

Specialized NOAA Environmental Satellite-Derived Data, Products, and Services Requested by External Users

Recommended Practice

Version 1.0

VERSION NOTE: This is version 1.0 of this NOAA recommended practice. Before you proceed with implementation, we recommend that you check to be sure this is the most recent version available. You can check to see what the current version is, download any updates and access additional implementation resources at the following permanent URL:

<https://www.nosc.noaa.gov/EDMC/RP.SDR.php>

NOAA Environmental Data Management Committee

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VERSION HISTORY

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1. Purpose

The Conference report which accompanied H.R. 2112, Public Law 112-55, contained the following language: *“Further, the conferees direct NOAA to outline a framework for developing a compensation policy that would enable NOAA to be reimbursed as appropriate for the use of specialized data products derived from NOAA satellite imagery and data.”* The Conference report also incorporated direction given by the United States Senate in Senate Report 112-78 that *“NOAA shall be reimbursed for any special products, services, data transfers, or any activities conducted in collaboration with any other Federal agency or non-Federal entity per section 112 of this title.”* NOAA developed this document in response to that Congressional direction.

Consistent with Federal policy directives, NOAA provides the majority of its data and products derived from NOAA Earth observation satellites on a full and open basis. Outside of the NOAA National Data Centers (NNDC), NOAA receives few requests for specialized products or services that it does not normally produce. And in the case of the NNDCs, the number of requests is declining. The NOAA National Environmental Satellite, Data, and Information Service (NESDIS) has several policies and methods for handling requests for specialized data, products or services. And although the provision of satellite data and services is a primary responsibility of NOAA/NESDIS, other NOAA components are also users of NOAA satellite data. Therefore, a guidance document could be of use outside of NESDIS, should other units receive external requests for specialized satellite data, products or services.

The scope of this guidance includes specialized data and products from NOAA satellites, or specialized access to those data and products that are requested by an external (non-NOAA) customer, and are not currently produced by NOAA. This document identifies relevant existing policies and practices regarding specialized data or services, thereby providing a supplemental reference for NOAA employees. It describes NOAA’s legal authority to charge fees and identifies resources and tools regarding fees for such data, products, and services.

2. Authority

The authority for this framework is explicitly defined in NOAA Administrative Order (NAO) 212-15 titled *Management of Environmental and Geospatial Data and Information*, which established NOAA’s Environmental Data Management Committee (EDMC) to identify, develop, and approve procedural directives in order to improve management of NOAA environmental data. The present document will be maintained under the auspices of the NAO 212-15.

The following Federal statutes and policies provide authorization for NOAA to assess fees. The text of each statute and policy are not repeated in their entirety but may be accessed at the cited links.

1. 15 U.S.C. § 1525, Special Studies; Special Compilations, Lists, Bulletins, or Reports. The Secretary of Commerce is authorized, upon the request of any person, firm, organization, or others, public or private, to make special studies, reports, etc. on matters within the authority of the Department upon the payment of the actual or estimated cost of such special product or service. The Secretary is au-

thorized by 15 U.S.C. § 1526 to retain such payments to cover the cost of providing specialized products or services. <http://www4.law.cornell.edu/uscode/15/1525.html>

2. 44 U.S.C. § 3506 (d) (4) (D), Paperwork Reduction Act. With respect to information dissemination, each agency shall not, except where specifically authorized by statute, establish fees for public information that exceed the cost of dissemination. [http://www.law.cornell.edu/uscode/44/3506%20\(d\).html](http://www.law.cornell.edu/uscode/44/3506%20(d).html)
3. 31 U.S.C. § 1535, The Economy Act. This Act provides general authority for agencies to obtain goods and services from other government agencies on a cost reimbursable basis. <http://www.casu.gov/authority/usc1535.html>
4. 15 U.S.C. § 1534, Assessment of Fees for Access to Environmental Data. NOAA is authorized to assess fees, based on Fair Market Value (FMV) (up to FMV as clarified by NOAA's Office of General Counsel) for access to environmental data and information and products derived from, collected, and/or archived by NOAA. NOAA shall provide this data, information, and products to Federal, State, and local government agencies, to universities, and to other nonprofit institutions at the cost of reproduction and transmission, if such data, information, and products are to be used for research and not for commercial purposes. NOAA is required to waive the assessment of fees as necessary to provide data, information or products to foreign governments and international organizations as part of ongoing data exchange activities and to continue to provide weather warnings, watches and similar products and services. <http://www.law.cornell.edu/uscode/15/1534.html>
5. OMB Circular A-130, Management of Federal Information Resources. Agencies will set user charges for information dissemination products at a level sufficient to recover the cost of dissemination but no higher. <http://www.whitehouse.gov/omb/circulars/a130/a130trans4.pdf>

3. Guidance for Assessing Fees for Specialized NOAA Satellite-Derived Data and Products

This section provides guidance for NOAA regarding when it is appropriate to assess fees for specialized satellite-derived data, products, and services. While mention is made concerning policies and procedures for charging fees, it is expected that when a decision is made to charge a fee, the involved office will consult with their financial office, General Counsel, and line office management, as appropriate.

3.1 Produce Data, Products and Services Consistent with NOAA Mission

NOAA should only produce data, products and services that are appropriate to its mission. In addition, NOAA should follow the guidelines described in the *NOAA Policy on Partnerships in the Provision of Environmental Information (NOAA Administrative Order 216-112)*.¹ This policy acknowledges the importance of NOAA to the private sector, and likewise the importance and suitability of the private sector to provide services to the public in areas related to NOAA's mission. It directs that "NOAA has a responsibility to foster the growth of [the weather] enterprise as a whole to serve the public interest and the Nation's economy. The Nation benefits from government infor-

¹ <http://www.noaa.gov/partnershippolicy/>

mation disseminated both by federal agencies and by diverse nonfederal parties, including commercial and not-for-profit entities. This policy commits NOAA to give due consideration to these abilities, and to consider the effects of its decisions on the activities of these entities in accordance with applicable law and government-wide policy. NOAA will not haphazardly institute significant changes in existing information dissemination activities, or introduce new services, without first carefully considering the full range of views and capabilities of all parties as well as the public's interest in the environmental information enterprise."

The best way to understand how a request fits into the NOAA mission and other applicable policies is to discuss the request with the appropriate NOAA program and Line Office management, and possibly with the NOAA Office of General Counsel.

3.2 Consider Policy Goals and Interagency or International Agreements

There is a significant policy framework in the United States, as reaffirmed by recent guidance from the Office of Science and Technology Policy and consistent with many years' practice, that supports full and open access to environmental data (Appendices E and F). The *National Strategy for Civil Earth Observations*, issued by the National Science and Technology Council, states that "Earth observations should be fully and openly available to all users promptly, in a nondiscriminatory and platform-agnostic manner, and generally free of charge wherever possible. " Accurate, timely, and comprehensive Earth observations support government and private-sector decisions and policies; scientific research; and the economic, environmental, and public health of the United States. Earth observations should be public to take advantage of the additional value of satellite data that may be derived when users can find, evaluate, understand, and utilize the data in novel ways. In addition, access to data managed or paid for using Federal funds should be open to the public as soon as possible after collection. Just as importantly, working collaboratively on the global stage to promote full and open sharing of environmental data has been a great source of U.S. diplomacy, advancing the international understanding of U.S. values and ways of doing business while at the same time creating added value to U.S. investments in Earth observations. These policies and principles guide NOAA's environmental data management efforts. However, when work is done at the request of an external customer, as discussed below, the broad sharing of resulting data, products and services will need to be considered within the context of the applicable interagency or international agreement.

Interagency Economy Act Agreements and Interagency and International Memoranda of Understanding (MOUs) govern data and product exchanges between NOAA and other Federal agencies and other governments. The Economy Act (31 U.S.C. § 1535) provides general authority for agencies to obtain goods and services from other government agencies on a cost reimbursable basis, while MOUs provide formal frameworks for NOAA to engage in cooperation with other agencies and foreign governments or organizations, usually through cost-sharing or 'in kind' contribution arrangements. In most cases, a data exchange agreement has been established so that additional valuable measurements can be shared between agencies and countries that otherwise would not acquire them individually because of cost, time, or other constraints..

If the request is from an international or interagency customer, NOAA should contact the appropriate Line Office's international and interagency affairs office. These offices provide staffing and expertise to NOAA on interagency and international issues, and will be able to assist in understanding if the request falls under a current MOU or other agreement with a foreign or domestic partner, and what the terms of that agreement are.

3.3 Satellite-Derived Specialized Data, Products and Services Produced for non-NOAA customers

If NOAA determines that it is appropriate for NOAA to produce the specialized satellite-derived data, products or services requested by a non-NOAA customer, the organization then can decide if it is appropriate to charge a fee. As the primary NOAA organization involved with routine production of satellite data, products and services, NESDIS has developed specific policies regarding external requests. These are described below.

3.3.1 Data and Products from the National Data Centers

Archival and other data, products and specialized access to NOAA satellite-derived information housed at NOAA's National Data Centers (specifically, the National Climatic Data Center, National Geophysical Data Center, and National Oceanographic Data Center) have a separate guidance document, the "NESDIS User Fee Policy and Procedures." Available at: <http://goo.gl/8O95s>.

3.3.2 Other NOAA Data and Products

Outside of the NOAA National Data Centers procedures referenced above, the determination of fees for specialized NOAA satellite-derived data, products, or access services should be based on discussions with NOAA program and Line Office management, and the NOAA General Counsel when appropriate. NOAA organizations can also contact the NESDIS Satellite Products and Services Review Board (SPSRB) to request help in determining if the requested data, products or services are already provided by NESDIS on an operational basis. The SPSRB is responsible for the oversight and guidance to effectively manage the life cycle of products produced by NESDIS from NOAA satellite systems (product development, transition into operations, enhancements, and retirement). SPSRB evaluates user requests for new products to be operationally produced by NESDIS, and helps to ensure that available resources are focused on highest priority, most productive product and service activities. Information on the SPSRB can be found at: <http://goo.gl/zMA1x> and <http://goo.gl/oiK4H>. The NESDIS policy for access and distribution of environmental satellite data and products can be found at: <http://goo.gl/v8hJp> and <http://goo.gl/bgp41>.

Appendix A: Policy Framework for Full and Open Access to Environmental Data

There is a significant policy framework in the United States for providing full and open access to environmental data:

The Paperwork Reduction Act (44 U.S.C. Chap 35) has as one of its key purposes to “ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the federal government.”

The Office of Management and Budget (OMB) Circular A-130 specifies that the “open and efficient exchange of scientific and technical government information...fosters excellence in scientific research and effective use of federal research and development funds.”

The Freedom of Information Act (FOIA; 5 U.S.C. § 552) provides for public access to the records of the federal government.

Copyright law (17 U.S.C. § 105) provides that “copyright protection under this title is not available for any work of the United States Government.” NOAA would not be able to limit redistribution once its information is sold, or charge less for some uses of its data, such as research and non-commercial, than it could for other uses.

The National Space Policy for the United States of America (2010) calls for increased data sharing among nations and adopting policies internationally that facilitate full, open, and timely access to government environmental data.

Data.gov, the central registry for data created by U.S. agencies, requires that contributed data be freely available.

National Strategy for Civil Earth Observations, issued by the National Science and Technology Council, was developed in response to congressional direction and is designed to maximize interagency coordination, increase efficiency and efficacy of future Earth observation efforts, and promote environmental and economic sustainability.

Internationally, the United States has worked over the last 30 years to encourage the full and open sharing of environmental data. Some key agreements include:

World Meteorological Organization (WMO) Resolution 40, negotiated as part of the WMO 2012-2015 Strategic Plan in 2011, states that WMO “members shall provide on a free and unrestricted basis essential data and products which are necessary for the provision of services in support of the protection of life and property and the well-being of all nations.” Its Annex 1 continues, stating that “data and products are to be exchanged without charge and with no conditions on use...[including] those data and products from operational meteorological satellites that are agreed between WMO and satellite operators.” The goal of this data sharing is in part, as described in Annex 3, to encourage National Meteorological Services to “collaborate with their countries’ commercial sector and their professional societies to maximize the use of meteorological information within their country.”

Group on Earth Observations (GEO) Data Sharing Principles are a foundation of its Strategic Plan. These Principles state that “there will be full and open exchange of data, metadata and products shared within GEOSS [Global Earth Observation System of Systems], recognizing relevant international instruments and national policies and legislation; all shared data, metadata and products will be made available with minimum time delay and at minimum cost; and all shared data, metadata and products being free of charge or no more than cost of reproduction will be encouraged for research and education.”