

## §960.13

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

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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 than \$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);