



# NOAA's Jurisdiction to License Private Space-based Remote Sensing Systems

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# The Statute

- The National and Commercial Space Programs Act of 2010, (formally the Land Remote Sensing Policy Act of 1992), provides no person who is subject to the jurisdiction or control of the U.S. may operate a private remote sensing space system without a license
- The Act authorizes the Secretary of Commerce to license private parties to operate private remote sensing space systems
  - No jurisdiction to license U.S. Government systems
  - “private” includes commercial systems as well as non profit systems (e.g. university owned and operated systems)
- The Secretary’s authority is limited to the remote sensing operations of a space system
- The Secretary can grant a license only upon determining the applicant will comply with the Act, regulations issued pursuant to the Act and applicable international obligations and national security concerns of the United States



# The Regulations -15 CFR Part 960

- Set forth the requirements for U.S. persons to obtain a license to operate a private space-based remote sensing system and NOAA's regulation and monitoring to ensure compliance with the Act
- Apply to any “person” subject to the jurisdiction or control of the U.S. who:
  - Operates or proposes to operate a private “remote sensing space system” directly or indirectly and/or
  - Establishes substantial connections with the U.S
- “Person” is defined broadly to include corporations, partnerships, associations, corporate subsidiaries or affiliates, etc
- “Remote sensing space system” is defined as any device, instrument, the space borne platform (finite number of satellites) and related facilities “capable” of sensing the “Earth’s surface” “from space” making use of the electromagnetic waves emitted by the sensed object



# Jurisdictional Considerations

- NOAA's authority is to license systems “capable” of sensing the “Earth’s surface”, “from space” regardless of intent
  - Factual determination made on a case-by-case basis
  - The Earth’s surface does not include its atmosphere or communications signals
  - The system must include a space borne satellite(s), i.e, not operated from within the Earth’s atmosphere and must be in Earth orbit
  - If the system is “capable”, NOAA may set conditions on how the remote sensing imager is operated (e.g., system may not image NEI)
- For “capable” systems, NOAA’s authority extends to other system operations such as data protection data , system disposal, etc.
- NOAA does not have jurisdiction over non-remote sensing instruments included on spacecraft (e.g., Comsat, atmospheric sounder, AIS)