

The Commission is requesting Office of Management and Budget (OMB) approval for a revision of this information collection. There is a change in the Commission's burden estimates. See item 15 for a detailed explanation. The Commission is removing the recordkeeping burden estimate associated in 47 CFR 1.20004. This estimate has been eliminated by 1,655 hours because the nature and extent of the requirement is usual and customary. Telecommunications carriers must keep such records to demonstrate that they are in compliance with Federal and State wiretapping laws and regulations that have existed for the past 40 years.

## SUPPORTING STATEMENT

### Justification

1. **Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**
  - (a) The Communications Assistance for Law Enforcement or CALEA was enacted in October 1994 to respond to rapid advances in telecommunications technology and to eliminate obstacles faced by law enforcement personnel in conducting electronic surveillance.
  - (b) In brief, CALEA was intended to preserve the ability of law enforcement agencies to conduct electronic surveillance by requiring that telecommunications carriers and manufacturers of telecommunications equipment modify and design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities.
  - (c) The information collection requirements were established to implement sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1004, 1006(c), 1008(b), and 229; Pub. L. No. 103-414, 108 Stat. 4279 (1994).
  - (d) The information collection requirements for the System Security and Integrity plan filings are codified in 47 C.F.R. §§ 1.20003, 1.20004, and 1.20005. The CALEA sections 107(c) and 109(b) information collection requirements are described in the CALEA and Broadband Access and Services, ET Docket No. 04-295, *Second Report and Order and Memorandum Opinion and Order*, 21 FCC Rcd. 5360, 5425, and 5431 (2006), appendices (E) for section 109 petitions and (F) for section 107 petitions.

### ***Current Information Collection Requirements:***

- (a) Telecommunications carriers, including facilities-based broadband Internet access providers and providers of interconnected VoIP, must establish and submit to the Commission their policies and procedures for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier, acting in accordance with regulations prescribed by the Commission.
- (b) Each telecommunications carrier must include in this submission:
  - (1) information about the senior officer or employee responsible for the carrier's interception operations,

- (2) information necessary for law enforcement agencies to contact the carrier regarding interceptions, and
  - (3) other information about the carrier's security and integrity program.
- (c) The Commission must review each carrier's policies and procedures to determine whether these are in compliance with the rules established under CALEA.
- (d) If the Commission determines that any carrier's policies and procedures are non-compliant, the carrier must modify its policies and procedures accordingly.
- (e) 47 CFR § 1.20004 of the Commission's rules require telecommunications carriers to maintain records of interceptions. **Pursuant to 5 C.F.R. § 1320.3(b)(2), this recordkeeping burden was adjusted to zero hours because the nature and extent of the requirement is usual and customary. Telecommunications carriers must keep such records to demonstrate that they are in compliance with Federal and State wiretapping laws and regulations that have existed for the past 40 years.** The certification requirement can be met by having the designated company liaison:
- (1) sign the certification statement,
  - (2) verify that the records are complete and accurate, and
  - (3) attach the appropriate legal authorization and any extensions.
- (f) The two-tiered recordkeeping requirement mandates that each telecommunications carrier:
- (1) maintain its certification, as is the case with authorized interceptions, for a "reasonable period of time;" and
  - (2) include in its policies and procedures, submitted to the Commission for review, a detailed description of how long it will maintain its record of interceptions.
- (g) CALEA section 107(c) permits a carrier to apply to the Commission for an extension of the Commission's deadline to come into compliance with CALEA section 103 capability requirements, limited to no more than two years from the date that the extension is granted. For instructions regarding the proper filing of CALEA section 107 petitions, see CALEA and Broadband Access and Services, , ET Docket No. 04-295, *Second Report and Order and Memorandum Opinion and Order*, 21 FCC Rcd. 5360, 5431 (2006), appendix (F). This section applies to all carriers subject to CALEA and any petitions filed under it are voluntary.
- (h) CALEA section 109(b) permits a carrier to file a petition with the Commission and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier's CALEA compliance (cost-shifting relief) with respect to any equipment, facility, or service installed or deployed after January 1, 1995. For instructions regarding the proper filing of CALEA section 109(b) petitions, see CALEA and Broadband Access and Services, *Second Report and Order and Memorandum Opinion and Order*, ET Docket No. 04-295, 21 FCC Rcd. 5360, 5425 (2006), appendix (E). This section applies to all carriers subject to CALEA and any petitions filed under it are voluntary.

The Commission has authority for this information collection pursuant to sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1004, 1006(c), 1008(b), and 229; Public Law No. 103-414, 108 Stat. 4279 (1994).

As noted on the OMB 83-I, this information collection does not affect individuals or household; thus, there are no impacts under the Privacy Act.

**2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

- (a) The Commission uses all of the information submitted, *e.g.*, information about the senior officer or employee responsible for the carrier's interception operations, information necessary for law enforcement agencies to contact the carrier regarding interceptions, and other information about the carrier's security and integrity program, to determine whether or not the carrier is in conformance with CALEA's requirements and the Commission's rules.
- (b) In addition, the Commission reviews sections 107(c) and section 109(b) filings to determine, respectively:
  - (1) whether a carrier should be granted additional time to comply with CALEA, consistent with the statutory requirements, or
  - (2) whether a carrier's network should be deemed to be in compliance if the Attorney General does not pay the carrier to upgrade its network to meet CALEA's obligations.
- (c) The Commission shares with law enforcement officials the system security information that carriers file, *e.g.*, the contact information that law enforcement officials need to serve an intercept order or warrant on a carrier.
- (d) Finally, law enforcement officials rely on the system security records maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

At present, applicants may only file their submissions on paper. Commission Staff studied the total volume of non-public document filings, taking into account the significant reduction in CALEA-related filings projected for the next year. Accordingly, Staff determined that to build electronic filing capabilities for non-public documents in addition to current electronic filing capabilities for publicly-accessible documents is not a cost-effective use of public funds at this time. The public's need for electronic filing of non-public documents will be re-examined from time to time to see if such capabilities should be added in the future

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

None of the information collected will be duplicative of other information collected.

**5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

(a) In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize burdens on all respondents, regardless of size.

(b) Regarding the system security requirements of CALEA, the *Notice of Proposed Rulemaking (NPRM)* in CC Docket No. 97-213 sought comment on whether to adopt different, less burdensome requirements for small businesses filing compliance statements:

(1) the Commission received little comment regarding this proposal, and

(2) in adopting final rules, the Commission found that CALEA mandates—and the critical nature of our goals in this proceeding necessitate—that all carriers comply with our rules and regulations regarding implementation of CALEA.

(c) The January 1999 *R&O, In the Matter of the Communications Assistance Act for Law Enforcement, Report and Order*, CC Docket No. 97-213, FCC 99-11, 14 FCC Rcd. 4151 (1999) and subsequent Orders in CC Docket No. 97-213, however, substantially reduced the burden proposed in the *NPRM* for all telecommunications carriers, regardless of size.

(1) For example, while the *NPRM* proposed the inclusion of information on designated and non-designated employees who participate in surveillance work, the *R&O* substantially reduced this burden by requiring that only the one senior employee responsible for CALEA be identified in the required filing.

(2) The *NPRM* proposed a dual certification/affidavit regarding authorized and unauthorized interceptions; the January 1999 *R&O* narrowed this requirement to a single document, ideally consisting of a copy of the legal authorization, accompanied by a signed certification that the record is complete and accurate.

(d) Most importantly, the *Recon Order, In the Matter of the Communications Assistance for Law Enforcement Act, Order on Reconsideration*, CC Docket No. 97-213, FCC 99-184, 15 FCC Rcd. 20735 (1999), reduced the recordkeeping burden by not designating a specific period of time for records of authorized and non-authorized interceptions to be maintained. Instead, the *Recon Order* asked that the certification be maintained for a “reasonable period of time” to be determined by the carrier.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

(a) The system security filings and record maintenance is required by CALEA.

(b) The Commission anticipates collecting this information once from telecommunications carriers detailing their policies and procedures regarding compliance with CALEA and regarding authorized and unauthorized interceptions and call-identification information.

- (c) When these policies and procedures are changed, however, the affected carrier will have to resubmit this information for Commission review.
- (d) The requirement that carriers maintain a record of each electronic surveillance for a “reasonable period of time” will be a one-time activity for each surveillance.
- (e) Without this information and record maintenance, the Commission and law enforcement agencies will not be able to monitor compliance with the statutory requirements of CALEA.
- (f) Sections 107(c) and 109(b) petitions are voluntary and are the bases, respectively, of granting carriers additional time to comply with CALEA or recovery of network upgrade costs. If these filings are not made, relief cannot be granted.
- (g) The letters demonstrating that currently filed section 107(c) petitions qualify for relief and the monitoring reports are one-time filings that will ensure carriers compliance with CALEA.

**7. Explain any special circumstances that cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information’s confidentiality to the extent permitted by law.**

Current data collection is consistent with 5 CFR §§ 1320.6.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency’s notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.**

The 60-day notice was published in the *Federal Register* on November 2, 2010 (75 FR 67363). No comments were received as a result of the notice.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The respondents will not receive any payments.

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

Pursuant to section 0.457(g) of the Commission’s rules, the information in the CALEA system security filings and petitions will not be made routinely available for public inspection.

Section 107(c) and section 109(b) filings are entitled to confidential treatment under the Freedom of Information Act. The Commission has directed respondents to file their petitions under a general claim of confidential or proprietary protection, subject only to scrutiny by the Commission and the Attorney General who is consulted in section 107(c) adjudications and is a party to all section 109(b) adjudications.

**11. Provide additional justification for any questions of a sensitive nature.**

Not applicable.

**12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.**

**HOURLY BURDEN ON RESPONDENTS:**

**A. Submitting System Security Filings to the Commission**

**Telecommunications Carriers CALEA Compliance:**

As result of Commission action in CC Docket No. 97-213, we estimate that a total of 3,000 telecommunications carriers were obliged to establish and submit to the Commission their policies and procedures for complying with CALEA requirements.

This submission must include information regarding the appointment of a senior authorized officer or employee responsible for CALEA activities, and a 24-hour point of contact for law enforcement officials.

Initial filings were made in 2000, and are not a recurring burden. However, any time the policies and procedures change or a liaison either steps down or is appointed, a revised submission must be sent to the Commission.

Revisions to SSI plans:

This resubmission should take about 7.5 hours and the Commission expects to get as many as 150 revisions a year to be completed by staff attorneys, for a total of 150 annual burden hours.

Annual burden hours per entity: **7.5 hours x 150 telecommunications carriers**  
Total annual burden hours: **1,125 hours**

The Commission believes that respondents will submit approximately 150 revisions of the initial (CC Docket No. 97-213) system security submissions per year, all prepared by “in-house” staff attorneys at \$150 per hour, for a total of about 150 hours.

**1,125 hours x \$150 = \$168,750.**

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New Submission of SSI plans:

Annual burden hours per entity: **7.5 hours x 100 providers**  
Total annual burden hours: **750 hours**

The *Second R&O* required that facilities-based broadband Internet access and interconnected VoIP providers undertake system security filings within 90 days of the effective date of 47 C.F.R.

§§ 1.20004 and 1.20005, which was March 12, 2007. In addition, new entities entering the marketplace must file before starting operations.

The Commission believes that respondents will submit approximately 100 new system security submissions per year with each taking 7.5 hours to prepare by “in-house” staff attorneys at \$150 per hour, for a total of 750 hours.

**750 hours x \$150 = \$112,500.**

**B. Recordkeeping for Interceptions of Communications or Access to Call Identifying Information (as required by 47 CFR 1.20004)**

Pursuant to 5 C.F.R. § 1320.3(b)(2), this recordkeeping burden was adjusted to zero hours because the nature and extent of the requirement is usual and customary. Telecommunications carriers must keep such records to demonstrate that they are in compliance with Federal and State wiretapping laws and regulations that have existed for the past 40 years.

**C. Section 107(c) Petitions.**

New Petitions

Annual burden hours per entity: **32 hours x 25 carriers**

Total annual burden hours: **800 hours**

The Commission assumes that 75 carriers will submit new section 107(c) petitions, and that these carriers will utilize “in-house” staff attorneys at \$150 per hour. The Commission estimates the total annual hourly burden for this at 800 hours.

**800 Hours x \$150 = \$120,000.**

**D. Section 109(b) Petitions.**

If a carrier believes that compliance with CALEA is not reasonably achievable with respect to any equipment, facility or service installed or deployed after January 1, 1995, the Commission requires that carrier to file a petition and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier’s CALEA compliance.

The Commission estimates that a total of 25 facilities-based broadband Internet access providers, interconnected VOIP providers, and wireline and wireless carriers that will file section 109 petitions. We estimate that the time to prepare each filing will be 80 hours.

**10 providers at 80 hours each = 800 total annual burden hours**

**800 Hours x \$150 = \$120,000.**

**Total annual burden: 800 Hours x \$150 = \$120,000.**

**E. Monitoring Reports**

The monitoring reports were a one-time collection that has been completed. The current burden is therefore zero. This is a 1,655 hour burden reduction (program change decrease).

**Total Annual Burden Hours Summary:**

This section shows the burden hours in A-E above for each type of telecommunications carrier. The Table following Question 14 summarizes these burden hours and their associated costs.

**Telecommunications Carriers Subject to CALEA:**

A. Submitting policies and procedures (new and revised) =	1,875 hours
B. Recordkeeping for Interceptions =	0 hours
C. Section 107(c) Petitions =	800 hours
D. Section 109(b) Petitions =	800 hours
E. Monitoring Reports =	0 hours
<b>Total =</b>	<b>3,475 hours</b>

**Total Number of Respondents: 200**

**Total Number of Responses: 285.**

(a) The number of responses per respondent will average 1.4 annually.

(b) However, the number of annual responses per respondent can be up to 3 responses for revision to system security filings.

**13. Provide estimate for the total annual cost burden to respondents resulting from the collection of information. (Do not include the cost of any hourly burden shown in items 12 and 14).**

(a) Total annualized capital costs/startup costs: **\$0.00**

(b) Total annual costs (O&M): **\$0.00**

(c) Total annualized cost-requested: **\$0.00**

**14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expenses that would not have been incurred without this collection of information.**

**A. Costs for system security policies and procedures:**

GS-15 step 5 attorney to review 150 revised system security submissions annually and 100 new system security submissions from telecommunications carriers annually (total of 250 submissions) at \$67.21 an hour; one hour per submission.

**250 Hours x \$67.21 = \$16,802.50.**



**B. Costs for CALEA Section 107(c) Petitions:**

GS-15 attorney to review 25 new section 107(c) petitions at \$67.21 an hour; one hour per submission. **25 Hours x \$67.21 = \$1,680.25.**

**C. Costs for CALEA Section 109(b) Petitions:**

GS-15 attorney to review 10 section 109(b) petitions from carriers subject to CALEA at \$67.21 an hour; 20 hours per submission. **200 Hours x \$67.21 = \$13,442.**

**Total Annual In-House Costs: \$16,802.50 + \$1,680.25 + \$13,442.00 = \$31,924.75 (rounded to \$31,925).**

Below is a summary of the annual hour and cost burdens:

Information Collection Requirements	Respondents	Average Hours Per Respondent	Previous Total Hourly Burden on Respondents	Current Total Hourly Burden on Respondents	Difference from Previous Burden	In-House Costs to Respondents	Cost to Federal Government
<b>A. System Security Filings:</b>							
New Submissions	100	7.5	750	750	0	\$112,500	\$ 6,721*
Revisions	150	7.5	1,125	1,125	0	\$168,750	\$10,081.50*
<b>Total Hourly Burden and Costs</b>			<b>1,875</b>	<b>1,875</b>	<b>0</b>	<b>\$281,250</b>	<b>\$16,802.50*</b>
<b>B. Recordkeeping of Interceptions of Communications or Access to Call-Identifying Information</b>							
<b>Certification</b>			0	0	0		
<b>Recordkeeping</b>			0	0	0		
<b>Total Hourly Burden and Costs</b>			<b>0</b>	<b>0</b>	<b>0</b>		
<b>C. Section 107(c) Petitions, Carriers Subject to CALEA as a Result of CC Docket No. 97-213 and ET Docket No. 04-295:</b>							
Existing Petitions	0	0	0	0	0		
New Petitions	25*	32	2,400	800*	-1,600*	\$360,000	\$ 4,494.75
<b>Total Hourly Burden and Costs</b>			<b>2,400</b>	<b>800*</b>	<b>-1,600*</b>	<b>\$360,000</b>	<b>\$ 4,494.75</b>
<b>D. Section 109(b) Petitions:</b>							
Carriers Subject to CALEA as a Result of CC Docket No. 97-213 and ET Docket No. 04-295	10*	80	2,000	800*	- 1,200*	\$120,000*	\$13,442*
<b>Total Hourly Burden and Costs</b>			<b>2,000</b>	<b>800*</b>	<b>-1,200*</b>	<b>\$120,000*</b>	<b>\$13,442*</b>
<b>E Monitoring Reports, All Facilities-Based Broadband Internet Access and VoIP Providers</b>							
<b>Total Hourly Burden and Costs</b>			<b>0</b>	<b>0</b>	<b>-1,655</b>		
<b>F. CUMULATIVE TOTALS</b>							
Carriers Subject to CALEA as a Result of CC Docket No. 97-213	200*		6,275	3,475*	-2,800	\$521,250*	\$31,924.75

**15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.**

- (a) In the “Difference from Previous Burden” column in the Table above “\*” indicates an adjustment to last year’s estimates.
- (b) The Commission estimates that the total burden for the information collection requirements contained herein will now be 3,475 hours, which represents a total decrease of 2,800 burden hours. Elimination of the recordkeeping requirement resulted in 1,655 hour program change reduction. The remaining difference in burden of 1,145 is an adjustment. The adjustment is due to (see next paragraph).
- (c) There is a decrease in the burden hours due to adjustments in burden estimates. VoIP and facilities-based broadband internet access providers were required to file initial SSI plans after the release of the *Second R&O* on May 12, 2006 that was fulfilled in calendar year 2007 and will not have to be repeated during calendar year 2008, and subsequent calendar years. There is also a decrease in the burden hours due to adjustments made as a result of lowered forecasts of voluntary filings under CALEA sections 107 and 109, and a smaller number of SSI plan new filings and modifications. The Commission estimates that there will now be 200 total respondents, which represents a decrease of 150. This is due to the fact that the requirements of the *Second R&O* were fulfilled in calendar year 2007 and will not have to be repeated during subsequent calendar years. New entrants to the marketplace must still file initial SSI plans and telecommunications carriers that incur organizational changes, mergers and acquisitions will have to file amendments to previous filings. The number of hours required to file amendments was adjusted from 1 hour to 7.5 hours to reflect the more complex changes as a result of mergers and acquisitions. The recordkeeping for interceptions of communications or access to call identifying information burden was adjusted to zero hours because the nature and extent of the requirement is usual and customary. Telecommunications carriers must keep such records to demonstrate that they are in compliance with Federal and State wiretapping laws and regulations that have existed for the past 40 years.

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

The data will not be published for statistical use.

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

Not applicable. The requirements are in Commission rules and the OMB expiration date will not be displayed. However, the Commission publishes a list of OMB-approved information collections in 47 CFR 0.408 of the Commission’s rules. This section of the Commission’s rules “displays” the OMB control number, title of the information collection, and the OMB expiration date.

**18. Explain any exceptions to the Certification Statement identified in Item 19, “Certification of Paper Work Reduction Act Submissions,” of OMB Form 83-I.**

There are no exceptions to the Certification Statement in Item 19.

**A. Collections of Information Employing Statistical Methods:**

This information collection does not employ any statistical methods.