



441 G St. N.W.  
Washington, DC 20548

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June 2, 2020

The Honorable Roger Wicker  
Chairman  
The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Eddie Bernice Johnson  
Chairwoman  
The Honorable Frank Lucas  
Ranking Member  
Committee on Science, Space, and Technology  
House of Representatives

Subject: *Department of Commerce, National Oceanic and Atmospheric Administration:  
Licensing of Private Remote Sensing Space Systems*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) entitled “Licensing of Private Remote Sensing Space Systems” (RIN: 0648-BA15). We received the rule on April 10, 2020. It was published in the *Federal Register* as a final rule; request for comments on May 20, 2020. 85 Fed. Reg. 30790. The effective date of the rule is July 20, 2020.

According to NOAA, the final rule substantially revises the regulations for licensing the operation of private remote sensing space systems under the Land Remote Sensing Policy Act of 1992, Pub. L. No. 102-555, 106 Stat. 4163 (1992). NOAA stated the changes in the final rule reflect significant changes in the space-based remote sensing industry since the last time the regulations were updated and to modernize NOAA’s regulatory approach.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The final rule was published in the *Federal Register* on May 20, 2020. 85 Fed. Reg. 30790. The *Congressional Record* indicated the Senate received the final rule on May 4 but did not indicate when the House received the final rule. 166 Cong. Reg. S2378 (daily ed. May 12, 2020). The final rule has a stated effective date of July 20, 2020. If the House received the final rule by May 20, then the final rule does have the required 60-day delay in its effective date.

Enclosed is our assessment of NOAA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large, looped initial "S".

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Stephen Volz  
Assistant Administrator for Satellite  
and Information Services  
National Oceanic and Atmospheric Administration  
Department of Commerce

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF COMMERCE,  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
ENTITLED  
“LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS”  
(RIN: 0648-BA15)

(i) Cost-benefit analysis

The Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) stated it believes that the final rule will result in no incremental costs to society as compared with the status quo.

NOAA also stated it believed the final rule would benefit society because it promotes the growth and continued innovation of the U.S. remote sensing industry. NOAA further stated another benefit to society is to preserve long-term U.S. national security, even though it would be hard to quantify.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

NOAA prepared a Final Regulatory Flexibility Analysis as required by RFA. The analysis included a discussion of the economic impact the final rule is anticipated to have on small entities in the space-based remote sensing industry; a description of the reasons for the action, the objectives of and legal basis for the final rule; a description of the reporting, recordkeeping, and compliance requirements; and a discussion whether there are other relevant federal rules that duplicate, overlap, or conflict with this rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

NOAA determined the final rule does not contain an unfunded mandate of \$100 million or more as described in the Act and does not significantly or uniquely affect small governments.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 14, 2019, NOAA published a proposed rule. 84 Fed. Reg. 21282. NOAA received 27 comments from industry groups; commercial entities who are currently licensed and will be subject to the final rule; commercial entities who are not licensed or who will not likely be subject to the final rule; academics; and other interested parties. NOAA responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

NOAA determined the final rule contains an information collection requirement (ICR) under the Act. The ICR is associated with Office of Management and Budget (OMB) Number 0648-0174. NOAA stated the ICRs would be submitted to OMB for review. NOAA estimated the ICRs would have an impact of 21 burden hours.

Statutory authorization for the rule

NOAA promulgated the final rule pursuant to section 60124 of title 51, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

NOAA determined the final rule is significant under the Order.

Executive Order No. 13,132 (Federalism)

NOAA determined the final rule does not have federalism implications under the Order.