



Guidance Circular

GC No: 960.8(h)-1
Subject: Guidance Regarding Inspections Conducted under Standard License Conditions
Date: May 8, 2023

Guidance Circulars (GC) are intended to provide guidance to entities subject to or potentially subject to the Land Remote Sensing Policy Act of 1992 (51 U.S.C. § 60101 *et seq.*) and the National Oceanic and Atmospheric Administration's (NOAA's) implementing regulations at 15 CFR Part 960. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. The document is only intended to provide clarity to the public regarding existing requirements under the law or agency policies.

If you have suggestions for improving this GC, we invite you to provide feedback to CRSRA at crsra@noaa.gov, noting the number of the GC you are discussing in your email. Please note that responses by email are not anonymous and the entirety of the response, including the email address, attachments, and other supporting materials, may be disclosed pursuant to federal freedom of information law. Sensitive personal information, trade secrets, or financial information should not be included with the response.

Applicable Statute: 51 U.S.C. §§ 60121, 60122, 60123

Applicable Regulations: 15 C.F.R. 960.4 defining "Private remote sensing space system or system"; 15 C.F.R. 960.8(h), 960.9(a)(3), 960.10(a)(1)(iii), 960.16(c)

Overview of Issue

The Land Remote Sensing Policy Act of 1992 (the Act) authorizes the Department of Commerce (delegated to NOAA) to license private entities to operate remote sensing space systems, and prohibits the operation of remote sensing space systems without such a license. The implementing regulations require that all NOAA remote sensing licenses contain a standard license condition requiring the licensee to:

Cooperate with compliance, monitoring, and enforcement authorities described in the Act and this part, and permit the Secretary to access, at all reasonable times and with no shorter notice than 48 hours, any component of the system for the purpose of ensuring compliance with the Act, this part, and the license.¹

This requirement implements the authority under the Act to “make investigations and inquiries ... concerning any matter relating to the enforcement of this chapter.” 51 U.S.C. § 60123(a). By its terms, and as explained in the preamble to 15 C.F.R. Part 960, this standard license condition authorizes NOAA to conduct physical site inspections. Note that systems categorized as Tier 2 or Tier 3 are also subject to additional inspection conditions described at 15 C.F.R. § 960.9(a)(3) and 15 C.F.R. § 960.10(a)(1)(iii), respectively. These conditions provide that, “[d]uring any ... limited-operations directive, [the licensee must] permit the Secretary to *immediately access* any component of the system for the purpose of ensuring compliance with the limited-operations directive, the Act, this part, and the license.” (emphasis added). The guidance included in this circular applies to inspections conducted under 15 C.F.R. § 960.8(h).

NOAA is required to provide a minimum of 48 hours’ notice prior to a site inspection; NOAA is not required to have any prior evidence to suggest non-compliance or risk in order to conduct an inspection.² The license condition subjects any component of the remote sensing space system to inspection. As defined in the regulations, the system includes the “remote sensing instrument and all additional components that support operating the remote sensing instrument, receipt of unenhanced data, and data preprocessing.”³ The following are examples of two system components commonly subject to CRSRA’s on-site inspections:

Mission Control Center: In Guidance Circular No. 960, App. A-1, “Guidance on Ground Component Terminology and Testing,” NOAA defines the mission control center (MCC) as the primary facility through which ultimate decision-making authority is regularly exercised by the Licensee, where operational commands, such as altitude, control, propulsion, and imagery targeting commands, are generated and transmitted to the System. A license applicant is required to submit the location of its MCC in its application, and the location of the MCC is maintained in the license as a material fact. Guidance Circular No. 960, App. A-1 also defines backup and subordinate MCCs. All types of MCCs are subject to inspection.

Ground Station: In Guidance Circular No. 960, App. A-1, “Guidance on Ground Component Terminology and Testing,” NOAA defines the ground station as any ground component with one or more of the following abilities: to uplink commands to any remote sensing instrument in the System; to downlink unenhanced data from any remote sensing instrument in the System; or to conduct preprocessing on unenhanced data. Guidance Circular No. 960, App. A-1 defines three types of ground station: direct access terminal, data preprocessing terminal, and relay ground terminal. All types of ground stations are subject to inspection.

¹ 15 C.F.R. § 960.8(h)

² Licensing of Private Remote Sensing Space Systems, 85 Fed. Reg. 30790, 30799 (July 20, 2020).

³ See definition of *Private remote sensing space system* or *system* at 15 C.F.R. § 960.4.

In general, inspections include a thorough discussion of the material facts of the license, site operations, physical security measures, and cybersecurity measures. MCC and ground station inspections may emphasize different elements of compliance and security. In addition, inspections may incorporate discussion of industry best practices that CRSRA has observed, and may seek to raise awareness of and assist licensees in considering implementation of those best practices. The following information is provided to assist licensees in understanding how to prepare for an inspection and what to expect before, during, and after an inspection.

Inspection Process

At least 48 hours prior to any inspection, the licensee will receive an Intent to Inspect letter notifying the licensee of CRSRA's intent to conduct an on-site inspection. This letter will include the proposed location(s), date(s), and time(s) of the inspection(s) and will request a response from the licensee by a date specified in the letter. The licensee's response is expected to confirm the location(s), date(s), and time(s) of the inspection(s) and information required to coordinate the visit; such information may include, but is not limited to, the on-site point of contact (POC) information and additional access requirements such as specific directions to locate and enter the site, additional documentation required to access the site, or unique health and safety protocols that must be adhered to while on-site. The Intent to Inspect letter will specify what information is required to facilitate the inspection.

Licensee Responsibilities in Preparing for the Inspection

The licensee is responsible for ensuring that appropriate and knowledgeable personnel are present on-site during the inspection. For MCC, direct access terminal, and direct preprocessing terminal inspections, CRSRA highly recommends that the licensee be present in-person as the on-site POC or, if necessary, virtually, for the duration of the inspection; for these inspections, knowledge of the full system and operating conditions, which is frequently unique to the licensee, requires the licensee's presence. For relay ground terminal inspections, a site operator familiar with the licensee's operations and obligations at that site can serve as the on-site POC; however, at a minimum, the licensee should remain accessible by phone. An appropriate on-site POC must be knowledgeable of system capabilities, site operations, physical security and cybersecurity measures taken to protect the system, the contents of the relevant license(s) and the applicable regulatory requirements, and must be authorized to speak on behalf of the licensee. If the on-site POC lacks sufficient knowledge or authority to conduct a satisfactory inspection, the licensee may be subject to a compliance inquiry and potential enforcement action.

CRSRA has observed that licensees that have developed diagrams of their licensed system telemetry, tracking, and control (TT&C) and payload data communications, such as the example shown in Figure 1 below, are better prepared for the types of questions and discussions often raised during inspections. Such diagrams show, at a minimum, the entities (and locations) involved in passing TT&C and payload data, the flow of TT&C and payload data between these entities and/or locations, cybersecurity measures emplaced on TT&C and payload data both in

transit and at rest, and points at which cybersecurity measures change. CRSRA recommends that licensees have such a diagram prepared and at-the-ready to facilitate inspections.

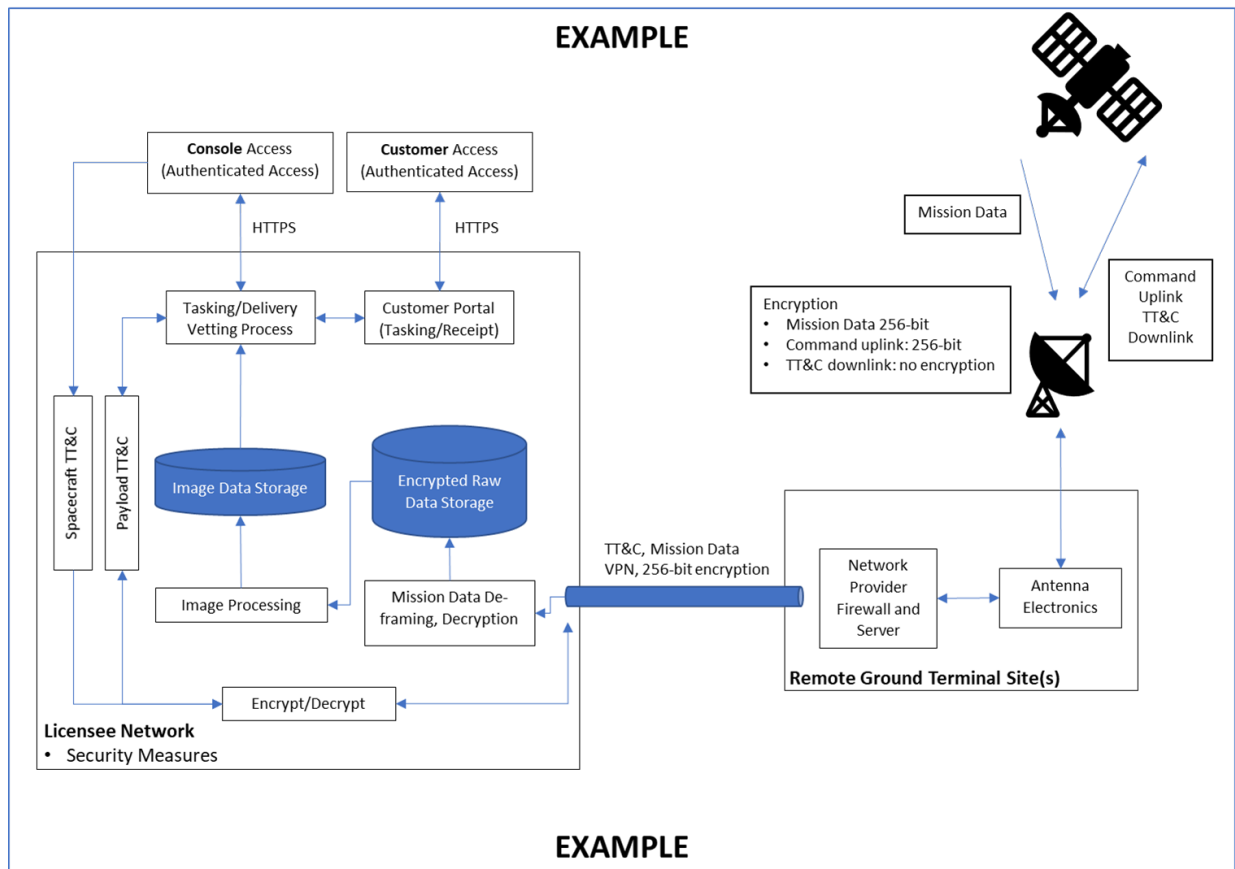


Figure 1. Example system diagram illustrating flow of telemetry, tracking, and control (TT&C) and payload data, different entities involved in the system, and different levels of protection applied to data in transit and at rest.

During the Inspection

The inspection itself will focus on compliance with the license, all conditions in the license, and best practices for physical site security and cybersecurity. Topics of focus may vary depending upon the system component(s) being inspected. For example, when inspecting the MCC, the inspection may focus more upon the operation of the remote sensing system as a whole. As a result, the inspection may be more comprehensive and cover end-to-end security measures. By comparison, the inspection of an RGT may focus more on the security of and data flow through that specific location. Any inspection may, however, cover all compliance responsibilities and requirements under the license, 15 C.F.R. Part 960, and the Act.

After the Inspection

Following the inspection, CRSRA will provide follow-up in one of three ways:

- CRSRA may issue a letter stating a satisfactory inspection result.

- CRSRA may issue an inspection follow-up letter requesting clarification or asking additional questions.
 - If the licensee satisfactorily answers CRSRA's concerns, CRSRA may issue a satisfactory inspection result which may include observations and recommendations regarding possible voluntary actions and/or changes the licensee could choose to undertake.
 - If the licensee does not satisfactorily answer CRSRA's concerns, CRSRA may issue a compliance assistance letter or may refer the matter to NOAA's Office of General Counsel, Enforcement Section, for potential enforcement action.
- CRSRA may issue a letter stating an unsatisfactory inspection result. Under these circumstances, CRSRA may issue a compliance assistance letter or may refer the matter to NOAA's Office of General Counsel, Enforcement Section, for potential enforcement action.

Opportunity for Feedback: We welcome any feedback you may have about this guidance circular. Please contact CRSRA at crsra@noaa.gov.