Remote Sensing Regulatory Reform

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ACCRES Meeting
June 23, 2020
Agenda

- Paradigm Shift
- Final Rule Details
Paradigm Shift

Traditional View

U.S. Commercial Capabilities

Tactical Risk to National Security
Paradigm Shift

Pitfalls of Traditional View
Paradigm Shift

Pitfalls of Traditional View
Paradigm Shift

Final Rule Approach

- Focus only on what is controllable
- Allow U.S. systems to lead global market
- Shift risk burden to U.S. Government
- Protect national interests by attracting businesses
- Regulations should be transparent, proactive, and adaptable to global market commercial capability
- Use hyper-tailored shutter control for emergencies
Final Rule Details

Final Rule Logistics

- Published May 20, 2020
- Comments accepted through June 19, 2020
- Effective July 20, 2020
- New licenses sent to licensees July 20, 2020
Final Rule Details

Subpart A—General
- Sec. 960.1 Purpose.
- 960.2 Jurisdiction.
- 960.3 Applicability to existing licenses.
- 960.4 Definitions.

Subpart B—License Application Submission and Categorization
- 960.5 Application submission.
- 960.6 Application categorization.

Subpart C—License Application Review and License Conditions
- 960.7 License grant or denial.
- 960.8 Standard license conditions for all tiers.
- 960.9 Additional standard license conditions for Tier 2 systems.
- 960.10 Additional standard and temporary license conditions for Tier 3 systems.
- 960.11 No additional conditions.
- 960.12 Applicant-requested waiver before license issuance.
- 960.13 Licensee-requested modification after license issuance.
- 960.14 Routine compliance and monitoring.
- 960.15 Term of license.

Subpart D—Prohibitions and Enforcement
- 960.16 Prohibitions.
- 960.17 Investigations and enforcement.

Subpart E—Appeals Regarding Licensing Decisions
- 960.18 Grounds for adjudication by the Secretary.
- 960.19 Administrative appeal procedures.

Appendices
- Appendix A to Part 960—Application Information Required
- Appendix B to Part 960—Application Submission Instructions
- Appendix C to Part 960—License Template
- Appendix D to Part 960—Memorandum of Understanding
Final Rule Details

License Tiers

- **Tier 1**: system capable of producing data substantially the same as data available from sources outside Commerce’s jurisdiction (such as foreign sources)

- **Tier 2**: system capable of producing data substantially the same as data available only from Commerce licensees

- **Tier 3**: system capable of producing data substantially the same as no other available data
Final Rule Details

Tier 1 Conditions

- Statutory conditions (such as sensed-state principle)
- No other conditions
  - No shutter control
  - No retroactive conditions
Final Rule Details

Tier 2 Conditions

- Statutory conditions
- Shutter control
- Minimal non-Earth imaging condition
- No retroactive conditions
Final Rule Details

Tier 3 Conditions

- Statutory conditions (such as sensed-state principle)
- Shutter control
- Minimal non-Earth imaging condition
- Possibility of temporary, custom conditions
  - Developed in consultation with Defense, IC, State
  - Must meet First Amendment requirements
  - Temporary (1 year, extendable twice)
- Focus on U.S.G. mitigation
- No retroactive conditions
Final Rule Details

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