

## A. JUSTIFICATION

### Background

The Federal Communications Commission (Commission) seeks emergency processing under the Paperwork Reduction Act (PRA), 5 C.F.R. § 1320.13, for a one-time information collection. The Commission is requesting approval from the Office of Management and Budget (OMB) for this information collection no later than 37 days after it is received at OMB.

The Commission established a new one-time information collection associated in the *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, IB Docket No. 23-119; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking (Evolving Risks Order and Notice)*.<sup>1</sup> The other requirements adopted in the *Evolving Risks Order and Notice* do not include information collections or are part of other information collections for which the Commission will request separate approval.

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

Any person or entity that seeks to provide U.S.-international common carrier telecommunications service must obtain prior approval from the Commission pursuant to section 214 of the Communications Act, as amended,<sup>2</sup> by filing with the Commission an application for international section 214 authority that contains information required by the Commission's rules.<sup>3</sup> Once granted, an international section 214 authorization never expires. Unless the authorization holder modifies, transfers or assigns control of the authorization, or the authorization holder has customers and discontinues service, the Commission ordinarily does not receive updated information about the ownership or the national security, law enforcement, trade, and foreign policy implications associated with the authorized services. As a result, the Commission has significantly incomplete and outdated information regarding international section 214 authorization holders, including not knowing the number of active authorization holders.

In the *Evolving Risks Order and Notice*, the Commission adopted an order requiring a one-time collection of information from all international section 214 authorization holders, directing each authorization holder to identify its 10% or greater direct or indirect foreign interest holders (reportable foreign ownership) as of thirty (30) days prior to the filing deadline.<sup>4</sup> In addition, each authorization holder is required to certify as to the accuracy of the information provided. Such certification requires each authorization holder to conduct appropriate diligence, thereby increasing the reliability of its information.

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<sup>1</sup> *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, IB Docket No. 23-119; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking, FCC 23-28 (rel. Apr. 25, 2023).*

<sup>2</sup> 47 U.S.C. § 214.

<sup>3</sup> 47 CFR §§ 63.09-63.53.

<sup>4</sup> *Evolving Risks Order and Notice* at para. 18.

The collection of this information is a necessary first step for the Commission to make an informed decision concerning the proposed rules and procedures set forth in the *Evolving Risks Order and Notice*. As noted above, the Commission has incomplete and outdated information about international section 214 authorization holders. For example, the Commission's records in its electronic database for international section 214 authorization – the International Communications Filing System (ICFS) – reflect there are approximately 7,000 international section 214 authorization holders, though we estimate the more accurate number is closer to approximately 1,500 active authorization holders. Additionally, we do not have visibility on authorized carriers' current foreign ownership. The information derived from this one-time collection will allow the Commission to determine the number of active authorization holders and whether they have reportable foreign ownership. In addition, the information will enable the Commission to identify those authorization holders that are no longer in business or are in business but discontinued service under their international section 214 authority. Overall, the information will assist the Commission in developing a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns.

This one-time collection results in 1,500 responses with 4,500 burden hours and a costs to the respondents of \$1,350,000.

## **2. Indicate how, by whom, and for what purpose the information is to be used.**

The Commission is engaging in a rulemaking to implement a periodic renewal or periodic review process for international section 214 authorizations, institutionalizing a requirement for authorization holders to report ownership and other information on an ongoing basis to the Commission and for the Commission to reexamine the authorization holders' continued holding of the authorization periodically. The Commission needs this one-time information collection from international section 214 authorization holders to provide crucial information for the rulemaking process. The lack of baseline information on current international section 214 authorization holders is a significant impediment to the Commission's rulemaking efforts.

Specifically, the *Evolving Risks Order and Notice* requires each international section 214 authorization holder to identify its 10% or greater direct or indirect foreign interest holders (reportable foreign ownership) as of thirty (30) days prior to the filing deadline. Additionally, the filer will be required to certify as to the accuracy of the information provided. The filer must submit its information based on the categories below.

(1) **Reportable Foreign Ownership – Foreign Adversary – China (including Hong Kong), Cuba, Iran, North Korea, Russia, Maduro Regime.** Where there are interest holders that are entities and individuals that are a government organization or citizen of a “foreign adversary” country, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders, including any 10% or greater direct or indirect foreign interest holders outside the foregoing “foreign adversary” countries. A “foreign adversary” country is defined in the Department of Commerce's rule, 15 CFR § 7.4. The authorization holder must:

- identify each interest holder and the foreign country or countries, including countries that are not foreign adversary countries;
- disclose whether any interest holder has dual or more citizenships and identify all countries where citizenship is held; and

- certify to the truth and accuracy of all information.
- (2) **Reportable Foreign Ownership – No Foreign Adversary.** Where there are no interest holders that are entities or individuals that are a government organization or citizen of any foreign country that is a “foreign adversary” country defined in the Department of Commerce’s rule, 15 CFR § 7.4, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders. The authorization holder must:
- identify each interest holder and the foreign country or countries;
  - disclose whether any interest holder has dual or more citizenships and identify all the countries where citizenship is held; and
  - certify to the truth and accuracy of all information.
- (3) **No Reportable Foreign Ownership.** An authorization holder that has no reportable foreign ownership must certify to the truth and accuracy of this information.

**FCC Registration Number (FRN).** Starting in 2001, all international section 214 authorization holders must have an FCC Registration Number (FRN) in order to file their response in the Commission’s electronic filing system -- International Communications Filing System (ICFS). An FRN is the 10-digit number assigned to all entities (individual and corporate) that transact business with the Commission, and it must be provided any time an authorization holder submits a filing or application in ICFS. We note that many international section 214 authorizations were granted to entities prior to the Commission requiring an FRN in 2001 and such entities will need to obtain an FRN prior to filing their response to the information collection.

Other requirements adopted in the *Evolving Risks Order and Notice* do not include information collections or are part of other information collections for which the Commission will request separate approval.

This collection does affect individuals and does involve the collection of personally identifiable information (PII) from individuals. To the extent required, the Commission’s Office of International Affairs will modify the applicable System of Records Notice under the Privacy Act.

The statutory authority for the information collection requirements is contained in sections 4(i), 214, 218, 219, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 214, 218, 219, and 403.

**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.**

The responses to the one-time collection will be submitted electronically through a machine-readable form and the information will be added into ICFS, the existing system for filing applications for international section 214 authorizations.

**4. Describe efforts to identify duplication.**

This information that will be filed in response to this one-time collection is necessary for the Commission's ongoing proceeding to develop a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns. Although the Commission collects this information through applications filed regarding international section 214 authorizations, those filings are only made on a case-by-case basis and thus the information the Commission has is outdated and incomplete. The one-time collection will provide the Commission with contemporaneous information from all international section 214 authorization holders and provide the Commission with the up-to-date information it needs for its rulemaking.

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

The impact of these requirements on small businesses or other small entities is expected to be limited. International section 214 authorization holders should maintain records of their 10% or greater direct or indirect interest holders in the ordinary course of business. An authorization holder that is a privately held entity likely knows its investors. An authorization holder that is a publicly held company is also required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission (SEC).<sup>5</sup>

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

The information to be collected is required by the Commission to conduct the rulemaking in the *Evolving Risks Order and Notice*. The objective of the *Evolving Risks Order and Notice* is to adopt rule changes that will enable the Commission, in close collaboration with relevant Executive Branch agencies, to better protect telecommunications services and infrastructure in the United States in light of evolving national security, law enforcement, foreign policy, and trade policy risks. Without the information to be obtained in this one-time collection the Commission will not be able to develop a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns.

**7. Describe if there are special circumstances associated with this request.**

The Commission seeks emergency processing for this request as the information that will be obtained is essential for the Commission's ongoing proceeding to development of rules to better protect telecommunications services and infrastructure in the United States in light of evolving national security, law enforcement, foreign policy, and trade policy risks.

International section 214 authorization holders will only have to respond to this information collection once. Otherwise, the collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the**

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<sup>5</sup> 15 U.S.C. § 78m(d)(1); 17 CFR § 240.13d-1; 17 CFR § 229.403.

**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.**

Emergency approval is being sought for the above-described information collection requirements, and the Commission seeks waiver of the 60-day notice requirement due to the emergency nature of this request under 5 C.F.R. § 1320.8(d). However, the Commission has published a 30-day emergency PRA notice in the Federal Register announcing submission of this emergency request and seeking public comment on the information collection (*see* 88 FR 27886) on May 3, 2023.

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

The Commission does not anticipate providing any payment or gift to respondents.

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

The Commission is not requesting that respondents submit confidential information to the Commission. Any applicants may request that any information supplied be withheld from public inspection, pursuant to 47 CFR § 0.459 of the FCC's rules. This request must be justified pursuant to 47 CFR § 0.457.

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

The collection does not contain questions of a sensitive nature.

**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.**

All international section 214 authorization holders will be required to make a one-time filing with the Commission regarding their ownership. They are required to ascertain if they have foreign interest holders who directly or indirectly hold 10% or more of the entity, and if so, to ascertain and report the identity of the interest holder, their country of citizenship, the dual or additional citizenships of the interest holder. The authorization holders must also certify as to the truth and accuracy of the information. The burden for making the filing will be 6 hours. We estimate that 50% of the burden hours are incurred in-house and 50% by outside counsel.

Based on the Commission's records, our best estimate is that the number of active international section 214 authorization holders is approximately 1,500.

**Cumulative Total Number of Respondents** = 1,500 respondents

**Cumulative Total Number of Responses** = 1,500 responses

**Average Hours Per Response** = 6 hours

**Cumulative Total Annual Burden Hours:** = 9,000 hours (1,500 hours x 6 hours per response)

**Therefore, the respondent’s burden hours are: 4,500 hours**

**In-House Costs**

We estimate that 50% of the burden hours are incurred by in-house staff. We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

**Cumulative Total In-House Cost to Respondent** – 9,000 hours X 50% X \$40 per hour = **\$180,000**

**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).**

Annual Burden Cost:

(a) Capital and Start-up Costs: None.

(b) Operation and Maintenance Costs:

**Outside Legal/Engineering Assistance.** We estimate that the respondents will require outside legal assistance for 50% of the burden hours. The cost of outside legal and engineering assistance is estimated at \$300 per hour.<sup>6</sup> The figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

9,000 hours x 50% x \$300 per hour = **\$1,350,000** Total Outside Legal Costs

(c) **Total Annual Cost Burden = \$1,350,000.**

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

The Commission has determined that the review of the responses for foreign ownership and other information will require an attorney and an industry analyst each working for 100 hours, for an aggregate 200 hours of Commission staff time. The Commission estimates that the review will be conducted by an attorney compensated at the GS15/Step 5 level, as the review requires industry specific knowledge and experience. The review will require a moderately experienced industry analyst at the GS12/Step 5 level.

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are \$17,642. Salary estimates include 30% overhead for benefits.

Federal Government	Number	Salary	Annual Burden	Annualized
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<sup>6</sup> The rules and requirements in this collection will not require respondents to maintain any special equipment.

Staff	of Staff	Per Hour <sup>7</sup>	Hours	Costs
GS-15/Step 5 Attorney	1	\$109.92	100	\$10,992
GS-12/Step 5 Industry Analyst	1	\$66.50	100	\$6,650
	<b>2</b>			<b>\$17,642</b>

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

The Commission is reporting a one-time information collection adopted in the *Evolving Risks Order and Notice* to provide the Commission information needed for development of rules to better protect telecommunications services and infrastructure in the United States in light of evolving national security, law enforcement, foreign policy, and trade policy risks. The Commission’s program changes for the collection are as follows: +1,500 respondents; +1,500 responses; +4,500 burden hours and +\$1,350,000 in annual cost.

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

Responses to the One-Time Information Collection will be made publicly available in IB Docket No. 23-119 and associated with the Authorization Holder’s International Section 214 Authorization(s) in the International Communications Filing System (ICFS), except to the extent that any material or information is afforded confidential treatment.

**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.**

The Commission is not seeking approval to not display the expiration date for OMB approval of the information collection because the collection does not include a form number.

**18. Exceptions to “Certification for Paperwork Reduction Submissions.”**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

The Commission does not anticipate that the collection of information will employ any statistical methods.

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<sup>7</sup> The Commission used the 2023 locality pay area of Washington-Baltimore-Arlington schedule with this submission.