

Commercialization of Weather and Climate Data -- Legal Challenges

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Prohibition on Privatization or Commercialization of DOC Weather Satellites

- The prohibition is statutory. (51 USC § 60161)
- The terms “privatization” and “commercialization” are open to varying interpretations.
- Weather Forecast Improvement Act (HR 2413)
 - prohibition does not apply to weather data buys or cohosted weather instrument payloads

Lack of Flexible Contract Mechanisms

- Anchor Tenancy Authority Requirements (51 USC § 50503)
- Lack of “other transactions authority” (*see* 51 USC 20113 (e))

USG Full and Open Data Policy

- Paperwork Reduction Act of 1995 (35 USC § 3506(d))
- OMB Circular A-130
- 2010 National Space Policy
- May 9, 2013 Open Data E.O. and OMB Open Data Policy
- Policy does not align well with commercial data business models

Private Weather Data Providers Not Afforded Same Liability Protections

- Federal Tort Claims Act
 - Discretionary Function Exemption (28 USC § 2680)
- Exemption does not apply to private weather data providers.