

**Before the
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
PRA OFFICER
Asheville, NC 28801**

In the Matter of)	
)	
Notice of Proposed Information Collection;)	NOAA-2019-21991
Comment Request; Commercial Remote)	
Sensing)	

COMMENTS OF MAXAR TECHNOLOGIES INC.

I. INTRODUCTION

Maxar Technologies Inc.¹ agrees with the Department of Commerce’s (“Department” or “Commerce”) “continuing effort to reduce paperwork and respondent burden” and supports streamlining information collections imposed on the private space-based remote sensing industry.² Unnecessary and time-intensive information demands impact the competitiveness of U.S.-based companies by diverting resources from the development of innovative technologies and advanced product solutions. Such requirements also impede U.S. businesses’ ability to compete internationally against companies not subject to similar compliance regimes.

Maxar shares the Department’s desire to unleash innovation, spur growth, and maintain a competitive advantage for U.S. companies. To do so, Commerce must modernize and revise its information collection practices to ease burdensome requirements. The Department should also work with sister agencies across the federal government to reduce duplicative and overlapping reporting requirements, incorporate already-filed applications in relevant reviews, and adopt prior related decisions of other agencies. This, coupled with an easing of increasingly high administrative and compliance demands, will help cement U.S.-based companies as leaders in the commercial space industry.

Maxar has made clear in response to NOAA’s recent request for comment and *Notice of Proposed Rulemaking*,³ that existing regulations such as “short notice” inspections are unduly burdensome and have a chilling effect on U.S. business. Facility inspections account for a significant use of company resources, including travel time, administrative coordination and

¹ “Maxar” appreciates the opportunity to comment on the Department of Commerce’s (“Department” or “Commerce”) *Notice on Proposed Information Collection; Comment Request; Commercial Remote Sensing*, 84 Fed. Reg. 54120 (Oct. 9, 2019) (“*Notice*”).

² *Notice* at 54120.

³ *Licensing Private Remote Sensing Space Systems*, Notice of Proposed Rulemaking, 84 Fed. Reg. 21282 (May 14, 2019) (“*NPRM*”).

processing, as well as substantial dollars spent on foreign travel for company personnel. Maxar asserts that the Department can fundamentally reduce its impact on companies, and NOAA itself, by instead utilizing certifications in lieu of expensive and inefficient foreign on-site inspections. Additionally, Maxar has advocated that the Department adopt a “deemed granted” approach to applications that are substantially similar to those already approved by NOAA.

Removing these barriers and modernizing NOAA’s information collection practices will facilitate the swift deployment of new, innovative technologies and provide an immediate boost to U.S. companies and domestic job creation. Beyond this, it will also benefit the U.S. government, which is a major consumer of commercial remote sensing products and solutions.

II. BACKGROUND

Maxar is a leading global provider of advanced space technology solutions, delivering unmatched end-to-end capabilities in satellites, robotics, Earth imagery, geospatial data, analytics, and insights. The world’s foremost businesses and governments trust Maxar to solve their most mission-critical challenges. With roughly 5,900 employees in more than 30 global locations, and approximately 4,000 of those employees in the U.S., Maxar formed by uniting the industry-leading space companies of DigitalGlobe, SSL, MDA, and Radiant Solutions. Every day, billions of people rely on Maxar to communicate, share information and data, and deliver global insights. Maxar is involved in nearly all aspects of commercial space operations from planning, design and construction, to launch and deployment, through ongoing orbital maneuvers and the delivery of products and services to customers.⁴

Maxar subsidiary DigitalGlobe was granted the first U.S. license to operate a high-resolution commercial imaging satellite in 1993 and, today, it continues to provide groundbreaking enhanced Earth imagery and geospatial information. As the first and only company to deliver true 31 cm resolution imagery, DigitalGlobe offers state-of-the-art services from environmental monitoring and mapmaking, to capturing mission-critical images in support of defense and public safety-related operations.

Technology and the global competitive landscape have changed dramatically in the past quarter-century, and overly burdensome compliance and paperwork requirements put U.S. firms at a disadvantage in the international marketplace. Maxar and DigitalGlobe are longstanding, trusted partners of the U.S. government, providing critical support to intelligence, defense, and other agency missions that help protect the national security of the United States.

⁴ Maxar’s Space Solutions division delivers integrated space technologies and systems for communications, exploration, data gathering, and next-generation services. Maxar Space Solutions designs and manufactures innovative spacecraft and space-related systems with an advanced product line that includes high-power geostationary satellites, state-of-the-art small satellites, and next-generation robotics and automation. Maxar’s Canadian-based subsidiary, MDA, develops and delivers advanced surveillance and intelligence solutions, defense and maritime systems, radar geospatial imagery, space-based robotics, satellite antennas, and communication subsystems. Maxar’s Radiant Solutions group combines more than 1,000 aerospace engineers, geospatial analysts, weather and ocean experts, software developers, data scientists, and DevOps engineers to provide unmatched geospatial information and insights to solve both national security and commercial challenges.

This substantial expertise establishes Maxar as a key stakeholder in the remote sensing industry, and the company possesses a unique ability to respond to the present request for comment. Maxar supports the aim of this *Notice* and broader federal efforts called for by the recent U.S. Government Space Policy Directives to “[f]oster continued growth and innovation in the U.S. commercial space sector” and “streamline processes and reduce regulatory burdens that could inhibit commercial sector growth and innovation, enabling the U.S. commercial sector to continue to lead the world in [commercial space]-related technologies, goods, data, and services on the international market.”⁵ To “ensure that the United States remains the world leader in this strategic industry,”⁶ information collections and related requirements must allow U.S. remote sensing operators the flexibility and agility to invest, innovate, and compete globally, as required by the Paperwork Reduction Act (“PRA”).⁷

Where there are not essential national security concerns, and such modifications are ministerial, it is unnecessary to drain the resources of both the U.S. Government and operators. Streamlining information collection and removing duplicative reporting requirements represent common-sense steps that align with the goals of the Administration and Congress.

III. THE CURRENT INFORMATION COLLECTION REQUIREMENTS ARE OVERBROAD AND UNNECESSARY

Maxar applauds the Department’s willingness to take a hard look at its role in the regulatory environment. This *Notice* was issued to assist the Department in “reduc[ing] paperwork and respondent burden...as required by the Paperwork Reduction Act of 1995.”⁸ The PRA was enacted by Congress with several stated purposes.⁹ Most relevant to these present comments, Congress sought to:

- “minimize the paperwork burden for individuals, small businesses ... Federal contractors ... and other persons resulting from the collection of information by or for the Federal Government;”¹⁰
- “ensure the greatest possible public benefit from and maximize the utility of information ... collected ... by or for the Federal Government;”¹¹ and
- “coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public[.]”¹²

⁵ The White House, Presidential Memoranda, *Space Policy Directive-3, National Space Traffic Management Policy* (Jun. 18, 2018).

⁶ *NPRM* at 21282.

⁷ *Notice* at 54120.

⁸ *Notice* at 54120.

⁹ 44 U.S.C. §3501 *et seq.*

¹⁰ *Id.* §3501 (1).

¹¹ *Id.* §3501 (2).

¹² *Id.* §3501 (3).

In the *Notice*, the Department seeks feedback on 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.”¹³ NOAA has authority to regulate commercial remote sensing under the Land Remote Sensing Policy Act of 1992 and associated regulations.¹⁴ However, as explicitly noted in the *NPRM*, while the Act permits the Commerce Secretary the authority to issue related regulations in the *Federal Register*, “**regulations are not required.**”¹⁵ This admission, taken with the Commerce’s overall goal of promoting U.S. leadership and enhancing competitiveness, lead to the conclusion that any adopted regulations—including proposed information collections applicable to licensees—should be as clear and limited as possible and at aimed at reducing unnecessary administrative burdens.

The volume, breadth, and scope of the information that NOAA regulates under its authority to grant licenses for commercial remote sensing is expansive. Application details and other information requested by NOAA include highly complex technical analyses and proprietary information that take an immense amount of resources to collect, monitor, report, and update. The Department should work diligently to reduce the overall burden imposed on U.S. operators, especially given rising international competition in this strategically important industry.

IV. THE DEPARTMENT’S ESTIMATED TIME BURDENS SIGNIFICANTLY UNDERESTIMATE ACTUAL TIME DEMANDS AND COSTS

Commerce also seeks information on “the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information.”¹⁶ Maxar believes that NOAA significantly misjudges the time and cost burdens its reporting requirements and collections have on *licensees*. The massive amount of information collected, ongoing reporting, and document productions is detrimental to U.S. operators.

As outlined previously, Maxar is an advanced space-based remote sensing operator that manages and operates state-of-the-art networks and classified and unclassified systems. Operating and maintaining compliance for these advanced networks and systems presents complexities and time burdens significantly greater than those itemized in the *Notice*.¹⁷ The *Notice* frames the estimated burden hours in terms of “hours for the submission” of an application, plan, or similar report. It appears to completely overlook the hundreds, and sometimes, thousands of hours that go into ongoing compliance efforts and preparation prior to submission. This is especially true for advanced operators, like Maxar.

Beyond overlooking the enormous amount of time built in to ongoing monitoring and compliance efforts, the *Notice*’s “Public” costs—estimated to total \$2,777—are drastically miscalculated if that is intended to reflect actual operator costs.

¹³ *Notice* at 54121.

¹⁴ *See* 51 U.S.C. 60101 *et seq.*; 15 CFR part 960.

¹⁵ *NPRM*, 21288 (emphasis added).

¹⁶ *Notice* at 54121.

¹⁷ *Notice* at 54121. At a base level, Commerce estimates the total annual burden hours to be 1,533, and the total annual cost to the public to be \$2,777 in recordkeeping and reporting costs. *Id.*

It is possible that Commerce, has adopted these estimates from less-advanced research and academic remote sensing systems, which do not possess the same capabilities as Maxar. However, the aim of the *Notice* is to “reduce paperwork and respondent burden”¹⁸ not just for less complex system operators, but all respondents, including those with advanced systems.

V. ENHANCING THE QUALITY AND UTILITY OF THE INFORMATION COLLECTED & MINIMIZING THE BURDEN OF COLLECTION OF INFORMATION ON RESPONDENTS

While Maxar cannot comment on internal agency efficiencies or assess how the Department utilizes its resources, it can address the burdens and delays that prolonged agency reviews and lengthy timelines have on U.S. operators. Maxar urges the Department to align its application and reporting requirements with the stated purpose of the PRA, to “minimize the paperwork burden ... resulting from the collection of information by or for the Federal Government.”¹⁹

A. The Department should work to streamline reporting and information collection requirements across the federal government.

As called for by the PRA,²⁰ Maxar encourages the Department and NOAA to work with other lead federal agencies to avoid redundant regulatory requirements, joint jurisdiction, and overlapping information collection processes.

The Administration has recognized that technology and the global competitive landscape have changed dramatically, and unnecessary commercial remote sensing regulatory burdens put U.S. firms at a disadvantage in the international marketplace. The stated commercial remote sensing priorities of the Department and the National Space Council are to “[e]ncourage companies to do business in the United States; help businesses maintain a competitive advantage here; facilitate the growth of this important industry; and support innovation within it.”²¹ Indeed, as part of its recent *NPRM*, Commerce and NOAA made clear that “technological and other developments have highlighted ambiguities in the current regulatory regime” and that they “wish to relieve any unnecessary regulatory burdens in the remote sensing area.”²² Overly burdensome information collections must also follow suit.

The Congressional Research Service (“CRS”) has underscored the complex, multi-jurisdictional regulatory structure impacting the commercial space industry and commercial remote sensing operators:

¹⁸ *Notice* at 54120.

¹⁹ 44 U.S.C. §3501 (1).

²⁰ 44 U.S.C. §3501 (3) (requiring Federal Agencies, to “coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public[.]”).

²¹ *Licensing Private Remote Sensing Space Systems*, Advanced Notice of Proposed Rulemaking, 83 Fed. Reg. 30592, 30593 (June 29, 2018).

²² *Id.*

“Multiple federal agencies regulate the commercial space industry, based on statutory authorities that were enacted separately and have evolved over time. The Federal Aviation Administration (FAA) licenses commercial launch and reentry vehicles (i.e., rockets and spaceplanes) as well as commercial spaceports. The National Oceanic and Atmospheric Administration (NOAA) licenses commercial Earth remote sensing satellites. The Federal Communications Commission (FCC) licenses commercial satellite communications. The Departments of Commerce and State license exports of space technology. In response to industry concerns about the complexity of this regulatory framework, the Administration and Congress have made several reform proposals, including Space Policy Directive–2, Streamlining Regulations on Commercial Use of Space; the American Space Commerce Free Enterprise Act (H.R. 2809); and the Space Frontier Act of 2018 (S. 3277).”²³

Many of NOAA’s licensees are also subject to the requirements of multiple agencies, including the FAA, FCC, and others. Where these other agencies have underlying information collections or redundant requirements that overlap, NOAA should accept the relevant document submissions made to and grant determinations made by that sister agency. Further, NOAA should not reevaluate an underlying decision or require additional documentation for decisions or application materials that are substantially similar to those previously submitted by an existing licensee. Accepting certifications made by a licensee, would remove unnecessary duplicate reviews of substantially similar applications—saving the resources of both operators and the federal government.

Recently, the grant of one of Maxar’s licenses took more than six months to be approved by NOAA. This greatly exceeds the approval period outlined in the regulations adopted by the Department.²⁴ While Maxar is well-aware of the interagency review process of applications, such a delayed result is not aligned with the timelines in the regulation and is counter to the objectives of the Department to reduce burdens overall.

Improved and enhanced coordination across the federal government will not reduce or dilute the underpinning role of NOAA in the regulation of space-based commercial remote sensing, or broader national security interests. Permitting deference to sister agencies would not diminish the government’s broader national security and foreign policy interest missions because those agencies are also directed make licensing determinations by accounting for those interests. For example, the Commercial Space Launch Act bestows the agency with a national security and foreign policy interest obligation.²⁵ In certain circumstances, adopting the decisions of other

²³ Congressional Research Service, *Commercial Space: Federal Regulation, Oversight, and Utilization*, Summary (Updated Nov. 29, 2018) available at: <https://fas.org/sgp/crs/space/R45416.pdf>.

²⁴ See 15 C.F.R. Part 960. (“[T]he 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.”)

²⁵ See 51 U.S.C. §50901, *et seq.* (“§ 50901(a)(6) providing launch services and reentry services by the private sector is **consistent with the national security and foreign policy interests of the United States** and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied; (7) providing launch services and reentry services by the private sector is **consistent with the national security and**

agencies will streamline unduly repetitive filings and security reviews that are being relied on elsewhere in government.

Requiring information to be re-reported is burdensome not only for the applicant—because it takes additional money and time (in both preparing the application and waiting for its ultimate approval) — but it is an inefficient use of limited government resources. The Department’s staff need not perform secondary reviews on top of their federal counterparts. Reporting to and seeking the same approvals from two or more U.S. Government agencies does not serve the public interest. Multiple reviews of the same or substantially similar materials does not result in more effective decisions, but rather delays and costs that hurt U.S. industry. Such inefficiencies in regulatory regimes are outdated, counter to sound public policy, and should be avoided.

Indeed, this specific issue was raised by the CRS as a key topic for policymakers to address:

“How can the commercial space licensing process be made simpler, more timely, and more transparent? One focus of this discussion has been the **process for interagency consultation on license applications for commercial remote sensing satellites.**”²⁶

CRS continues that although:

“[A] challenge for that process is balancing industry’s need for timeliness and transparency with the government’s need to meet national security and foreign policy objectives. **The rapidly advancing capabilities of foreign government and commercial satellites make identifying the appropriate balance more difficult, because if sensitive imagery can be obtained elsewhere, prohibiting U.S. companies from providing it may have few security benefits.**”²⁷

Overlapping regulatory regimes do not serve the public good, limit the competitiveness of U.S. operators by hampering them with redundant compliance obligations, and waste valuable government resources. Further, certain interagency security concerns that delay or prohibit imaging entirely may be made moot by international competition, unencumbered by U.S. regulatory regimes. As already identified by the CRS, the Department should work across government to limit and coordinate overlapping areas of jurisdiction and demands for substantially similar information.

foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied.”) (emphasis added).

²⁶ Congressional Research Service, *Commercial Space: Federal Regulation, Oversight, and Utilization*, Summary (Updated Nov. 29, 2018) available at: <https://fas.org/sgp/crs/space/R45416.pdf>.

²⁷ *Id.* at 24 (emphasis added).

B. Short- or No-Notice Inspections Harm U.S. Businesses.

As detailed in comments submitted to NOAA in response to its *NPRM on Licensing Private Remote Sensing Space Systems*,²⁸ Maxar encourages the Department to interpret the operating conditions requiring licensees to allow inspection access “at all reasonable times”²⁹ clause in light of real-world limitations. Such a practice presents an excessive cost not only to NOAA, but to operators as well, who must travel internationally, at times on “short notice”, which does not serve to improve the country’s national security posture.

Maxar believes it unreasonable to expect foreign-controlled or foreign-sited facilities to be amenable to U.S. Government no- or short-notice inspections, especially with respect to foreign-controlled or foreign-sited facilities that are expected to comply with in-country national security restrictions and support classified operations. Further, decisions to allow access to certain facilities are often beyond the control of the operator. For instance, no U.S. licensee can guarantee that foreign site personnel will be available during local holidays, that a U.S. Government official will be granted a visa (if required) upon request, or that a U.S. Government official will be granted instantaneous access, if a facility is co-located with a foreign government installation. Such inspections can take several days, including travel, and are costly both to the licensee and the agency performing inspection.

The Department should consider adopting a policy of licensee certification instead of unannounced audits and on-site inspections. This would ease overall costs and burdens on both the operator and the Government.

²⁸ *NPRM* at 21282.

²⁹ 15 C.F.R. § 960.11(3).

VI. CONCLUSION

Maxar appreciates the opportunity to provide comments on NOAA's *Notice* and its continued effort to reduce paperwork and respondent burdens. This effort aligns with the Department's leadership in reducing unnecessary red tape for satellite operators and the Administration's overall goal of promoting the U.S. commercial space industry. If the Department heeds these guideposts, it will benefit satellite service customers and the general public. Overly burdensome reporting requirements cap innovation, foreclose small windows of opportunity for commercialization, limit growth potential, and enable foreign competitors to rapidly advance technology to the detriment of U.S. licensees. Modernizing and simplifying NOAA's information collection practices will also benefit the government by preserving its resources and allowing companies to spend their precious time and resources on developing new innovations, advancing customer solutions, and domestic job creation.

Respectfully submitted,

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