

**SUPPORTING STATEMENT
LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS
OMB CONTROL NO. 0648-0174**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This request is for revision and extension of an existing information collection.

The information is being collected as a necessary step to regulate the private space-based remote sensing industry, which involves issuing licenses to applicants and ensuring their compliance with license terms. The Department of Commerce (DOC), through the National Oceanic and Atmospheric Administration (NOAA), has the authority to regulate private space-based remote sensing under the Land Remote Sensing Policy Act of 1992, 51 U.S.C. § 60101 *et seq.* (the Act) and regulations at 15 CFR Part 960. DOC/NOAA is substantially revising those regulations in a current proposed rule (RIN: 0648-BA15). The regulations facilitate the development of the U.S. private remote sensing industry and thus promote the collection and widespread availability of remote sensing data, while preserving essential U.S. national security interests and observing international obligations.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

NOAA's Commercial Remote Sensing Regulatory Affairs (CRSRA) collects the information currently authorized to be collected under this OMB Control Number, and will continue to do so under the proposed rule and revised information collect. CRSRA does not disseminate this information to the public, because all or nearly all of it is commercial and/or proprietary.

The information includes several subtypes, addressed below. The authority for CRSRA to collect the following information comes from the Act, 51 U.S.C. §§ 60122 and 60123, which authorizes CRSRA to condition remote-sensing licenses, and from regulations at 15 C.F.R. Part 960, which are being revised in a notice-and-comment rulemaking process as of May 15, 2019, and which call for the following collections of information:

Applications. Under the proposed rule, applicants will apply for a license to operate a private remote sensing space system. This application will contain the information requested by Appendix 1 to the proposed rule. CRSRA anticipates that it will develop a collection form to facilitate applications by the time the final rule becomes effective. CRSRA uses the application information to determine if the applicant meets the legal criteria for issuance of a license. Application information includes information about the applicant, the launch dates of any components going to space, technical specifications of all components (especially the components in space that are capable of collecting imagery data), and details about data protection. The application also asks applicants to specify whether they want any standard

license terms to be waived, and to give good cause for doing so. This information, taken as a whole, is necessary for CRSRA to determine what risks the applicant's system might pose to national security and international obligations, and to determine whether the applicant can be relied on to comply with all legal requirements. This information is also necessary for CRSRA to determine what license conditions will be required to offset the risks posed by the system.

Cybersecurity Framework. If CRSRA determines that a system is “high-risk,” one of the conditions that will be required in that system's license will be to prepare a document describing the licensee's data protection activities, based on the National Institute of Science and Technology (NIST)'s Cybersecurity Framework. CRSRA does not anticipate that it will develop a form for this requirement. In this document, licensees will explain in some detail how they will achieve the data protection criteria that will be required in their licenses—for example, 256-bit encryption. This information is necessary at the moment because the Department of Defense and the Intelligence Community (who consult with CRSRA under the Act to determine national security conditions) cannot determine whether sensitive data are sufficiently protected without it.

Notification of Each Deployment to Orbit. CRSRA will continue to collect a written notification of each component of a licensed system that reaches orbit—typically after being launched on a rocket, or being deployed into orbit from the International Space Station. This information is required to be collected under the Act, and it is critical to fulfilling one of the United States' key international obligations, which is to authorize and continually supervise U.S. nationals' activities in space. CRSRA, therefore, must be notified when spacecraft are deployed so that CRSRA can supervise the space activities of U.S. nationals. CRSRA will probably not develop a form for this requirement, and anticipates accepting simple emails or other written communications.

Notification of Operational Deviation. CRSRA will continue to collect a written notification each time the licensee experiences a major system anomaly, which the proposed rule defines as an event that results in the licensee being unable to control the spacecraft. Like the notification of deployment to orbit, this information is critical to fulfilling the United States' international obligations. Similarly, CRSRA will continue to collect a notification of the disposal of any part of the system, both to fulfill international obligations and because the Act requires CRSRA to collect this information. CRSRA will probably not develop a form for this requirement, and anticipates accepting simple emails or other written communications.

Notification of Financial Insolvency. CRSRA will continue to collect notification of a licensee's financial insolvency because an insolvent licensee may go through a bankruptcy process that might put the licensed system's ownership in question. It is critical that CRSRA be able to intervene as early as possible in this process so that a sensitive system does not pass into the ownership of an entity who might jeopardize national security or international obligations. CRSRA will probably not develop a form for this requirement, and anticipates accepting simple emails or other written communications.

License Modification Request (optional). If a licensee wishes to modify its license, either to reflect changes in its business practices or technical changes to its system, or to request different license conditions, it may submit such a request to CRSRA and explain why the change is

sought. CRSRA need this information to be able to keep licenses accurate and to respond to the regulated community's needs. Additionally, one type of license modification is to notify CRSRA of a "significant or substantial foreign agreement," which the Act requires. CRSRA anticipates that it will develop a collection form to facilitate license modification requests by the time the final rule becomes effective.

Orbital Debris Mitigation Standard Practices Plan. This technical analysis is a NASA standard, currently being modified at the direction of the President, which assesses the risk of on-orbit collisions, and other issues affecting the sustainability of the space environment. CRSRA will require licensees to complete this assessment as part of the licensee's required planning for disposing of their space-borne system components, although CRSRA will not always require licensees to submit the information. Nevertheless, creating this information is critical to the United States' continuing supervision of its nationals' activities in space. CRSRA will not develop a form for this requirement, nor will it require licensees to submit the information routinely; instead, CRSRA will require licensees to develop and update the document as needed, and keep it available for inspection as needed.

Compliance Certification (annual for low-risk systems; semiannual for high-risk systems). CRSRA will require licensees to submit one or two annual compliance certifications, which require the licensee to verify that all facts in the license remain true. Facts that must be verified in this certification include the technical specifications of the system and other foundational facts that CRSRA relies upon in granting and denying license applications. This information is critical to ensuring that only those entities who are legally fit to obtain a license do so, and therefore, CRSRA will use the annual or semiannual certification to remind licensees of their duty to keep this information updated and accurate. CRSRA anticipates that it will develop a collection form to facilitate compliance certifications by the time the final rule becomes effective.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

CRSRA does not currently use forms in this information collection, but it anticipates that it will develop forms coincident with the publication of the final rule. Even in the absence of such forms, however, the proposed rule specifies that all of the information submitted to CRSRA can be submitted electronically, including by email, as well as by traditional mail.

4. Describe efforts to identify duplication.

The revised information collect, as part of the proposed rule, reflects DOC/NOAA's effort to reduce the collection of information overall, especially when applicants or licensees submit the information to other U.S. Government agencies. For example, the application in the proposed rule significantly reduces the amount of corporate information that CRSRA collects. The revised information collect includes only the minimum amount of information that CRSRA must collect to comply with the Act by granting licenses to parties who meet the Act's standards.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

CRSRA hopes that the reduced amount of information sought, as well as the anticipated electronic forms, will minimize the burden to small businesses and other small entities who may apply for a CRSRA license.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The Act requires the Secretary to grant licenses only when the Secretary determines that the applicant will comply with the Act, CRSRA's regulations, and any applicable international obligations and national security concerns of the United States. As stated above, the information sought is the minimum amount necessary to make that determination. Therefore, without collecting the information described in the proposed rule and revised information collect, CRSRA would be legally prohibited from granting licenses to operate remote sensing space systems, which would prohibit all space-based remote sensing, and would effectively eliminate the U.S. remote sensing industry.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

CRSRA is not aware of any such circumstances.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

DOC/NOAA is currently moving towards publishing a proposed rule in the *Federal Register*, and anticipates publication in January of 2019. The proposed rule's preamble includes a PRA section explaining the revised information collect, estimating its burdens, and seeking public comment on these paperwork burdens. DOC/NOAA will adjust the final rule, if necessary, based on public comment about the paperwork burdens of the proposed rule.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

CRSRA makes no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

CRSRA believes that most of the information respondents submit under this revised information collect would be commercial or proprietary, and therefore exempt from disclosure under exemption (b)(4) of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), and the Trade Secrets Act, 18 U.S.C. § 1905. If necessary, the forms CRSRA will develop may include assurances about this protection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

CRSRA asks no sensitive questions.

12. Provide an estimate in hours of the burden of the collection of information.

CRSRA estimates the burden for the revised information collect as follows:

Table 1: One-Time Reporting (Estimated for FY19)

Reporting Action	Respondents/Annual/Annualized Responses	Burden (hours) per response	Total Hours
Application (one time only)	13	20	260
Cybersecurity Framework (high-risk only)	6	10	60
License Modification Request*	10/3	1	10/annualized to 3
Information When Spacecraft Becomes Operational*	13/4	1	13/annualized to 4
Orbital Debris Mitigation Standard Practices Plan	13	10	130
Notification of Financial Insolvency (one time only)	2/1	1	2/annualized to 1
Notification of Operational Deviation **	10/3	1	10/annualized to 3
Totals:	67 (13 unduplicated)/43		485/annualized to 461

Reporting Action	Respondents/Annual/Annualized Responses	Burden (hours) per response	Total Hours

*Every three years on average

**Every six years on average

Table 2: Routine Reporting

Respondents*	Reporting Action	Annual Responses per Respondent	Total Responses	Burden (hours) per response	Total Hours
21	Annual Compliance Certification (Low-Risk Systems)	1	21	2	42
21	Semiannual Compliance Certification (High-Risk Systems)	2	42	2	84
Totals: 42 (unduplicated)			63		126

CRSRA used the following information to estimate the paperwork burden in the above tables:

- CRSRA used the total current (October 2018) number of licenses (63 licenses issued to 42 licensees), and the FY18 number of new licenses (13).
- CRSRA estimates conservatively that half of the applications would be high-risk.
- CRSRA estimates conservatively that a quarter of existing licensees would request a license modification in a given year.
- CRSRA estimates conservatively that two licensees might become financially insolvent in a given year.
- CRSRA estimates conservatively that a quarter of licensees would report an anomaly or the demise of a system in a given year.

For all reporting requirements, the total of number of responses is 106, for a total annual burden of 587 hours.

Estimating respondent time at \$50 per hour, the total labor cost of all responses is estimated to be \$29,350.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Because CRSRA will accept all electronic filings and expects to use online forms, the total annual cost burden (excluding the burden hours in Question 12) is expected to be zero. CRSRA

does not anticipate that any entity would need to purchase additional software, hardware, materials, or equipment to respond to this collection.

14. Provide estimates of annualized cost to the Federal government.

The annual cost to the Federal government to process the information obtained is estimated at \$900,000. This estimate is based on the current CRSRA program, and includes relevant portions of the licensing and compliance budgets (such as supplies, equipment, salary, and benefits).

15. Explain the reasons for any program changes or adjustments.

The proposed rule is a complete rewrite of the existing regulations. These changes reflect the Administration's goal to modernize the regulations and the program in response to significant changes in the remote sensing industry since the regulations' last update in 2006. DOC/NOAA also seeks to improve the regulatory approach overall. In general, these changes are intended to reduce the burden on regulated entities. The changes include the following:

- Creation of a two-category framework, separating licensees into low- and high-risk categories, with license conditions reflecting the level of risk;
- Elimination of all license-specific interagency consultation for low-risk applications;
- Implementing the 2017 interagency MOU dispute resolution processes and timelines;
- Implementing a "presumption of approval" for all applicants;
- Providing that low-risk applications must be adjudicated within 60 days (down from 120), and high-risk applications are limited to 90 days with only one possible extension;
- Replacing quarterly audits, annual audits, baseline audits, and pre-launch documentation requirements with a streamlined compliance document;
- Eliminating Data Protection Plans for low-risk licenses, and replacing them for high-risk licenses with a less burdensome requirement to protect data following NIST's Cybersecurity Framework;
- Eliminating the possibility of "retroactive conditions" and "shutter control," known in the rule as "limited operations directives," for low-risk systems;
- Improving transparency and predictability of license review process and license conditions;
- Clarifying and reducing the number of definitions to improve regulatory responsiveness to future developments;
- Exempting certain cameras in space used only for mission assurance and technical purposes, such as low-resolution cameras attached to the second stage of a rocket; and
- Clarifying which transactions and technical changes need a license modification, and reduces their number; collapses "foreign agreement" review process with modification process to avoid duplication.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The results of the collection will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

N/A.

18. Explain each exception to the certification statement.

N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.