his/her obligations under the Act.

(b) Any person who is authorized to enforce the regulations in this part may:

(1) Enter, search and inspect any facility suspected of being used to violate the regulations in this part or any license issued pursuant to the regulations in this part and inspect and seize any equipment or records contained in such facility;

(2) Seize any data obtained in violation of the regulations in this part or any license issued pursuant to the regulations in this part;

(3) Seize any evidence of a violation of the regulations in this part or of any license issued pursuant to the regulations in this part;

(4) Execute any warrant or other process issued by any court of competent jurisdiction; and

(5) Exercise any other lawful authority.

§ 960.15 Penalties and sanctions.

As authorized by Section 203(a) of the Act, if the Secretary or his/her designee determines that the licensee has substantially failed to comply with the Act, the regulations in this part, or any term, condition or restriction of the license, the Secretary or his/her designee may request the appropriate U.S. Attorney to seek an order of injunction or similar judicial determination from the U.S. District Court for the District of Columbia Circuit or a U.S. District Court within which the licensee resides or has its principal place of business, to terminate, modify, or suspend the license, and/or to terminate licensed operations on an immediate basis.

(a) In addition, any person who violates any provision of the Act, any license issued thereunder, or the regulations in this part may be assessed a civil penalty by the Secretary of not more that $10,000 for each violation. Each day of operation in violation constitutes a separate violation. All civil penalties procedures shall be in accordance with 15 CFR part 904.

(b) Violation of the Act, this part, or any license issued under this part, may be subject to criminal penalty provisions prescribed in other applicable laws.

APPENDIX 1 TO PART 960—FILING INSTRUCTIONS AND INFORMATION TO BE INCLUDED IN THE LICENSING APPLICATION

(a) Where to file. Applications and all related documents shall be filed with the Assistant Administrator, National Environmental Satellite, Data and Information Service (NESDIS), NOAA, Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910.

(b) Form. No particular form is required but each application must be in writing, must include all of the information specified in this subpart, and must be signed by an authorized principal executive officer. In addition, applicants must submit a copy on electronic media using commonly-available commercial word processing software.

(c) Number of copies. One (1) copy of each application must be submitted in a readily reproducible form accompanied by a copy on electronic media. One (1) copy of the public summary required by § 960.5(b) must also be submitted in a readily reproducible form accompanied by a copy on electronic media.

(d) The following information shall be filed by the applicant in order to evaluate its suitability to hold a private remote sensing space system license. Data provided regarding the applicant's proposed remote sensing space system must be in sufficient detail to enable the Secretary to determine whether the proposal meets requirements of the Act.

Sec. I—*Corporate Information*

(1) The name, street address and mailing address, telephone number and citizenship(s) of (as applicable):

(i) Applicant as well as any affiliates or subsidiaries;

(ii) Chief executive officer of the applicant and each director;

(iii) Each general corporation partner;

(iv) All executive personnel or senior management of a partnership;

(v) Any directors, partners, executive personnel or senior management who hold positions with or serve as consultants for any foreign nation or person;

(vi) Each domestic beneficial owner of an interest equal to or greater than 10 percent in the applicant;

(vii) Each foreign owner of an interest equal to or greater than 5 percent in the applicant;

(viii) Each foreign lender and amount of debt where foreign indebtedness exceeds 25 percent of an applicants total indebtedness;

(ix) A person upon whom service of all documents may be made.

(2) A description of any significant or substantial agreements between the applicant, its affiliates and subsidiaries, with foreign nation or person, including copies if available;

(3) A copy of the charter or other authorizing instrument certified by the jurisdiction in which the applicant is incorporated or organized and authorized to do business.

Sec. II—*Launch Segment Information*

Provide the characteristics of the launch segment to include:

(1) proposed launch schedule;

(2) proposed launch vehicle source;

(3) proposed launch site;

(4) anticipated operational date;

(5) the range of orbits and altitudes (nominal apogee and perigee);

(6) inclination angle;

(7) orbital period;

Sec. III—*Space Segment*

(1) the number of satellites which will compose this system;

(2) provide technical space system information at the level of detail typical of a request for proposal specification;

(3) Anticipated best theoretical resolution (show calculation);

(4) Swath width of each sensor (typically at nadir);

(5) the various fields of view for each sensor (IFOV, in-track, cross-track);

(6) on-board storage capacity;

(7) navigation capabilities—GPS, star tracker accuracies;

(8) time-delayed integration with focal plane;

(9) oversampling capability;

(10) image motion parameters—linear motion, drift; aggregation modes;

(11) anticipated system lifetime.

Sec. IV—*Ground Segment*

(1) The system data collection and processing capabilities proposed including but not limited to: tasking procedures; scheduling plans; data format (downlinked and distributed data); timeliness of delivery; ground segment information regarding the location of proposed operations centers and stations, and tasking, telemetry and control; data distribution and archiving plans;

(2) The command (uplink and downlink) and mission data (downlink) transmission frequencies and system transmission (uplink and downlink) footprint, the downlink data rate, any plans for communications crosslinks;

(3) The plans for protection of uplink, downlink and any data links;

(4) The methods applicant will use to ensure the integrity of its operations, including plans for: positive control of the remote sensing space system and relevant operations centers and stations; denial of unauthorized access to data transmissions to or from the remote sensing space system; and restriction of collection and/or distribution of unenhanced data from specific areas at the request of the U.S. Government.

Sec. V—*Other Information*

A. The applicant's plans for providing access to or distributing the unenhanced data generated by the system including:

(1) a description of the plan for the sale and distribution of such data;

(2) the method for making the data available to governments whose territories have been sensed;

(3) a description of the plans for making data requested and purchased by the Department of the Interior available to the Archive for inclusion in the basic data set; and

(4) the licensee's plans to make the data available for non-commercial scientific, educational, or other public benefit purposes, such as the study of the changing global environment.

B. If the applicant is proposing to follow a commercial data distribution and pricing policy as provided for by §960.12, the application shall include the following additional financial information:

(1) the extent of the private investment in the system;

(2) the extent of any direct funding or other direct assistance which the applicant or its affiliates or subsidiaries have received or anticipate receiving from any agency of the U.S. Government for the development, fabrication, launch, or operation of the system including direct financial support, loan guarantees, or the use of U.S. Government equipment or services;

(3) any existing or anticipated contract(s) between the applicant, affiliate, or subsidiary and U.S. Government agencies for the purchase of data, information, or services from the proposed system;

(4) any other relationship between the applicant, affiliate, or subsidiary and the U.S. Government which has supported the development, fabrication, launch, or operation of the system; and

(5) any plans to provide preferred or exclusive access to the unenhanced data to any particular user or class of users.

C. The applicant will submit a plan for post-mission disposition of any remote-sensing satellites owned or operated by the applicant. If the satellite disposition involves an atmospheric re-entry the applicant must provide an estimate of the total debris casualty area of the system's components and structure likely to survive re-entry.

APPENDIX 2 TO PART 960—FACT SHEET REGARDING THE MEMORANDUM OF UNDERSTANDING CONCERNING THE LICENSING OF PRIVATE REMOTE SENSING SATELLITE SYSTEMS DATED FEBRUARY 2, 2000

The White House, Office of Science and Technology Policy and National Security Council

February 2, 2000.

FACT SHEET REGARDING THE MEMORANDUM OF UNDERSTANDING CONCERNING THE LICENSING OF PRIVATE REMOTE SENSING SATELLITE SYSTEMS

A Memorandum of Understanding (MOU) has been concluded between the Departments of Commerce, State, Defense, Interior and the Intelligence Community regarding interagency procedures on commercial remote sensing systems.

BACKGROUND

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, is responsible for administering the licensing of private remote sensing satellite systems pursuant to the Land Remote Sensing Policy Act of 1992. The Act also grants to the Secretaries of State and Defense the authority to determine conditions necessary to protect international obligations, foreign policy concerns, and national security concerns. The purpose of the MOU is to establish

interagency procedures concerning the process for handling remote sensing licensing actions, and consultation regarding interruption of normal commercial operations consistent with the President's policy on remote sensing.

In consultation with affected agencies, limitations on commercial remote sensing systems will be imposed by the Secretary of Commerce when necessary to meet international obligations and national security and foreign policy concerns and will be in accord with the determinations of the Secretary of Defense and the Secretary of State and with applicable law. Procedures for implementing this policy are set out below.

PROCEDURES

A. Consultation during Review of Licensing Actions.

Pursuant to section 5621(c) of the Land Remote Sensing Policy Act of 1992, the Secretary of Commerce shall review any application and make a determination thereon within 120 days of receipt of such application. If final action has not occurred within such time, then the Secretary shall inform the applicant of any pending issues and of actions required to resolve them. Copies of requests for licensing actions received by the Department of Commerce (DOC) will be provided by DOC to the Department of State (DOS), the Department of Defense (DOD), the Department of the Interior (DOI), and the Intelligence Community (IC) within 3 working days.

DOC will defer its decision on such licensing actions until the other Parties concerned have had a reasonable time to review them, as provided in this section.

(1) Within 10 working days of receipt, DOS, DOD, DOI, or IC shall notify the Department of Commerce, in writing, of any additional information it believes is necessary to properly evaluate the licensing action, or notify DOC in writing of the additional time, not to exceed 10 working days, necessary to complete the review. This notification shall state the specific reasons why the additional information is sought.

(2) After receiving a complete license package or the information requested in paragraph (1), DOS, DOD, DOI, and IC will complete their review of the license package within 30 days or notify DOC in writing of additional time necessary to complete the review. If DOS, DOD, or IC conclude that imposition of conditions on the actions being reviewed may be necessary to protect international obligations, foreign policy concerns, or national security concerns, the agency identifying the concern will promptly notify DOC in writing with a copy to other interested agencies. Such notification shall: (i) describe the national security interests, or the international obligations or specific foreign policies at risk if the applicant's system is approved as proposed; (ii) set forth in detail the basis for the conclusion that operation of the applicant's system as proposed will not preserve the national security interests or the international obligations or specific foreign policies identified; and (iii) specify the additional conditions necessary to preserve the relevant United States interests or set forth in detail why denial is required to preserve such interests.

(3) Within 10 days of sending this notification, representatives of DOS, DOD, DOC, DOI, and IC will meet to discuss and resolve any issues with regard to these proposed conditions.

(4) If, after such discussions, DOS or DOD conclude that such conditions are necessary but DOC does not concur, the Secretary of State or the Secretary of Defense may make such a determination of necessary conditions in writing. This function may not be delegated below the acting Secretary or the Deputy Secretary. Such determinations will be promptly forwarded to DOC and a copy will be provided to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

(5) Upon notification of such a determination, DOC will suspend any further action on the license that would be inconsistent with the DOS or DOD determination. If the Secretary of Commerce believes the limits defined by another Secretary are inappropriate, the Secretary of Commerce or Deputy Secretary shall then consult with his or her counterpart in the relevant department within 10 days regarding any unresolved issues. If the relevant Secretaries are unable to resolve any issues, the Secretary of Commerce will so notify the Assistant to the President for National Security Affairs, who, in coordination with the Assistant to the President for Science and Technology, will seek to achieve a consensus within the interagency, or failing that, by referral to the President. All efforts will be taken to resolve the dispute within 3 weeks of its submission to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

B. Consultation Regarding Interruption of Normal Commercial Operations

(1) This section establishes the process for requiring the licensee to limit data collection and/or distribution by the system during periods when national security or international obligations and/or foreign policies may be compromised, as determined by the Secretary of Defense or the Secretary of State. DOC will provide to the other Parties copies of licensee correspondence and documents that describe how the licensee will comply with such interruptions of its commercial operations.

(2) Conditions should be imposed for the smallest area and for the shortest period necessary to protect the national security, international obligations, or foreign policy concerns at issue. Alternatives to prohibitions on collection and/or distribution shall be considered such as delaying the transmission or distribution of data, restricting the field of view of the system, encryption of the data if available, or other means to control the use of the data.

(3) Except where urgency precludes it, DOS, DOD, DOC and IC will consult to attempt to come to an agreement concerning appropriate conditions, if any, to be imposed on the licensee in accordance with determinations made by DOS or DOD. Consultations shall be constructed so that, in the event an agreement cannot be reached at the staff level, sufficient time will remain to allow the Secretary of Commerce to consult personally with the Secretary of State or the Secretary of Defense, as appropriate, prior to the issuance of a determination by the Secretary of State or the Secretary of Defense in accordance with (4) below. That function shall not be delegated below the acting Secretary.

(4) After such consultations, or when the Secretary of State or the Secretary of Defense specifically determines that urgency precludes consultation with the Secretary of Commerce, the Secretary of State or the Secretary of Defense, shall determine the conditions necessary to meet international obligations, significant foreign policy concerns, or significant national security concerns, especially where those interests identified in the National Security Strategy would be put at risk. This function shall not be delegated below the acting Secretary. The Secretary of State or the Secretary of Defense will provide to the Secretary of Commerce his or her determination regarding the conditions required to be imposed on the licensee. The determination will describe the international obligations, specific foreign policy, or national security interest at risk. Upon receipt of the determination, DOC shall immediately notify the licensee of the imposition of limiting conditions on commercial operations. Copies of the determination and any implementing DOC action will be provided promptly to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

(5) If the Secretary of Commerce believes the conditions determined by another Secretary are inappropriate, he or she will, simultaneous with notification of, and imposition of such conditions on, the licensee, so notify the Secretary of Defense or the Secretary of State, as appropriate, the Assistant to the President for National Security Affairs, and the Assistant to the President for Science and Technology. The Assistant to the President for National Security Affairs, in coordination with the Assistant to the President for Science and Technology, will initiate as soon as possible a Principals-level consultative process to achieve a consensus within the interagency, or, failing that, refer the matter to the President for decision. All efforts will be taken to resolve the disagreement within 7 working days of its submission to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

C. Coordination Before Release of Information Provided or Generated by Other Agencies

Before releasing any information provided or generated by another agency to a licensee or potential licensee, to the public, or to an administrative law judge, each agency agrees to consult with the agency that provided or generated the information. The purpose of such consultations will be to review the propriety of any proposed release of information that may be privileged because it is classified, pre-decisional, deliberative, contain proprietary information, or is protected for other reasons. No information shall be released without the approval of the agency that provided or generated it unless required by law.

D. No Legal Rights or Remedies, or Legally Enforceable Causes of Action, are Created or Intended to be Created by the MOU.

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

Subpart A—General

Sec.

970.100 Purpose.
970.101 Definitions.
970.102 Nature of licenses.
970.103 Prohibited activities and restrictions.

Subpart B—Applications

970.200 General.

CONTENTS

970.201 Statement of financial resources.
970.202 Statement of technological experience and capabilities.
970.203 Exploration plan.
970.204 Environmental and use conflict analysis.
970.205 Vessel safety.
970.206 Statement of ownership.
970.207 Antitrust information.
970.208 Fee.

-CITE-

15 USC Sec. *5621* 01/22/02

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE

CHAPTER 82 - LAND REMOTE SENSING POLICY

SUBCHAPTER II - LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

-HEAD-

Sec. 5621. General licensing authority

-STATUTE-

(a) Licensing authority of Secretary

(1) In consultation with other appropriate United States Government agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this subchapter.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this subchapter shall be limited only to the remote sensing operations of such space system.

(b) Compliance with law, regulations, international obligations,

and national security

(1) No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this chapter, any regulations issued pursuant to this chapter, and any applicable international obligations and national security concerns of the United States.

(2) The Secretary, within 6 months after October 28, 1998, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this subchapter. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.

(c) Deadline for action on application

The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) Improper basis for denial

The Secretary shall not deny such license in order to protect any existing licensee from competition.

(e) Requirement to provide unenhanced data

(1) The Secretary, in consultation with other appropriate United States Government agencies and pursuant to paragraph (2), shall designate in a license issued pursuant to this subchapter any unenhanced data required to be provided by the licensee under section 5622(b)(3) of this title.

(2) The Secretary shall make a designation under paragraph (1) after determining that -

(A) such data are generated by a system for which all or a substantial part of the development, fabrication, launch, or operations costs have been or will be directly funded by the United States Government; or

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 5622(b)(3) of this title, after considering the impact on the licensee and the importance of promoting widespread access to remote sensing data from United States and foreign systems.

(3) A designation made by the Secretary under paragraph (1) shall not be inconsistent with any contract or other arrangement entered into between a United States Government agency and the licensee.

-SOURCE-

(Pub. L. 102-555, title II, Sec. 201, Oct. 28, 1992, 106 Stat.

4171; Pub. L. 105-303, title I, Sec. 107(f)(1), Oct. 28, 1998, 112 Stat. 2854.)

-MISC1-

AMENDMENTS

1998 - Subsec. (b). Pub. L. 105-303 designated existing provisions as par. (1) and added par. (2).

PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL

Pub. L. 104-201, div. A, title X, Sec. 1064, Sept. 23, 1996, 110 Stat. 2653, provided that:

''(a) Collection and Dissemination. - A department or agency of the United States may issue a license for the collection or dissemination by a non-Federal entity of satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.

''(b) Declassification and Release. - A department or agency of the United States may declassify or otherwise release satellite imagery with respect to Israel only if such imagery is no more detailed or precise than satellite imagery of Israel that is available from commercial sources.''

-SECREF-

-CITE-

15 USC Sec. 5622 01/22/*02*

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE

CHAPTER 82 - LAND REMOTE SENSING POLICY

SUBCHAPTER II - LICENSING OF *PRIVATE* REMOTE SENSING SPACE SYSTEMS

-HEAD-

Sec. 5622. Conditions for operation

-STATUTE-

(a) License required for operation

No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any *private* remote sensing space system without a license pursuant to section 5621 of this title.

(b) Licensing requirements

Any license issued pursuant to this subchapter shall specify that the licensee shall comply with all of the requirements of this chapter and shall -

(1) operate the system in such manner as to preserve the national security of the United States and to observe the

international obligations of the United States in accordance with section 5656 of this title;

(*2*) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions;

(3) make unenhanced data designated by the Secretary in the license pursuant to section 5621(e) of this title available in accordance with section 5651 of this title;

(4) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, and inform the Secretary immediately of any deviation; and

(6) notify the Secretary of any significant or substantial agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

(c) Additional licensing requirements for Landsat 6 contractor

In addition to the requirements of paragraph (FOOTNOTE 1) (b), any license issued pursuant to this subchapter to the Landsat 6 contractor shall specify that the Landsat 6 contractor shall -

(FOOTNOTE 1) So in original. Probably should be ''subsection''.

(1) notify the Secretary of any value added activities (as defined by the Secretary by regulation) that will be conducted by the Landsat 6 contractor or by a subsidiary or affiliate; and

(*2*) if such activities are to be conducted, provide the Secretary with a plan for compliance with section 5651 of this title.

-SOURCE-

(Pub. L. 102-555, title II, Sec. 202, Oct. 28, 1992, 106 Stat. 4172; Pub. L. 105-303, title I, Sec. 107(f)(*2*), Oct. 28, 1998, 112 Stat. 2854.)

-MISC1-

AMENDMENTS

1998 - Subsec. (b)(6). Pub. L. 105-303 inserted ''significant or substantial'' after ''Secretary of any''.

-SECREF-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5621 of this title.

-CITE-

15 USC Sec. 5623 01/22/*02*

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE

CHAPTER 82 - LAND REMOTE SENSING POLICY

SUBCHAPTER II - LICENSING OF *PRIVATE* REMOTE SENSING SPACE SYSTEMS

-HEAD-

Sec. 5623. Administrative authority of Secretary

-STATUTE-

(a) Functions

In order to carry out the responsibilities specified in this subchapter, the Secretary may -

(1) grant, condition, or transfer licenses under this chapter;

(*2*) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses under this subchapter and to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this chapter, with any terms, conditions, or

restrictions of such license, or with any international obligations or national security concerns of the United States.

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this subchapter, including civil penalties not to exceed $10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report pursuant to a warrant from a magistrate based on a showing of probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this chapter or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this chapter.

(b) Review of agency action

Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), (a)(5), or (a)(6) of this section shall be entitled to adjudication by the Secretary on the record after an opportunity for any agency hearing

with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5.

-SOURCE-

(Pub. L. 102-555, title II, Sec. 203, Oct. 28, 1992, 106 Stat. 4172.)

-CHANGE-

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

-CITE-

15 USC Sec. 5625 01/22/*02*

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE

CHAPTER 82 - LAND REMOTE SENSING POLICY

SUBCHAPTER II - LICENSING OF *PRIVATE* REMOTE SENSING SPACE SYSTEMS

-HEAD-

Sec. 5625. Agency activities

-STATUTE-

(a) License application and issuance

A *private* sector party may apply for a license to operate a *private* remote sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to this subchapter, may license such system if it meets all conditions of this subchapter and -

(1) the system operator agrees to reimburse the Government in a timely manner for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(*2*) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) Assistance

The Secretary may offer assistance to *private* sector parties in finding appropriate opportunities for such utilization.

(c) Agreements

To the extent provided in advance by appropriation Acts, any United States Government agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) Applicability

This section does not apply to activities carried out under subchapter III of this chapter.

(e) Effect on FCC authority

Nothing in this subchapter shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

-SOURCE-

(Pub. L. 102-555, title II, Sec. 205, Oct. 28, 1992, 106 Stat. 4173.)

-REFTEXT-

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (e), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (Sec. 151 et seq.) of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

practicable to complete this review within the normal statutory time limit. Therefore, the Department is extending the time limits for completion of the final results until February 3, 2004, in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: September 25, 2003.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–25159 Filed 10–2–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092903D]

Proposed Information Collection; Comment Request; Licensing of Private Land Remote-Sensing Space Systems

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 2, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Timothy Stryker at (301) 713–2024, ext 205, or e-mail *Timothy.Stryker@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

NOAA has established requirements for the licensing of private operators of remote-sensing space systems. The information in applications and subsequent reports is needed to ensure compliance with the Land Remote-Sensing Policy Act of 1992 and with the national security and international obligations of the United States. The requirements are contained in 15 CFR Part 960.

II. Method of Collection

Applicants are asked to provide electronic copies of submissions.

III. Data

OMB Number: 0648–0174.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 13.

Estimated Time Per Response: 40 hours for a license application; 10 hours for a license amendment; 2 hours for a notification of a foreign agreement; 1 hour for an executive summary; 2 hours for a notification of the demise of a system or the decision to discontinue system operations; 2 hours for a notification of any operational deviation; 5 hours for submission of a data collection restriction plan; 3 hours for submission of an operation plan for restricting collection or dissemination of dat concerning Israeli territory; 3 hours for a data flow diagram; 1 hour for a drawing of satellite sub-systems; 2 hours for submission of spacecraft operational information when a satellite becomes operational; 2 hours for a notification of a disposition/orbital change or of planned purges of information; 3 hours for an operational quarterly report; 8 hours for an annual compliance audit; and 10 hours for an annual operational audit.

Estimated Total Annual Burden Hours: 314.

Estimated Total Annual Cost to Public: $1,000.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–25143 Filed 10–2–03; 8:45 am]

BILLING CODE 3510–HR–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092903E]

Proposed Information Collection; Comment Request; Fisheries Certificate of Origin

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 2, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Donley at 562–980–4033, or e-mail *Pat.Donley@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information required by the International Dolphin Conservation Program Act (IDCPA), amendments to the Marine Mammal Protection Act (MMPA), is needed: to document the dolphin-safe status of tuna import shipments and domestic deliveries of tuna by U.S.-flag purse seine fishing vessels; to verify that import shipments of fish were not harvested by large-scale, high seas driftnets; and to verify that tuna was not harvested by an embargoed