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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 43

[OI Docket No. 24-523, MD Docket No. 24-524; FCC 25-49; FR ID 311064]

Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopted a *Report and Order* that updates the Commission's submarine cable licensing process and adopts rule changes to protect critical U.S. communications infrastructure against foreign adversary threats, specifically those posed by an entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. The *Report and Order* adopts a requirement for certain licensees to file an annual report about the licensee, submarine cable system ownership, and submarine cable operations. The *Report and Order* adopts a one-time information collection for licensees to identify, among other things, how many entities currently own or operate submarine line terminal equipment (SLTEs) on existing licensed cable systems. The *Report and Order* also requires applicants and licensees to certify that they have created, updated, and implemented a cybersecurity and physical security risk management plan and requires applicants to certify that the submarine cable system will not use equipment or services identified on the Commission's Covered List. With respect to the circuit capacity data collection, the *Report and Order* adopts streamlined rules and eliminates the requirement for licensees to file a cable operator report about the capacity on a cable and clarify the types of capacity that need to be reported on an annual basis.

DATES: These rules are effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, except for amendatory instructions 6 (§

1.767), 7 (§ 1.768), 10 (§ 1.70002), 11 (§ 1.70003), 12 (§§ 1.70005 and 1.70006), 13 (§ 1.70007), 14 (§§ 1.70008 and 1.70009), 15 (§§ 1.70011 through 1.70013), 16 (§ 1.70016), 17 (§ 1.70017), 18 (§ 1.70020), 19 (§§ 1.70023 and 1.70024), and 22 (§ 43.82), which are indefinitely delayed. The One-Time Information Collection will also be indefinitely delayed. The Commission will publish a document in the *Federal Register* announcing the effective date of these rule sections and the One-Time Information Collection.

FOR FURTHER INFORMATION CONTACT: Desiree Hanssen, Office of International Affairs, Telecommunications and Analysis Division, at desiree.hanssen@fcc.gov or at (202) 418-0887. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at 202-418-2918 or Cathy.Williams@fcc.gov, or send an email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, in OI Docket No. 24-523 and MD Docket No. 24-524; FCC 25-49, adopted on August 7, 2025 and released on August 13, 2025. The full text of this document is available online at https://docs.fcc.gov/public/attachments/FCC-25-49A1.pdf. The full text of this document is also available for inspection and copying during business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

Synopsis

I. INTRODUCTION

1. In this item, we modernize and streamline the Commission's submarine cable rules to facilitate faster and more efficient deployment of submarine cables, while at the same time ensuring the security and resilience of this critical infrastructure. We recognize that investment in such infrastructure is vital to American prosperity and economic dynamism. The rules that we adopt today will ensure that the United States remains ready and able to deploy

submarine cable infrastructure with increasing amounts of capacity to meet current and future Internet and data demands so that the United States remains "the unrivaled world leader in critical and emerging technologies – such as artificial intelligence." With global competition for submarine cables increasing, connections to the United States should continue to be at the forefront of the submarine cable marketplace. Nonetheless, "[i]nvestment at all costs is not always in the national interest," because of the potential for foreign adversary exploitation. We also recognize that "[e]conomic security is national security," and thus protecting our communications networks against foreign threats is crucial. With these principles in mind today, we undertake the first major comprehensive update of our submarine cable rules since 2001. Since that time, technology, consumer expectations, international submarine cable traffic patterns, submarine cable infrastructure, and the foreign threat landscape have changed greatly.

2. To advance the Commission's comprehensive strategy to build a more secure and resilient communications supply chain, we adopt rules that place a strong emphasis on preventing and mitigating national security risks from foreign adversaries, while welcoming investment from United States allies and partners. We also lighten the regulatory burden on industry by modernizing and simplifying the submarine cable license approval process.

3. In this *Report and Order*, we take action to protect the security, integrity, and resilience of submarine cable systems by targeting foreign adversary threats to this critical U.S. communications infrastructure. Specifically, we adopt a clear and consistent standard that incorporates the Department of Commerce's definitions for identifying a "foreign adversary," "foreign adversary country," and an individual or entity "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary." Using these definitions, we adopt rules that will better protect U.S. national security and critical U.S. communications infrastructure from foreign adversaries.

4. We update the Commission's submarine cable licensing process to protect critical U.S. communications infrastructure against foreign adversary threats. Specifically, we adopt a

presumption that will preclude the grant of applications filed by any entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; any entity identified on the Commission's "Covered List";[1] and/or any entity whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity. To ensure that applicants have the requisite character qualifications, we adopt a character presumptive disqualifying condition that an applicant is not qualified to hold a cable landing license if it meets certain criteria. We adopt a presumption that denial of an application is warranted where an applicant seeks to land a submarine cable in a foreign adversary country. Additionally, we adopt a condition prohibiting cable landing licensees from entering into a new or extension of an existing arrangement for Indefeasible Rights of Use (IRU) or leases for capacity where such arrangements would give an entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, the ability to install, own, or manage Submarine Line Terminal Equipment (SLTE) on a submarine cable landing in the United States. For current licensees that meet the presumptive disqualifying criteria or whose cable lands in a foreign adversary country, we adopt a tool for increased oversight. We require these licensees to file an annual report (Foreign Adversary Annual Report) containing information about the licensee, submarine cable system ownership, and submarine cable

[1] Pursuant to sections 2(a) and (d) of the Secure and Trusted Communications Networks Act, and §§ 1.50002 and 1.50003 of the Commission's rules, the Public Safety and Homeland Security Bureau (PSHSB) publishes a list of communications equipment and services that have been determined by one of the sources specified in that statute to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons ("covered" equipment and services). *See* Secure and Trusted Communications Networks Act of 2019, Pub. L. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609 (Secure Networks Act); *see also* 47 CFR 1.50002-1.50003; Federal Communications Commission, *List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, https://www.fcc.gov/supplychain/coveredlist (last updated June 5, 2025) (*List of Covered Equipment and Services*). PSHSB added the latest entry to the Covered Equipment or Services list on July 23, 2024. *Public Safety and Homeland Security Bureau Announces Update to List of Covered Equipment and Services Pursuant to Section 2 of the Secure Network* Act, WC Docket No. 18-89 et.al, Public Notice, 39 FCC Rcd 8395 (PSHSB July 23, 2024) (*2024 Covered List PSHSB Public Notice*), https://docs.fcc.gov/public/attachments/DA-24-712A1_Rcd.pdf.

operations. We also adopt a written hearing process to take action to deny or revoke and/or terminate a cable landing license and a process to address a cable landing license or a licensee that is insolvent or no longer exists.

5. We modernize our submarine cable rules by adopting a definition of the term, "submarine cable system," that acknowledges the range of technological advancement in existing submarine cable systems. This definition incorporates the future technological evolution of submarine cable systems, all of which include SLTE as a significant component of the system itself. While at this time we decline to require SLTE owners and operators to become licensees, we take steps to identify, through a one-time information collection, how many entities currently own or operate SLTEs on existing licensed cable systems. The one-time information collection we adopt will further inform the Commission about the identities of SLTE owners and operators and their role in operating a portion of the submarine cable system, including information about system capacity, spectrum, or the lighting of a fiber. The one-time collection will also assess for insolvent cables or licensees, and require licensees to disclose whether or not their submarine cable systems use covered equipment or services. Importantly, this one-time information collection will inform our proposed regulatory approach to SLTEs as discussed in the *Further Notice of Proposed Rulemaking*.

6. We also codify the Commission's longstanding practice of requiring a cable landing license for submarine cables that lie partially outside of U.S. territorial waters. Moreover, while we do retain a number of our current rules, we eliminate the requirement that entities that solely own, and do not control, a U.S. cable landing station must be applicants for, and licensees on, a cable landing license. We update our application rules to require a statement that grant of the application is in the public interest, and require applicants to provide detailed information about the submarine cable system and to report whether or not they use and/or will use third-party foreign adversary service providers in the operation of the submarine cable. We also require applicants and licensees to certify that they have created, updated, and implemented

a cybersecurity and physical security risk management plan and will take reasonable measures to protect their systems and services from cybersecurity and physical security risks that could affect their provision of communications services through the submarine cable system. Additionally, applicants for a cable landing license are required to certify that the submarine cable system will not use equipment or services identified on the Commission's Covered List. These rules will ensure that licensees will protect their networks from cybersecurity and physical security threats and threats from foreign adversaries. Finally, to make it easier for applicants and licensees to navigate our rules, we clarify and update the rules for applications to modify, assign, transfer control of, or renew or extend a cable landing license or request special temporary authority. We adopt rules to obligate licensees to keep the Commission abreast of changes to important information such as the contact information of the licensee and other information that will enable the Commission to maintain accurate records regarding licensees.

7. With respect to the circuit capacity data collection, we streamline our rules and eliminate the requirement for licensees to file a Cable Operator Report about the capacity on a cable and clarify the types of capacity that need to be reported on an annual basis. Instead, we require licensees and common carriers to report their capacity on domestic and international cables in a single report, the Capacity Holder Reports—a report filed by each Filing Entity on an individual basis—that will enable the Commission to continue collecting accurate and important data for national security and public safety purposes. Importantly, consistent with other actions, we require cable landing licensees and common carriers to provide certain information about their SLTEs in the Capacity Holder Report.

8. In short, we "maintain[ ] the strong, open investment environment that benefits our economy and our people, while enhancing our ability to protect the United States from new and evolving threats" in the submarine cable ecosystem.

II. BACKGROUND

9. In November 2024, the Commission adopted the *2024 Cable NPRM,* 88 FR

50486, August 1, 2023, initiating a comprehensive review of the submarine cable rules to develop forward-looking rules to better protect submarine cables, identify and mitigate harms affecting national security and law enforcement, and facilitate the deployment of submarine cables and capacity to the market. As explained in the *2024 Cable NPRM*, the Commission's authority to grant, withhold, revoke, or condition submarine cable landing licenses derives from the Cable Landing License Act and Executive Order 10530. The Commission discussed in detail its rules and coordination of applications with the Executive Branch agencies, including the Committee, to assess applicants and licensees for assessment of any national security, law enforcement, foreign policy, and/or trade policy concerns. The Commission also discussed the existing procedures by which it coordinates with the State Department on all submarine cable applications and obtains approval of any proposed grant of an application or revocation of a cable landing license pursuant to the Cable Landing License Act and Executive Order 10530.

10. *Recent Commission Actions Regarding National Security*. The Commission has recognized that national security is built on both protecting the nation's communications infrastructure from foreign adversary threats and promoting the prosperity and robustness of the communications sector. The Commission in its recent rulemaking proceedings and actions is continuing its ongoing efforts to secure and protect communications networks from foreign adversaries, while recognizing that investment in U.S. communications networks bolsters national security. In December 2024, the Commission engaged with stakeholders in light of U.S. government confirmed reports that state-sponsored foreign actors tied to the People's Republic of China (PRC) infiltrated at least eight U.S. communications companies in a massive espionage effort, an incident known as Salt Typhoon. The Commission has continued to remain vigilant against this and other foreign adversary cyberthreats.

11. Earlier this year, shortly after President Trump announced in February 2025 the America First Investment Policy, which states that "[e]conomic security is national security" and discusses the need to limit certain investments in strategic sectors by six identified foreign

adversaries, the Commission initiated a series of actions. In March 2025, the Commission responded to threats posed by the People's Republic of China and to the evolving threat environment more generally, by establishing a Council for National Security to bring together the Commission's regulatory, investigatory, and enforcement authorities to counter foreign adversaries. The Council was established with a three-part goal: "(1) Reduce the American technology and telecommunications sectors' trade and supply chain dependencies on foreign adversaries; (2) Mitigate America's vulnerabilities to cyberattacks, espionage, and surveillance by foreign adversaries; and (3) Ensure the U.S. wins the strategic competition with China over critical technologies, such as 5G and 6G, AI, satellites and space, quantum computing, robotics and autonomous systems, and the Internet of Things." In the same month, the Commission opened a separate proceeding, the *Delete, Delete, Delete* proceeding, with an aim to remove outdated and unnecessary regulations to clear away obstacles to investment.

12. On May 22, 2025, the Commission took action in two distinct proceedings to protect our nation's communications infrastructure from foreign adversary threats. First, in the *Equipment Authorization Report and Order and FNPRM,* the Commission adopted new rules to help ensure that the telecommunication certification bodies (TCBs), measurement facilities (test labs), and laboratory accreditation bodies that participate in our equipment authorization program are not subject to ownership, direction, or control by untrustworthy actors, including foreign adversaries, that pose a risk to national security. The *Equipment Authorization Report and Order* prohibits Commission recognition of any TCB, test lab, or laboratory accreditation body owned by, controlled by, or subject to the direction of a prohibited entity, and prohibits such TCBs, test labs, and laboratory accreditation bodies from participating in the Commission's equipment authorization program.

13. Second, in the *Foreign Adversary NPRM*, the Commission proposed to adopt certification and information collection requirements that would fill gaps in the Commission's existing rules and give the Commission, and the public, a new and comprehensive view of

threats from foreign adversaries in the communications sector. Specifically, the Commission proposed to apply new certification and disclosure requirements on entities holding every type of license, permit, or authorization, rather than only certain specific licenses, and to go beyond foreign adversary ownership to also cover all regulated entities controlled by or subject to the jurisdiction or direction of a foreign adversary. The Commission stated that, by focusing on foreign adversary ownership or control, rather than foreign influence more broadly, the proposed rules are tailored to avoid needless burden on regulated entities.

14. *2024 Cable NPRM*. On November 22, 2024, the Commission adopted the *2024 Cable NPRM*, which initiated the first major review of the submarine cable rules since 2001, and sought comment on how best to improve and streamline the rules to facilitate efficient deployment of submarine cables while ensuring the security, resilience, and protection of this critical infrastructure. Among other things, the Commission sought comment on codifying the scope of the Commission's licensing requirements under the Cable Landing License Act and Executive Order 10530 and other legal requirements, improving the Commission's oversight of submarine cable landing licenses, and adopting targeted requirements to protect submarine cables from national security and law enforcement risks. The Commission further sought comment on streamlining procedures to expedite submarine cable review processes and improving the quality of the circuit capacity data and facilitating the sharing of such information with other federal agencies. To address evolving national security, law enforcement, and other risks, the Commission sought comment on updating application requirements for national security purposes and ensuring the Commission has targeted and granular information regarding the ownership, control, and use of a submarine cable system, adopting new compliance certifications, and on any additional steps the Commission can take to protect this critical infrastructure, including activities in coordination with other federal agencies.

15. Earlier this year, the Commission received 18 comments, nine reply comments, and several ex partes pertaining to a wide range of topics discussed in the *2024 Cable NPRM*.

Several commenters supported the proposal to codify a definition of a submarine cable system in the Commission's rules. Some commenters offered reservations about potentially duplicative requirements between the proposed periodic reporting, which sought updated ownership and other information, and similar requirements in mitigation agreements with the Committee, as well as concerns about requiring SLTE owners and operators to be licensees. Other commenters offered generally critical views about the proposal to lower the ownership threshold for reportable interests from 10% to 5%, with some further refinements suggested. Some commenters expressed reservations about including capacity holders or IRU holders and lessees under a licensing requirement. Meanwhile, several commenters supported the effort to streamline applications and offered recommendations. As explained below, we have considered these and other comments in the thorough record received and either take action today or seek additional comment.

III. REPORT AND ORDER

16. We adopt rules that streamline, modernize, and enhance investment in submarine cable infrastructure, while protecting this critical infrastructure against foreign adversaries in an evolving threat environment. In recent actions, the Commission has taken concrete steps to identify and halt foreign adversaries from participating in U.S. communications markets and supply chains. Our rules take similar steps for submarine cables while reducing regulatory burdens.

A. Foreign Adversary Rules

17. We take action to protect the security, integrity, and resilience of the nation's critical infrastructure by adopting proposals to implement certain information requirements, certification requirements, conditions, and prohibitions that will enable the Commission to identify and mitigate foreign adversary threats, as discussed below. We adopt a modified and tailored version of the Commission's proposals by simplifying and providing a clear and consistent standard that incorporates the Department of Commerce's definitions for identifying a

"foreign adversary," "foreign adversary country," and "[p]erson owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary." Our approach is aligned with long-standing interagency rules and regulations, pursuant to Executive Order 13873, to identify and mitigate foreign adversary threats to U.S. critical infrastructure, including exploitation through individuals and entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. This approach is further supported by the record. For example, FDD states that the Commission should prohibit entities subject to the jurisdiction, direction, or control of a foreign adversary from owning submarine cables connected to the United States. The Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector (Committee) also supports the Commission relying on the Department of Commerce's determinations and definitions in its efforts to mitigate threats to submarine cable infrastructure presented, such as prohibiting the use of such vendors for equipment or services.

1. Foreign Adversary Definition

18. *Foreign Adversary.* We define "foreign adversary" consistent with the Department of Commerce's rule, 15 CFR 791.2, which defines "foreign adversary" as "any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons."

19. In identifying foreign adversaries for the purposes of implementing the rules we adopt today, we follow the Department of Commerce's determinations. Currently, the Department of Commerce's rule, 15 CFR 791.4(a), identifies the following "foreign governments or foreign non-government persons" as "foreign adversaries": (1) The People's Republic of China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region (China); (2) Republic of Cuba (Cuba); (3) Islamic Republic of Iran (Iran); (4) Democratic People's Republic of Korea (North Korea); (5) Russian Federation (Russia); and (6) Venezuelan politician Nicolás Maduro (Maduro Regime). For purposes of the

submarine cable rules, we define "foreign adversary" to include the foreign governments and foreign non-government persons identified in 15 CFR 791.4(a), including the Maduro Regime.

20. *Foreign Adversary Country*. In this *Report and Order*, our use of the term "foreign adversary country" incorporates the meaning of the Department of Commerce's rule, 15 CFR 791.4, which specifically identifies "foreign governments or foreign non-government persons" (in lieu of "countries") as "constitut[ing] foreign adversaries." For purposes of the submarine cable rules, we define "foreign adversary country" to include both the foreign governments identified as foreign adversaries in 15 CFR 791.4, and countries controlled by a foreign adversary (including foreign non-government persons) identified in 15 CFR 791.4. For example, we will apply any reference to "a government organization of a foreign adversary country" to include the Maduro Regime. Further, we will apply the term "foreign adversary country" to include Venezuela as a country controlled by a foreign adversary identified in 15 CFR 791.4.

21. *Owned By, Controlled By, or Subject to the Jurisdiction or Direction of a Foreign Adversary*. For purposes of the submarine cable rules, we define an individual or entity "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" consistent with Department of Commerce's rule, 15 CFR 791.2, with certain narrow modifications. Specifically, we define "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" to apply to:

(1) Any individual or entity, wherever located, who acts as an agent, representative, or employee, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign adversary or of an individual or entity whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by a foreign adversary;

(2) Any individual, wherever located, who is a citizen of a foreign adversary or a country controlled by a foreign adversary, and is not a United States citizen or

permanent resident of the United States;

(3) Any entity, including a corporation, partnership, association, or other organization, that has a principal place of business in, or is headquartered in, incorporated in, or otherwise organized under the laws of a foreign adversary or a country controlled by a foreign adversary; or

(4) Any entity, including a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary, to include circumstances in which any person identified in paragraphs (1) through (3) of this section possesses the power, direct or indirect, whether or not exercised, through the ownership of a majority or a dominant minority (10% or greater) of the total outstanding voting interest and/or equity interest, or through a controlling interest, in an entity, board representation, proxy voting, a special share, contractual arrangements, formal or informal arrangements to act in concert, or other means, to determine, direct, or decide important matters affecting an entity.

22. In the *2024 Cable NPRM*, the Commission proposed similar language with the term "influence." However, we adopt here a clearer and narrower version of the proposal to align with other recent Commission actions. Moreover, our adopted approach is also aligned with interagency national security regulations deriving from President Trump's Executive Order 13873, covering the closely related matter of "Securing the Information and Communications Technology and Services Supply Chain." We also recognize that industry has recommended and prefers clear lines and directions rather than ambiguous and potentially capacious terminology. After all, while every major global company is "subject to the influence" of the government of the People's Republic of China, including many prominent cable landing licensees, not all companies may be subject to a degree of influence such that they threaten national security and law enforcement interests. While we wish to sweep broadly enough to cover private entities

subject to multi-faceted forms of foreign adversary control, we do not desire or intend a scope as broad as "subject to the influence" by itself implies.

23. Our approach is also recommended by the Committee, whose expertise the Commission frequently seeks on national security matters, and others. The Heritage Foundation, for example, states that, "the Commission could adopt the phrasing 'persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary,' as has been recommended by other commenters." Horizon Advisory also references 15 CFR 791.2, stating that "[a] practical approach to start in the right direction would be to apply the US Commerce Department's definition of 'person owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary' for defining restrictions."

24. Importantly, our rule will also assess private entities that are operating in foreign adversary countries. Some entities that are "'ostensibly private and civilian'" may "'directly support China's military, intelligence, and security apparatuses and aid in their development and modernization.'" Horizon Advisory stresses that "no Chinese company is private in any traditional sense," adding that "[a]s the Chinese government refines its use and messaging around authorities like the National Security Law, the Anti-Espionage Law, and the Personal Information Protection Law, any firm operating in China is at risk of official influence that belies traditional conceptions of a private company." Recently, the Supreme Court unanimously accepted findings that a privately held company that has operations in China "is subject to Chinese laws that require it to 'assist or cooperate' with the Chinese Government's 'intelligence work' and to ensure that the Chinese Government has the power to access and control private data the company holds."

25. We note that the Commission's rules recognize that "[b]ecause the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case." While we include factors indicative of control in our definition of "owned by, controlled by, or subject to the jurisdiction or direction of

a foreign adversary," a determination of control is not limited to these factors. The Commission will consider the totality of the circumstances reflected in the record.

26. We make certain modifications from the Department of Commerce's definition to appropriately tailor the Commission's definition and clearly define terms for purposes of the submarine cable rules, including the disclosure requirements and conditions adopted herein. *First*, we use the specific terms "individual" and/or "entity" to clarify the applicability of each subpart of the definition. *Second*, our definition of an individual "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary," does not include a resident of a foreign adversary country.

27. *Finally*, we define "that is owned . . . by a foreign adversary" in subpart (4) to include both voting and equity interests, as well as controlling interests, and also define the term "dominant minority" in subpart (4) as 10% or greater direct or indirect voting and/or equity interests. We find that this ownership threshold is consistent with the Commission's consideration of the ownership threshold of concern in the *2024 Cable NPRM* and our rules requiring disclosure of such ownership information in submarine cable applications. Our approach is also consistent with Commission precedent and recent actions in other proceedings related to the ownership threshold that we adopted or proposed to adopt to determine foreign adversary ownership or control. The Commission has found that an individual or entity may exert direction or control, or significant influence, over a subject entity even without holding a majority of the equity and/or voting interests and that ownership interests as low as five and ten percent are relevant to protecting national security by identifying foreign adversary involvement in a licensee.

2. Foreign Adversary Presumptive Disqualifying Condition

28. To protect the security, integrity, and resilience of this critical U.S. communications infrastructure against national security, law enforcement, and other threats, we adopt a presumption that a foreign adversary applicant, as further described below, is not

qualified to hold a cable landing license unless the applicant overcomes the adverse presumption. No commenter opposes the Commission's proposals. We find that adopting this presumptive disqualifying condition is consistent with the Commission's authority to withhold cable landing licenses and condition the grant of licenses to "promote the security of the United States" under the Cable Landing License Act and Executive Order 10530, and will protect this critical submarine cable infrastructure and help ensure that it is secure from foreign adversaries and entities identified on the Commission's Covered List.

29. Specifically, the disqualifying condition will presumptively preclude the grant of a submarine cable application filed by any applicant:

(1) That is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(2) That is identified on the Covered List that the Commission maintains pursuant to the Secure Networks Act; and/or

(3) Whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity.

30. We will apply this presumptive disqualifying condition to: (1) any initial application for a cable landing license that is filed after the effective date of the *Report and Order*, and (2) all other types of submarine cable applications—including an application for modification, assignment, transfer of control, or renewal or extension of a cable landing license—that are filed after the effective date of the *Report and Order* by a licensee whose initial application for a cable landing license is granted after the effective date of the *Report and Order* or by an existing licensee that currently does not exhibit (prior to the effective date of the *Report and Order*) any of the aforementioned criteria set out in the disqualifying condition. In this

Report and Order, we use the term "existing licensees" to refer to a cable landing licensee whose license was or is granted prior to the effective date of the *Report and Order* or the new rules, as applicable and discussed herein. An applicant can overcome this adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption, as described above, or that grant of the application would not pose risks to national security or that the national security benefits of granting the application would substantially outweigh any risks. Given our adoption of this presumption is necessitated by national security threats to critical U.S. communications infrastructure presented by untrustworthy actors, including foreign adversaries, we find it is appropriate and justified to apply a clear and convincing evidence standard to overcome the adverse presumption rather than NASCA's recommendation to apply a standard for rebutting a presumption that considers licensing conditions and other safeguards. We will exercise our discretion to exclude such applications from referral to the Executive Branch agencies. We address below the process that will apply where the Commission considers whether denial of a submarine cable application is warranted. If an applicant fails to overcome any of the criteria in the presumptive disqualifying condition, we will find that denial of the application is warranted to promote the security of the United States and we will deny the application.

31. To the extent an application for modification, assignment, transfer of control, or renewal or extension of a cable landing license is filed after the effective date of the *Report and Order* by existing licensees that currently exhibit (prior to the effective date of the *Report and Order*) any of the criteria set out in the presumptive disqualifying condition, instead of applying the presumption, we will refer those applications to the Executive Branch agencies, irrespective of whether the applicant has reportable foreign ownership.

32. Importantly, we will presume that denial of an application as specified herein is warranted where it is filed by any applicant that is subject to any of the aforementioned criteria. *First*, foreign adversaries are deemed to present a national security threat that undermines the

security, integrity, and resilience of critical submarine cable infrastructure and the national security interests of the United States. Entities subject to foreign adversary ownership, control, jurisdiction, or direction are identified through the application process, or through the Commission's Covered List, or by Commission action. *Second*, entities identified on the Commission's Covered List have been found to produce or provide equipment and services that have been deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. *Third*, we conclude that the Commission's determinations in denial and revocation and/or termination proceedings concerning any regulated activity are directly relevant to the determination as to whether denial of a submarine cable application by an affected entity or its current and future affiliates and subsidiaries would "promote the security of the United States."

33. For example, the presumptive disqualifying condition will apply to any initial application for a cable landing license filed by China Mobile International (USA) Inc. (China Mobile USA), China Telecom (Americas) Corporation (CTA), China Unicom (Americas) Operations Limited (CUA), Pacific Networks Corp. (Pacific Networks), and ComNet (USA) LLC (ComNet) and their current and future affiliates and subsidiaries. In the *China Telecom Americas Order on Revocation and Termination*, *China Unicom Americas Order on Revocation*, and *Pacific Networks and ComNet Order on Revocation and Termination*, the Commission extensively evaluated national security and law enforcement concerns and determined, based on thorough record development, that each entity is "subject to exploitation, influence, and control by the Chinese government and is highly likely to be forced to comply with Chinese government requests without sufficient legal procedures subject to independent judicial oversight." In the *China Mobile USA Order*, the Commission found that the entity is "vulnerable to exploitation, influence, and control by the Chinese government" and there is a significant risk that the Chinese government would use the entity "to conduct activities that would seriously jeopardize the national security interests and law enforcement activities of the United States."

3. Character Presumptive Disqualifying Condition

34. Today, we adopt a standard by which the Commission will consider whether an applicant seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license has the requisite character qualifications. To ensure that applicants have the requisite character qualifications, we adopt a presumption that an applicant is not qualified to hold a cable landing license if it meets any of the criteria listed below, unless the applicant overcomes the adverse presumption. This presumption will supplement the foreign adversary presumptive disqualifying condition and codifies a narrower application of the longstanding Commission practice of considering the character qualifications of applicants for submarine cable applications.

35. We presume an applicant does not possess the requisite character qualifications to become a cable landing licensee if the applicant has within the last 20 years:

(1) Materially violated the Cable Landing License Act where the violation (a) was not remediated with an adjudication involving a consent decree and/or compliance plan, (b) resulted in a loss of Commission license or authorization, or (c) was found by the Commission to be intentional;

(2) Committed national security-related violations of the Communications Act or Commission rules as identified in Commission orders, including but not limited to violations of rules concerning the Covered List that the Commission maintains pursuant to the Secure Networks Act;

(3) Made materially false statements or engaged in fraudulent conduct concerning national security or the Cable Landing License Act;

(4) Been subject to an adjudicated finding of making false statements or engaging in fraudulent conduct concerning national security before another U.S. government agency; or

(5) Materially failed to comply with the terms of a cable landing license, including

but not limited to a condition requiring compliance with a mitigation agreement with the Executive Branch agencies, including the Committee, where the violation (a) was not remediated with an adjudication involving a consent decree and/or compliance plan, (b) resulted in a loss of Commission license or authorization, or (c) was found by the Commission to be intentional.

36. We will apply this presumptive disqualifying condition to (1) any initial application for a cable landing license that is filed after the effective date of the *Report and Order*, and (2) all other types of submarine cable applications—including an application for modification, assignment, transfer of control, or renewal or extension of a cable landing license—that are filed after the effective date of the *Report and Order* by a licensee whose initial application for a cable landing license is granted after the effective date of the *Report and Order* or by an existing licensee that currently does not exhibit (prior to the effective date of the *Report and Order*) any of the aforementioned criteria set out in the disqualifying condition. Where such an application is filed for an assignment or transfer of control of a cable landing license, we will apply this presumptive disqualifying condition in our evaluation of the licensee, assignor/transferor, and assignee/transferee. We will not apply this presumptive disqualifying condition where an application for modification, assignment, transfer of control, or renewal or extension of a cable landing license is filed after the effective date of the *Report and Order* by existing licensees that currently exhibit (prior to the effective date of the *Report and Order*) any of the criteria set out in the presumptive disqualifying condition.

37. The criteria set out in this presumptive disqualifying condition are not the only grounds on which the Commission may deny an application due to character concerns. The public interest may require, in a particular case, that the Commission deny an application on other grounds or evidence that may be indicative of the applicant's truthfulness and reliability, including violation of other provisions of the Communications Act, Commission rules, or laws.

38. An applicant subject to any of the aforementioned criteria can overcome this

adverse presumption only by establishing that the applicant has the requisite character, despite its past conduct. We will not require applicants to disclose pending investigations, but rather only disclose violations as preliminarily or finally determined by the Commission, and as adjudicated by another U.S. government agency or a court in the United States.

39. We disagree with Microsoft's and NASCA's comments that the Commission's proposal regarding character qualifications was "overbroad." Nevertheless, we choose to narrow the scope of the character qualifications to initially prioritize considerations related to national security in our assessment of an applicant's truthfulness and reliability and to better allocate administrative resources. Microsoft and NASCA disagree, for example, with any requirement to disclose any felony absent a material or specific threshold. The Commission considers all felonies as relevant to its evaluation of character qualifications in the broadcast licensing context, as such is indicative of an applicant's or licensee's "propensity to obey the law." Further, the Commission retains the authority to take enforcement action or to revoke a licensee's cable landing license when warranted, including but not limited to reasons involving these or other character qualifications or misconduct of a licensee. Finally, while we agree with Microsoft's and NASCA's recommendation to limit the scope of the character qualifications to conduct related to ownership and operation of a submarine cable, we consider that fraudulent conduct and false statements before the Commission or other U.S. government agencies are relevant to determining the qualification of an applicant to become a cable landing licensee because such conduct bears directly on the licensee's truthfulness and propensity to obey the law and thus our ability to rely on the licensee to comply with our rules and the Cable Landing License Act. We find that the character qualifications discussed above are relevant to the determination of whether denial of a submarine cable application is warranted.

4. Foreign Adversary Cable Landing Presumptive Disqualifying Condition

40. To further protect U.S. communications networks from national security and law enforcement threats, we adopt a presumption that denial of an application, as specified below, is

warranted where an applicant seeks to land a submarine cable in a foreign adversary country, as defined in § 1.70001(f) of our newly adopted rules, unless the applicant overcomes the adverse presumption. The Committee supports a presumption of denial on building new cable landings connecting foreign adversary countries to the United States, given the intent and capabilities of such countries to harm U.S. interests and the vulnerabilities inherent in submarine cable infrastructure. No other commenter addressed this issue. We find that adopting this presumptive disqualifying condition is consistent with the Commission's authority to withhold cable landing licenses and condition the grant of licenses to "promote the security of the United States" under the Cable Landing License Act and Executive Order 10530, and will protect this critical submarine cable infrastructure and ensure that it is secure from foreign adversaries and entities identified on the Commission's Covered List.

41. Specifically, we adopt a disqualifying condition that will presumptively preclude the grant of a submarine cable application filed by any applicant:

(1) That seeks to land a new submarine cable in a foreign adversary country, as defined in § 1.70001(f).

(2) That seeks to modify, renew, or extend its cable landing license to add a new landing located in a foreign adversary country, as defined in § 1.70001(f).

42. We will apply this presumptive disqualifying condition to: (1) any initial application for a cable landing license that is filed after the effective date of the *Report and Order*, and (2) an application for modification or renewal or extension of a cable landing license that is filed after the effective date of the *Report and Order* by a licensee whose initial application for a cable landing license is granted after the effective date of the *Report and Order* or by an existing licensee. An applicant can overcome this adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption, as described above, or that grant of the application would not pose risks to national security or that the national security benefits of granting the application

would substantially outweigh any risks. We will exercise our discretion to exclude such applications from referral to the Executive Branch agencies. We address below the process that will apply where the Commission considers whether denial of a submarine cable application is warranted. If an applicant fails to overcome any of the criteria in the presumptive disqualifying condition, we will find that denial of the application is warranted to promote the security of the United States and we will deny the application.

43. We agree with the Committee that there are substantial and serious national security and law enforcements risks associated with landing submarine cables in foreign adversary countries. Since 2017, there have been two submarine cable applications filed in part by entities with ties to foreign adversary countries and with the proposed cable landings in foreign adversary countries. The Executive Branch agencies recommended that the Commission partially deny the PLCN cable system application due to national security and law enforcement risks, stating that the proposed connection to Hong Kong, "combined with other pending applications seeking to directly connect the United States to Hong Kong, furthers the PRC's ambitions to have access to an information hub that is directly linked to U.S. ICT infrastructure" and "potentially could place voluminous amounts of sensitive U.S. person data in these companies' possession at risk." The Committee recommended that the Commission deny the ARCOS-1 modification application due to national security and law enforcement risks, stating that "[i]f the application is granted as proposed, U.S. persons' Internet traffic, data, and communications transiting the proposed ARCOS-1 cable expansion (Segment 26) to Cuba are very likely to be compromised," given the "Cuban government maintains tight control of the Cuban telecommunications networks through [Empresa de Telecomunicaciones de Cuba S.A. (ETECSA)]."

5. Prohibition on IRUs and Capacity Leases with Foreign Adversaries

44. To further protect U.S. communications networks from national security, law enforcement, and other threats, we adopt a condition that cable landing licensees are prohibited

from entering into arrangements for Indefeasible Rights of Use (IRUs) or leases for capacity on submarine cable systems landing in the United States, where such arrangement for IRUs or lease for capacity would give an entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g), the ability to install, own, or manage SLTE on a submarine cable landing in the United States. While we clarify that we do not apply a strict liability standard, we expect licensees to conduct substantial due diligence to ensure compliance with FCC requirements. To the extent a licensee conducts substantial due diligence to verify all relevant information and reasonably believes the entity is not owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined herein, such licensee would not be subject to enforcement sanctions. We would consider all of the facts and circumstances raised in an individual case and take into consideration the steps a licensee took in conducting substantial due diligence to ensure compliance with the rule. We adopt this condition with respect to new and extension of existing arrangements for IRUs or leases for capacity between a cable landing licensee and any of the aforementioned entities, subject to any exception granted by the Commission. A licensee may petition the Commission for waiver of the condition. Any waiver of the condition would be granted only to the extent the licensee demonstrates by clear and convincing evidence that such new or extension of an existing arrangement or lease would serve the public interest and would present no risks to national security or that the national security benefits of granting the waiver would substantially outweigh any risks.

45. The Commission sought comment on whether it should prohibit cable landing licensees from entering into arrangements for IRUs or leases for capacity on submarine cables landing in the United States with entities associated with foreign adversaries. Specifically, the Commission sought comment on applying this prohibition to any entity that is directly and/or indirectly owned or controlled by, or subject to the influence of, (1) a government organization of a foreign adversary country, and/or (2) any individual or entity that has a citizenship(s) or

place(s) of organization in a "foreign adversary" country, as defined under 15 CFR 791.4. For the reasons discussed above, we instead adopt the narrower, more precise, and previously-used formulation "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary."

46. We are persuaded by the record support for our action today. NASCA argues that the proposal "to ban certain commercial transactions is not supported by specific findings that the transactions pose a national security or law enforcement risk, given that the customers in such transactions typically do not have the ability to exert influence or control over the cable." Other commenters, however, address national security risks associated with submarine cables in the current threat environment. FDD states that "Beijing has also repeatedly demonstrated its willingness to use security gaps within U.S. critical infrastructure" and "[t]hese risks are heightened by private firms' use of remote network management systems, particularly those connected directly to the [I]nternet, to control submarine cable systems." The Committee states that "the United States and its networks are under constant threat from various foreign adversaries, particularly China" and recent compromise of U.S. telecommunications infrastructure "reflects the increasing capability of China to target critical American infrastructure and systems." The Committee states that prohibiting cable landing licensees from entering into dark fiber IRU agreements with foreign adversary-affiliated entities would reduce risks posed by such entities owning or operating SLTE on submarine cables landing in the United States "pursuant to an IRU or similar or similar legal instrument," and also provide "a bright line rule" requested by commenters. The Committee emphasizes the national security risks presented by foreign adversary entities with this type of access, including serious counterintelligence risks where an adversary could intercept or misroute U.S. persons' communications and sensitive data transiting the submarine cable.

47. We find there are serious national security and law enforcement risks associated with access, ownership, and control of communications fiber and principal equipment on this

critical U.S. infrastructure by entities that are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Capacity may be held on submarine cables through ownership, leasing, purchasing, selling, buying, or swapping of capacity, spectrum, or fiber (partial fiber pair or a full fiber pair) for transmission of voice, data, and Internet over the submarine cable system to interconnect with a U.S. terrestrial network. Significant national security and law enforcement risks are raised where an untrustworthy actor has access to U.S.-based infrastructure and sensitive information that traverses such infrastructure. In the *China Telecom Americas Order on Revocation and Termination*, for example, the Commission discussed that "the opportunities for harmful conduct associated with [China Telecom (Americas) Corporation's (CTA)] ability, as a service provider, to carry U.S. communications traffic present risks of unauthorized access to U.S. customer data and/or metadata." Moreover, there are serious national security and law enforcement risks where an untrustworthy actor with access, ownership, and control of submarine cable communications fiber and principal equipment, has physical presence within U.S. communications networks and "can potentially access and/or manipulate data where it is on the preferred path for U.S. customer traffic." Our action today further protects the submarine cable infrastructure from threats and ensures foreign adversaries are precluded from exploiting the domestic supply chain.

B. Cable Landing License Processes to Withhold or Revoke and/or Terminate a License

1. Process to Withhold or Revoke and/or Terminate a License

48. We adopt the Commission's proposal to apply an informal written process in cases involving withholding or revocation and/or termination of a cable landing license. Below, we describe the procedures we will use for revocations and denials, respectively. We find that these procedures are consistent with due process and procedural requirements under the Cable Landing License Act, the Communications Act, and the Administrative Procedure Act (APA).

49. The Cable Landing License Act states that the President may "withhold or revoke

such [cable landing] license . . . after due notice and hearing," but does not identify particular procedures that must be followed. Where a statute does not expressly require an "on the record" hearing and instead calls simply for a "hearing," a "full hearing," or uses similar terminology, the statute does not trigger the APA's formal adjudication procedures absent clear evidence of congressional intent to do so. Agencies must adhere to the formal hearing procedures in sections 554, 556, and 557 of the APA only in cases of "adjudication required by statute to be determined on the record after opportunity for an agency hearing." In addition to the Cable Landing License Act, neither the Communications Act, the Commission's rules, nor the APA requires the Commission to use trial-type hearing procedures when it withholds or revokes a cable landing license. Congress has granted the Commission broad authority to "conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." The Commission has broad discretion to craft its own rules "of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties." Furthermore, the Communications Act gives the Commission the power of ruling on facts and policies in the first instance. In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. Below, we explain how we will conduct application and revocation proceedings.

50. *Revocation Informal Written Process.* We adopt an informal written process for revocations that will allow for the presentation and exchange of full written submissions before the Commission or OIA. The informal written process will provide cable landing licensees with timely and adequate notice of the reasons for any revocation action, and opportunity to cure noncompliance to the extent such an opportunity is required by the APA, and to respond to allegations and evidence in the record and to make any factual, legal, or policy arguments through the presentation and exchange of full written submissions. To the extent required by the APA, licensees will also be afforded the opportunity to cure any noncompliance before the institution of a revocation proceeding. *See* 5 U.S.C. 558(c) ("Except in cases of willfulness or

those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—(1) notice by the agency in writing of the facts or conduct which may warrant the action; and (2) opportunity to demonstrate or achieve compliance with all lawful requirements."). We adopt the proposal that the Commission may commence a revocation proceeding either on its own initiative or upon the filing of a recommendation by the Executive Branch agencies, including the Committee, to revoke the license of a cable landing licensee. A few commenters state that the Commission cannot revoke a cable landing license "without prior coordination and approval from the State Department." We note that the Commission and the State Department have existing procedures by which the State Department approves the Commission's grant of a cable landing license application or revocation of a cable landing license, as required by Executive Order 10530, and these procedures would continue to apply to any revocation of a cable landing license.

51. While we believe that oral hearing procedures are not warranted in all cases involving revocation of cable landing licenses, we delegate authority to OIA to determine appropriate procedures on a case by case basis, including addressing requests for oral hearing procedures, providing an opportunity for oral hearing procedures where warranted by the facts and circumstance, and designating an Administrative Law Judge (ALJ) as the presiding officer if the hearing includes oral procedures, if OIA determines that doing so would be appropriate based on the ALJ's expertise or for other reasons. Courts have held that the question of whether to hold an evidentiary hearing is "within [the agency's] discretion, and it may 'properly deny an evidentiary hearing if the issues, even disputed issues, may be adequately resolved on the written record, at least where there is no issue of motive, intent or credibility.'" As stated in the *2024 Cable NPRM*, we do not believe it would be appropriate to require live hearing procedures involving testimony and cross-examination in all proceedings to revoke cable landing licenses, particularly in cases involving national security issues, where the Commission has previously

concluded that the burdens on the Government of implementing such procedures outweighed the private interest and the probable value of additional procedures. We also believe that live hearing procedures could entail significant administrative burdens on the Commission even in cases involving other issues that do not involve the Executive Branch agencies, such as character concerns, or other Commission rule violations. The informal written process we will apply is also distinct from the Commission's subpart B hearing rules, including the written hearing rules codified in §§ 1.371 through 1.377. No commenter addressed these proposals or argued that we should require oral hearing procedures in cases involving revocation of cable landing licenses.

52. While no commenter opposed an informal written hearing process, a few commenters state that revocation procedures should provide licensees with notice and an opportunity to resolve or cure concerns. A few commenters state generally that revocation will have an impact on investments, or that the Commission should "provide licensees with a clearly established process to revoke a license," but they do not claim that the informal written process itself would provide insufficient process or fail to provide adequate opportunities for affected licensees to address the Commission's concerns. However, a few commenters propose mitigation as an additional procedural safeguard to resolve concerns or as a substitute for any revocation action. For example, INCOMPAS states that, "[b]efore the Commission resorts to revocation, it first should engage with licensees" to provide an opportunity to work with the Commission and Executive Branch agencies to identify national security concerns and develop mitigation measures. U.S. Chamber of Commerce states that licensees should be provided "a meaningful opportunity" to respond to allegations of misconduct and to cure or to mitigate concerns. As discussed below, we delegate authority to OIA to implement procedures on a case by case basis in accordance with section 558(c) of the APA, including providing notice and opportunity, where appropriate, to achieve compliance unless the facts and circumstances indicate willfulness or that the public interest or safety requires otherwise (including harm to national security). The Commission may determine, for example, in light of the relevant facts

and circumstances that national security and law enforcement risks presented in a particular case cannot be addressed through mitigation with the Executive Branch agencies. Moreover, Executive Order 10530 requires the Commission to obtain the approval of the State Department, and, "as the Commission may deem necessary," to seek advice from other Executive Branch agencies, before granting or revoking or terminating a cable landing license. The Commission has sought the expertise of the relevant Executive Branch agencies in identifying and evaluating issues of concern that may arise from an applicant's or licensee's foreign ownership, while also emphasizing that it will make an independent decision and will evaluate concerns raised by the Executive Branch agencies in light of all the issues raised. Further, revocation cases may involve other issues that do not involve the Executive Branch agencies, such as character concerns, or other Commission rule violations. To the extent any revocation proceeding is commenced either on the Commission's own initiative or upon the filing of a recommendation by the Executive Branch agencies, we find that our informal written process will ensure the development of an adequate administrative record and appropriate procedural safeguards to ensure due process, including procedures for participation by affected licensees, the Executive Branch agencies, and other interested parties.

53. We disagree with proposals to curtail the Commission's authority to revoke and/or terminate a cable landing license under the Cable Landing License Act, Executive Order 10530, and the Commission's rules. Commenters suggest, for example, that the Commission should only revoke the license of a cable landing licensee on national security and economic security grounds or solely based on a history of noncompliance, or otherwise provide a clear standard such as specific national security threats posed by changed circumstances or noncompliance with the terms of a license or Commission rules. We cannot effectively discharge our duty to protect national security by limiting our revocation and termination process to a prescribed list of circumstances, as we cannot predict with certainty what circumstances might threaten national security in the future. However, in general, we will consider the

possibility of initiating revocation proceedings, for example, where a licensee's actions or failure to act, or other circumstances, raise concerns about our ability to trust the licensee to comply with the Cable Landing License Act, our submarine cable rules, and/or national security commitments, or to otherwise protect national security interests. Further, a licensee's violation of other statutory or regulatory requirements, as well as serious non-FCC misconduct, may call into question our ability to trust a licensee in this regard. We will consider the possibility of initiating termination proceedings where a licensee fails to comply with any condition of its license. Separate and apart from revocation, the Commission uses the term "termination" where a license or authorization is terminated based on the licensee's or authorization holder's failure to comply with a condition of the license or authorization, and has determined that the informal written procedures applicable to termination need not mirror the procedures used for revocation of licenses or authorizations. To the extent any revocation and/or termination proceeding is commenced, we find that our informal written hearing process will ensure the Commission obtains the approval of the State Department, and will seek advice from other Executive Branch agencies, "as the Commission may deem necessary," before revoking or terminating a cable landing license. As discussed below, we delegate authority to OIA to determine appropriate procedures on a case by case basis for revocation and/or termination of a cable landing license, as required by due process and applicable law and in light of the relevant facts and circumstances.

54. *Application Proceedings*. As stated in the *2024 Cable NPRM*, we believe that the statutory language "withhold . . . such license" authorizes the denial of an application, including an initial application for a cable landing license and an application to modify, assign, transfer control of, or renew or extend a cable landing license. The *2024 Cable NPRM* sought comment on the extent to which the Commission's existing procedures for denial of applications should be modified in any respect. The Commission also sought comment on whether its procedures for denial of an application to modify, assign, or transfer control of a license, or for renewal and

extension applications should mirror its procedures for denial of an initial application. One commenter addressed the procedural framework applicable to denial. We conclude that additional informal written procedures beyond our existing procedures are not warranted for denial of applications, but as proposed we delegate authority to OIA to adopt additional procedures on a case-by-case basis as circumstances warrant, and consistent with due process.

55. Consistent with Executive Order 10530, we also adopt the proposal to amend § 1.767(b) of the rules so that it does not state that denial of an application requires approval by the Secretary of State. No commenter addressed this proposal. Executive Order 10530 does not require the State Department's approval of a denial action and expressly states that "no such license shall be *granted or revoked* by the Commission except after obtaining approval of the Secretary of State . . . ." Section 1.767(b) of the current rules, however, is inconsistent with the language in Executive Order 10530, as it states that submarine cable applications are "acted upon by the Commission after obtaining the approval of the Secretary of State." The term "acted upon" would appear to include denial of an application. Therefore, we remove the language "[t]hese applications are acted upon" in the rule and state instead, "[c]able landing licenses shall be granted or revoked by the Commission after obtaining the approval of the Secretary of State . . . ."

56. *Delegation of Authority to OIA to Implement Procedures.* Further, we adopt the Commission's proposal to modify OIA's existing delegated authority to permit OIA to deny an application and to revoke and/or terminate a cable landing license under the Cable Landing License Act and Executive Order 10530. While no commenter opposes this proposal, INCOMPAS asserts that any codification of the revocation procedures should state that any reservation of the Commission's authority to modify its approach as circumstances warrant "is limited by the requirements of due process." The rule we adopt sets forth, among other things, that OIA shall determine appropriate procedures, initiate revocation and/or termination proceedings, and revoke and/or terminate a cable landing license, "as required by due process

and applicable law." Specifically, we delegate authority to OIA to determine appropriate procedures on a case by case basis for grant or denial of an application or revocation and/or termination of a cable landing license, to initiate and conduct application, revocation and/or termination proceedings, and to grant or deny an application and revoke and/or terminate a cable landing license, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing the applicant or licensee with notice and opportunity to cure noncompliance to the extent such an opportunity is required by the APA, and to respond to allegations and evidence in the record.

2. Process to Revoke Licenses of Licensees That are Insolvent or No Longer Exist

57. We adopt a process to revoke the cable landing licenses of licensees that are insolvent or no longer exist. Section 1.767(m)(2) of the rules requires that "[a]ny licensee that seeks to relinquish its interest in a cable landing license shall file an application to modify the license." The Commission's records in the International Communications Filing System (ICFS) and other records, indicate that some submarine cables licensed by the Commission may not have commenced service and/or some cable landing licensees of record may be insolvent or no longer in operation. Furthermore, some licensees that may be insolvent or no longer exist did not file a modification application to relinquish their interest in the cable landing license or otherwise notify the Commission. In the *2024 Cable NPRM*, the Commission sought comment on what processes it should adopt when submarine cables and/or licensees are insolvent or no longer exist. No commenter addressed this issue. Given we are conducting a one-time collection below, we will require all licensees to provide updated information so that the Commission can ensure it has accurate information regarding submarine cables and licensees subject to its oversight and begin a process to revoke licenses for insolvent cables and/or held by insolvent licensees.

58. If a licensee fails to timely respond to the information collection required in the

Report and Order adopted herein and subsequently fails to achieve compliance after notice of the failure, we will apply our revocation process to revoke its license or remove the licensee from a license held by multiple licensees. We would deem the failure to respond to this *Report and Order* as presumptive evidence that the licensee is no longer in operation. We will publish in the *Federal Register* a list of non-responsive licensees and non-operating licensees identified by responding licensees and provide an additional thirty (30) days from that publication for those licensees to respond to the information collection requirement or file a notification to relinquish their interests in the license.

59. In situations where a licensee has gone out of business and is no longer able to make the filing on its own behalf, other licensees that jointly hold the license, if any, may appoint one licensee to make a filing that demonstrates and certifies that the licensee has ceased to exist and that the remaining licensee(s) will retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system. If the licensee has not responded within thirty (30) days of the publication of the notice in the *Federal Register*, we will institute a proceeding to revoke the license or the licensee's rights under a license held by multiple licensees. We note that licensees that fail to comply fully and timely with the information collection required in this *Report and Order* are subject to enforcement action, including forfeitures, revocation, or termination. We find this process is reasonable and necessary to ensure the accuracy of the Commission's records regarding cable landing licensees.

60. Any licensee whose cable landing license is revoked for failure to respond following the institution of a proceeding may file a petition for reinstatement *nunc pro tunc* of the license or its rights under a license held by multiple licensees. A petition for reinstatement will be considered: (1) if it is filed within six months after publication of the *Federal Register* notice; (2) if the petition demonstrates that the licensee is currently in operation, including operation of the submarine cable; and (3) if the petition demonstrates good cause for the failure to timely respond. A licensee whose cable landing license or whose rights under a license held

by multiple licensees is cancelled under these procedures would be able to file a new application to become a licensee in accordance with the Commission's rules, which would be subject to full review.

C. Cable Landing License General Requirements

1. FCC Licensing Authority Under the Cable Landing License Act

61. In the *2024 Cable NPRM*, the Commission proposed to codify its longstanding practice of applying the licensing requirement to submarine cables that lie partially outside of U.S. territorial waters. The Commission sought to bring additional clarity to the application process as well as regulatory certainty to submarine cable owners and operators. Based on the comments, we codify the proposal with one nomenclature change. That is, to clarify the application of the rule, we replace the originally proposed term "international waters" with the phrase "areas beyond the U.S. territorial waters, which extend 12 nautical miles seaward from the coastline."

62. Accordingly, we agree with the suggestion of NTIA and the State Department that we refrain from using the term "international waters" because the term is not used in the United Nations Convention on the Law of the Sea (UNCLOS) and to instead use "areas beyond the limits of national jurisdiction" or similar phrasing. Although the United States has neither signed nor ratified UNCLOS, the United States considers provisions of UNCLOS concerning traditional uses of the ocean as generally reflective of customary international law binding on all States. One provision of UNCLOS that the United States abides by is that:

> "[t]he territorial sea is a belt of ocean established by a coastal State extending seaward up to 12 nautical miles from the baseline of that State and subject to its sovereignty."

Our practice has been to require a cable landing license for a cable that connects points within the continental United States, Alaska, Hawaii, or a territory or possession if part of that cable is laid in an area beyond 12 nautical miles from the U.S. coastline, which is consistent with

UNCLOS. Therefore, we adopt this modification to the proposed rule to ensure that the industry clearly understands when a cable landing license is required, which will benefit applicants and promote efficiency for the Commission. Our clarification is consistent with the Act's definition of "United States" to mean territory "subject to the jurisdiction of" the United States.

63. We therefore adopt the proposed rule with clarification as follows:

A cable landing license must be obtained prior to landing a submarine cable that connects:

(1) The continental United States with any foreign country;

(2) Alaska, Hawaii, or the U.S. territories or possessions with:

(i) a foreign country,

(ii) the continental United States, or

(iii) with each other; or

(3) Points within the continental United States, Alaska, Hawaii, or a territory or possession in which the cable is laid in areas beyond U.S. territorial waters, which extend 12 nautical miles seaward from the coastline.

64. *One Portion of the United States*. We disagree with Lumen and USTelecom that the Commission's rule is overbroad based on their view that the term "portion" as used in the Cable Landing License Act is intended to mean state, territory, or possession and that the Act does not require a license if a cable connects two points within one "portion." Based on this interpretation, these commenters claim that the Act does not require a license if a cable connects two points within a single state, territory, or possession, because the statute only requires a license when a submarine cable connects "one portion of the United States with any *other* portion," i.e., one state with any *other* state. We reject this interpretation. Rather, we believe the best reading of the statute is that the phrase "connecting one portion of the United States with any other portion thereof" was intentionally broad and refers to cables connecting any parts of the United States. The Cable Landing License Act does not define the term "portion." Had Congress meant for the term "portion" to mean state, territory, or possession, it could have used

those terms instead, or it could have included such a definition as it did when it defined the term "United States." Likewise, if Congress intended for this term to be limited in scope, it could have included an exception to the licensing requirement just as it did in the second sentence of the same statutory section. Instead, Congress included no such limiting language. To help shed light on the requirement's intended scope, we thus look to the term's "ordinary, contemporary, common meaning" when that term was adopted by Congress in 1921. At that time, the "ordinary, contemporary, common meaning" of the term "portion" was "a part of any whole." And a cable connecting two landing points—even if they lie within a single state, territory, or possession—connects parts of the whole of the United States. Accordingly, our interpretation best satisfies the statutory language chosen by Congress. Lumen further argues that there is "no textual basis in the statute" for treating differently cables connecting two points in a single state based on whether the cable is laid in international waters, as proposed in the NPRM. Lumen thus suggests that under the Commission's proffered reading of the statute, a license would be required under such circumstances unless the statutory exception relating to cables lying "wholly within the continental United States" applies—an exception that would not apply in the case of Hawaii, whether or not the cable is laid in international waters. Nonetheless, consistent with longstanding practice and to avoid any possible impingement of intrastate matters with respect to such cables, we codify our existing practice of not requiring a cable landing license for wholly local cables that remain within the territorial waters of the United States. For example, a submarine cable that connects one point in Hawaii to another point in Hawaii, if laid within U.S. territorial waters, would not require a cable landing license.

65. *Alaska and Continental United States*. ATA argues that "cables solely connecting points within the state of Alaska, or connecting Alaska to the lower 48 states, are outside the scope of the licensing requirement [the Cable Landing License Act]." We disagree with ATA's arguments and will address them in turn.

66. First, we disagree that the licensing requirement in the Cable Landing License Act

is not intended to apply to cables connecting Alaska to other parts of the United States. Congress limited the application of the Cable Landing License Act by adding the following language that is now codified at section 34 of title 47 of the U.S. Code: "The conditions of sections 34 to 39 of this title shall not apply to cables, all of which, including both terminals, lie wholly within the continental United States." Even if Alaska was a part of the continental United States as ATA would argue is a proper interpretation, a cable landing license would nonetheless be required for a submarine cable connecting Alaska to the United States because the submarine cable would in no way meet the statutory exception that the "cable[ ], all of which, including both terminals, lie[s] wholly within the continental United States." The plain language of the statute does not state that *only* the terminals of the submarine cable must lie within the continental United States, instead, it says that *all* of the cable, which includes the terminals, must lie within the continental United States. There is no basis in the plain text of the statute to read "all of which, including both terminals," to exclude the "wet segment" of the cable, and ATA's reliance on legislative history does not support its reading. Moreover, construing the language in this way would conflict with the Commission's longstanding interpretation, which reflects the best reading of the statute. Thus, in order for a cable connecting Alaska to other states to be exempt from the licensing requirement, i.e., wholly within the continental United States, the entire submarine cable system would need to remain within U.S. territorial waters up to 12 nautical miles seaward from the coastline, which we know geographically would be impossible for a cable laid from Alaska to the continental United States. Therefore, even if Alaska was a part of the continental United States, a cable connecting Alaska to another state would not meet the exception under the Act. Second, our rule will not require a cable landing license when a submarine cable connects points within Alaska if the cable remains within U.S. territorial waters. Thus, cables connecting two points in Alaska are subject to the same licensing requirement as cables connecting any other two points within the United States.

67. ATA makes two additional claims. First, ATA claims that "submarine cables

connecting solely domestic points – even those laid in international or foreign waters – do not implicate any of the evolving national security risks that the NPRM seeks to address." ATA's argument is based on the mistaken premise that domestic cables are only owned or operated by domestic entities, such as U.S. carriers. This is an inaccurate assessment of the submarine cable industry in the United States as foreign entities are often cable landing licensees subject to Commission rules or there may be other foreign components of submarine cables, domestic or international. Further, domestic cables connect the United States to faraway U.S. territories such as Guam, where U.S. military bases are strategically located. It is inaccurate to indicate that there are no such concerns regarding national security or law enforcement with regard to domestic submarine cables. The Commission has long stated that foreign participation in submarine cables licensed by the Commission may pose risks to national security, law enforcement, foreign policy, and trade policy for which Executive Branch agencies' expertise is needed to assist the Commission with its public interest determination. Therefore, we reject ATA's claim that cables connecting solely domestic points do not implicate national security risks. Second, ATA states that "[i]f the Commission finds that any category of purely domestic submarine cables is subject to the Cable Act's licensing mandate, it should streamline that requirement by granting blanket license authority by rule to land such fully domestic cables, whether or not they traverse international waters." We address this request in the *Further Notice of Proposed Rulemaking*.

2. Submarine Cable System Definition

68. We adopt a submarine cable system definition that will provide regulatory certainty to submarine cable owners and operators and ensure administrative efficiency for the Commission. The *2024 Cable NPRM* sought comment generally on whether it is necessary to adopt a definition of a submarine cable system for purposes of licensing a submarine cable system and whether we should codify a submarine cable definition in our rules. As the record overwhelmingly demonstrates, commenters support the proposal to define a submarine cable

system and to codify a definition of a submarine cable system in the Commission's rules, stating that it will add clarity to the Commission's rules and licensing regime.

69. We adopt a definition that is consistent with the Committee's proposed definition as well as the Commission's definition in its outage reporting rules. Importantly, our definition ensures that a submarine cable system extends to and includes the SLTE, whether it is located in a cable landing station near the initial beach landing or further in-land within data centers. We believe this definition captures what a submarine cable system is under the Cable Landing License Act and clearly identifies the demarcation point of where the submarine cable system ends and the terrestrial system begins. Based on the record, we adopt the following definition:

> A submarine cable system carries bidirectional data and voice telecommunications traffic consisting of one or more submarine cable(s) laid beneath the water, and all associated components that support the operation of the submarine cable system end-to-end, including the segments up to the system's terrestrial terminations at one or more SLTEs as well as the transponders that convert optical signals to electrical signals and vice versa.

70. Where the submarine cable system ends and the terrestrial system begins has changed over time and our definition establishes that the cable extends to and includes the SLTE, whether it is located in a cable landing station near the initial beach landing or further in-land within data centers. In older architectural deployments prior to the advent of open cable systems, the SLTE was placed at the cable landing stations. Some subsequent architectural deployments place an Optical Add-Drop Multiplexer (OADM), or a Reconfigurable Optical Add/Drop Multiplexer (ROADM) in the cable landing station, with the SLTEs distributed further inland. ROADMs facilitate adding and dropping optical signals used in a fiber cable, and ROADMs add additional flexibility by allowing the operator to reconfigure the device. Both of these components add efficiency and flexibility to the optical network by inserting or removing channels. Remote management of the SLTE and all other submarine cable system equipment is also a necessity of modern systems. Remote management includes configuration, performance

and fault management and testing, which emphasizes the need to have trusted management systems and personnel who can access the cable system and all associated components and facilities, including the SLTE.

71. The Committee stated that it has historically viewed a submarine cable system as including SLTE, adding that the Committee shares the Commission's view on the importance of the SLTE and the access and control it offers its owners and users. NASCA, a trade association whose members include over 25 submarine cable owners and submarine cable maintenance authorities for cable systems operating in North America, supports codification of a submarine cable definition, stating that such is "clear and consistent with licensees' current reporting requirements to the Team Telecom agencies." Microsoft also maintains that the proposed definition—cable system SLTE to cable system SLTE—is consistent with the Committee's current mitigation instrument conditions imposed on many licensees.

72. Some commenters disagreed with the proposed definition, and argued that the Commission should define a submarine cable system in terms of its components that would not include SLTE. NASCA does not specifically address or take a position on inclusion of SLTE in the Commission's proposed definition, but does propose that the Commission could define a submarine cable to include only the components up to and including the optical distribution frame (ODF)," contending that the ODF is the "demarcation point at which the submarine cable terminates and interconnects to terrestrial fiber." NASCA maintains that because the "SLTE also converts terrestrial signals to submarine signal," the SLTE is "just as much a terrestrial network element as a submarine network element." Microsoft also takes the position that the SLTE is a terrestrial component used to "convert terrestrial signals to submarine signals," and states that the "Commission equally could modify the NPRM's proposed definition to delimit the end points of a submarine cable at the ODF," claiming this is the demarcation point at which a submarine cable terminates and interconnects to SLTE. ICC disagrees with inclusion of SLTE as the end point of the submarine cable system, arguing that the definition is somewhat outdated and that

modern submarine cable systems typically terminate at an ODF, Open Cable Interface (OCI), ROAD-M, or similar device—which serves as a given system's interface with a particular user's optical network.

73. While we adopt ICC's recommendation to clarify in our definition that the components relate to the "operation of" the submarine cable system, we decline to accept commenters recommendations concerning SLTEs or comments that would limit the definition. For example, ICC recommends that we limit the definition to cover only transponders that are solely located within the SLTEs. We find that doing so would incorrectly limit the definition because transponders that support the operation of submarine cable systems can be located elsewhere. We also decline to accept NCTA's recommendation to exclude fully domestic SLTE operators and lessees as some SLTE operators and lessees do not have foreign ownership and may not pose a meaningful risk to U.S. national security. Contrary to NCTA's argument, the definition is meant to encapsulate the scope of what constitutes a submarine cable system, not whether particular components of the system pose risks.

74. Finally, we do not accept commenters' suggestion that ODF, OCI, ROADM, and similar devices should be considered as the end point of a submarine cable system. We recognize that the Commission's proposed definition of a submarine cable reflects traditional/legacy architecture when the terminal cable landing station was located near the shore and cable operators were not, as is the case today, purchasing SLTE(s) from independent equipment vendors that can be remotely managed. We also understand that cable operators today require multiplexing and other equipment to manage their fiber in cable landing stations, and that SLTE equipment allows for routing of fiber from one cable landing station to another cable landing station, or a data center located further inland and beyond the initial cable landing station. We find it necessary to include SLTE as a component in our definition because it is the SLTE that converts between submarine cable signals and terrestrial signals. While the reverse is also true, as was raised by commenters, only the SLTE converts cable signals to terrestrial

signals. Therefore, whether this conversion occurs at the first, or initial, cable landing station, or occurs inland at a cable landing station or data center, we include the SLTE as the end point component of the submarine cable in our definition of a submarine cable under the Cable Landing License Act. Several commenters, noting that the Commission's proposed definition of a submarine cable system aligns with that used by the Committee in its mitigation agreements (SLTE to SLTE), support continued engagement by the Commission with other governmental entities to address risks to submarine cable infrastructure and to limit regulatory compliance burdens by avoiding unnecessary duplication on licensees' parallel Committee obligations.

3. Twenty-Five Year License Term

75. Based on the comments in the record, we retain the 25-year term for cable landing licenses. In the *2024 Cable NPRM*, the Commission sought comment, as an alternative to the proposed periodic reporting, on whether shortening the current 25-year submarine cable license term or adopting a shorter license term in combination with periodic reporting would similarly account for evolving national security, law enforcement, and other risks. We agree with the commenters that shortening the 25-year license term could have outsized negative impacts on the deployment and resilience of submarine cable systems without providing a corresponding benefit to national security, and we therefore do not adopt a shortened license term. Instead, we retain the routine condition that a cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended.

D. Submarine Cable Applicant/Licensee Requirements

1. Licensee Requirements

76. In this *Report and Order*, we largely retain the current requirements for who must be an applicant/licensee for a cable landing license. We retain the licensing requirements for those entities that own or control a 5% or greater interest in the cable system and use the U.S. points of the cable system and those entities that control a cable landing station, but we exclude those entities that merely own, but do not control, a cable landing station from becoming an

applicant/licensee for a cable landing license. At this time, we decline to adopt a licensing requirement for SLTE owners and operators. Instead, based on the comments in the record, we seek to further develop the record with a one-time information collection. The one-time information collection will assist the Commission to better understand the scope of SLTE owners and operators. In the *Further Notice of Proposed Rulemaking,* the results from the one-time information collection will assist us in adopting a more targeted SLTE regulatory framework.

a. Five Percent Ownership Threshold and Use of U.S. Points

77. We retain the requirement that an entity owning or controlling a 5% or greater interest in the cable system and using the U.S. points of the cable system must submit an application to become a licensee. We decline to adopt other proposals at this time. In the *2024 Cable NPRM*, the Commission sought comment on whether to retain the requirement that an entity that owns or controls a 5% or greater interest in the cable and uses the U.S. points of the cable system shall be an applicant for and licensee on a cable landing license. The Commission also sought comment on whether to require any entity that owns the submarine cable system or any entity that has capacity on the submarine cable system to become a licensee. The Commission additionally sought comment on whether it should require entities that own or control a U.S. landing station or submarine line terminal equipment (SLTE) to become licensees.

78. Commenters generally support the Commission's retention of the current requirement with its 5% interest threshold and use of the U.S. points of the cable system, and oppose other options. Commenters argue that the rule continues to serve a good purpose. The Coalition, for example, asserts that there is no need to change the 5% threshold because it is still an efficient method to remove regulatory burden for small carriers or investors that do not have any ability to control the submarine cable system. NASCA and INCOMPAS echo this point and state that "imposing licensing burdens on [cable] owners [with no interest in the U.S. territory portion of a submarine cable system] would harm the market by making it less attractive for systems with multiple non-U.S. landing points to partner with investors who have no interest in

the U.S. endpoint." Many commenters, including Microsoft, ICC, INCOMPAS, AP&T, ITI, CTIA, USTelecom, and the Coalition disagree that capacity holders should be licensees because they assert that there is no basis under the Cable Landing License Act to require such entities to become licensees, as capacity holders do not land or operate the cable system.

79. We agree with commenters that there is not a sufficient reason to disturb the requirement that any entity owning or controlling a 5% or greater interest in the cable system and using the U.S. points of the cable system must become an applicant/licensee. Additionally, requiring entities that merely own capacity on the cable system, without meeting the requisite licensing requirements of ownership of 5% or greater interest and using the U.S. points of the cable system, to become applicants/licensees would greatly increase the number of entities that must comply with our regulatory framework. At this time, pure capacity holdings, without ownership of infrastructure or deployment of certain equipment, have a negligible impact or harm on national security and do not rise to the level of requiring a license. Instead, we tailor the licensing requirements to identify those entities that can exercise ownership or control over the submarine cable system, as discussed below and in the *Further Notice of Proposed Rulemaking*. This approach, as raised by commenters, maintains our ability to know about potential foreign adversaries without harming the market and investment in and deployment of submarine cable systems connecting to the United States.

b. Control of Cable Landing Station

80. In this *Report and Order*, we revise our license requirement with respect to cable landing stations and require entities that control cable landing stations to be licensees. Entities that merely own a cable landing station are no longer required to become licensees. In the *2024 Cable NPRM*, the Commission sought comment on an appropriate rule that would capture which entities should be an applicant/licensee on a cable landing license under the Cable Landing License Act to ensure the Commission meets its public interest responsibilities. The Commission sought additional comment on the applicability of the Commission's rules to

entities that own the real property/facility in which the cable landing station is located, but do not have any ability to significantly affect the cable system's operation, such as data center owners, who often request waivers from the Commission because they do not seek to be an applicant or a licensee. Moreover, the Commission sought comment on the applicability of its rules to data center owners, "including the access they have over submarine cables and the site operations, such as physical security, power, backup power, HVAC, and other environmental support essential to proper operations of cable landing systems housed in their facilities."

81. We agree with commenters that licensing requirements should not apply to entities that may own the cable landing station but are not directly involved in cable operations and do not control the operations of the cable system. Commenters were generally supportive of the proposal to reduce the licensing requirement. INCOMPAS does not support licensing for data center owners, claiming it would be a shift beyond the Commission's legal authorities and would not yield useful information for advancing the Commission's national security goals because "data center owners often lack visibility into or control over cable operations" unlike licensed cable operators. The Commission's standard practice has been to grant requests for waiver of the licensing requirements filed by entities that own the real property or facility in which the cable landing station is located but that do not have the ability to significantly affect the cable system's operation. Instead of continuing to process waivers on a case-by-case basis, we now revise our licensing requirement to require a license for "[a]ny entity that controls a cable landing station in the United States" and to require the applicant to provide specific information in an application regarding ownership of the cable landing station. We find that adoption of this rule will streamline and clarify our licensing process and will reduce burdens by narrowing the scope of the licensing requirement and making it unnecessary for non-controlling property or facility owners to file waiver requests.

c. Submarine Line Terminal Equipment (SLTE) Owners and Operators

82. While we include SLTE within the definition of a submarine cable system, we decline to adopt a licensing requirement for owners and operators of SLTE at this time. A SLTE owner would need to be a licensee if it otherwise meets the Commission's requirements to be a licensee (i.e., 5% or greater ownership in the cable system or controls a cable landing station). For purposes of this section, SLTE refers to technology that converts optical signals that traverse the submarine cable system into electrical signals that transmit across terrestrial networks and vice versa. We agree with commenters that we should seek comment in the *Further Notice of Proposed Rulemaking* as to how the Commission can best incorporate such entities into its regulatory framework. We recognize that we need further information on the number of SLTE owners and operators. We understand that at least one SLTE is needed per fiber, but due to dark fiber IRU or lease agreements where entities light their own fiber that could then be subject to further resale through separate IRU or lease agreements for fiber, capacity, or spectrum, there may be numerous SLTEs deployed on one fiber alone. We adopt below a one-time information collection to assist the Commission in obtaining comprehensive and current information on SLTEs so that the Commission may consider appropriate rules for purposes of ensuring the safety and security of submarine cable infrastructure. As the Commission stated in the *2024 Cable NPRM,* we need to know which entities own or control SLTE so that we can protect national security and law enforcement interests in carrying out our licensing duties. As the Committee noted, "[a] foreign adversary-controlled non-licensee entity that owns, controls, or operates its own SLTE, or equivalent equipment, on a submarine cable landing in the United States may have connectivity comparable to operating their own communications cable to the United States without a license, or any regulatory review, mitigation, or monitoring for national security or law enforcement risk." Through the *Further Notice of Proposed Rulemaking*, we anticipate developing a record to take the best approach balancing our focus on supporting industry's ability to deploy submarine cable systems and our obligations to protect national security.

2. Application Requirements

83. Today, we adopt new application requirements that will ensure the Commission has targeted and granular information about the submarine cable system and third-party foreign adversary service providers, which is critical to improve the Commission's assessment of national security risks. We also adopt new certification requirements that will require applicants and licensees to certify whether or not they meet any of the Commission's presumptive disqualifying conditions; that they have created, updated, and implemented a cybersecurity and physical security risk management plan; and that they comply with Covered List requirements. For purposes of the information requirements, unless otherwise indicated, we use the terms "applicant" or "applicants" to refer to an applicant or licensee that currently files the following applications or notifications: (1) applicants that file an initial application for a cable landing license or an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license; (2) cable landing licensees that file a notification of pro forma assignment or transfer of control of a cable landing license; and/or (3) applicants that file a request for special temporary authority (STA) related to the operation of a submarine cable. *See* 47 CFR 1.767(a), (g)(6)-(7); 63.24(e) (referring to "substantial" transactions); 63.24(d) (defining "Pro forma assignments and transfers of control"). Unless otherwise indicated, we use the term "application" or "submarine cable application" to refer to an initial application for a cable landing license; an application for modification, substantial assignment, substantial transfer of control, or renewal or extension of a cable landing license; and a pro forma assignment or transfer of control notification. These requirements will apply to all applications for a cable landing license and modification, assignment, transfer of control, renewal or extension of a cable landing license. We will retain the current requirement for applicants to identify their 10% or greater direct and indirect equity and/or voting interests.

a. Public Interest Statement

84. Consistent with longstanding practice, we adopt the proposed requirement that

"an applicant seeking a submarine cable landing license or modification, assignment, transfer of control, or renewal or extension of a submarine cable landing license shall include in the application a statement demonstrating how the grant of the application will serve the public interest." The Commission has long found that national security, law enforcement, foreign policy, and trade policy concerns are important to its public interest analysis of submarine cable applications, and these concerns warrant continued consideration in view of evolving and heightened threats to the nation's communications infrastructure.

85. We agree with NASCA that the requirements of the public interest standard should be clarified so they are "targeted, objective, and express." Accordingly, our final rule clarifies the scope of this obligation. Specifically, and consistent with the express statutory objectives, the public interest statement must explain how the application will "assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States," provide "just and reasonable rates and service," and prohibit "exclusive rights of landing or of operation in the United States."

86. NASCA acknowledges that a reasonably tailored public interest standard "would not be overly burdensome," observing that "applicants already routinely include information relevant to the public interest in their applications." However, NASCA argues that "the Commission must have an identifiable legal basis" for imposing such requirements, which it claims the *2024 Cable NPRM* fails to do. We disagree. As articulated in the *2024 Cable NPRM*, the Commission has "long found that national security, law enforcement, foreign policy, and trade policy concerns are important to its public interest analysis of submarine cable applications, and these concerns warrant continued consideration in view of evolving and heightened threats to the nation's communications infrastructure." The legal basis to require applicants to provide this public interest statement is grounded on our authority to grant, withhold, revoke, or condition a license and the statutory criteria for doing so. *First*, the Commission can withhold

the grant of a license to protect the interests of the public as expressed in the statutory licensing criteria. The determination of whether to grant a license rests on the same statutory criteria, including consideration of how grant of the application will ensure the security of the United States. *Second*, the Cable Landing License Act authorizes the Commission to impose terms upon grant of a license that are "necessary to assure just and reasonable rates and service," and to prohibit "exclusive rights of landing or of operation in the United States." Accordingly, the legal basis for the public interest standard we adopt today is derived from Congress' directive as reflected in the statutory language.

b. Ten Percent Threshold for Reportable Interests

87. We retain our current requirement for applicants to identify the 10% or greater direct and indirect equity and/or voting interests held in the submarine cable applicants. In the *2024 Cable NPRM*, the Commission sought comment on whether to lower the current 10% ownership reporting threshold to five percent (5%) or greater direct or indirect equity and/or voting interests in the applicant(s) and licensee(s). Some commenters raised concerns about cost burden of compliance, impact on investment, privacy for smaller investors, and raised doubts that owners of smaller interests could wield significant influence over the cable, while others urged we go further and consider requiring the reporting of any known foreign adversary interest in cable landing license applicants and licensees instead of adopting the 5% reportable ownership threshold. At this time, we will not modify the 10% ownership threshold for disclosing reportable interest holders, because we assess that national security risks are best addressed through the certifications regarding whether the applicant is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.

c. Submarine Cable System Information

88. Below, we adopt rules to provide the Commission with important and relevant information concerning the submarine cable system. As discussed, we find that collection of this information is critical to our review of submarine cable applications and cable landing licensees

for national security purposes and will advance our efforts to protect the security, integrity, and resilience of this critical U.S. infrastructure.

89. We adopt the Commission's proposal to require applicants seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a license, and licensees submitting a Foreign Adversary Annual Report, to provide additional detailed information concerning the submarine cable system. Specifically, we adopt the proposal to require applicants and licensees to submit with these applications and/or Foreign Adversary Annual Reports the following detailed information regarding the submarine cable system:

(1) the states, territories, or possessions in the United States and the foreign countries where the submarine cable system will land;

(2) the number of segments in the submarine cable system and the designation of each (e.g., Segment A, Main Trunk, A-B segment);

(3) the length of the submarine cable system by segment and in total;

(4) the location, by segment, of any branching units;

(5) the number of optical fiber pairs, by segment, of the submarine cable system;

(6) the design capacity, by segment, of the submarine cable system;

(7) specific geographic location information (geographic coordinates, street address, county or county equivalent, as applicable), or if not available, a general geographic description and specific geographic location information to be filed no later than ninety (90) days prior to construction regarding:

(i) each U.S. and non-U.S. cable landing station and beach manhole;

(ii) each network operations center (NOC) and backup NOC and, if distinct from the NOC, each security operations center (SOC) and backup SOC, or else a statement that the SOC and backup SOC are not distinct from the NOC and/or backup NOC;

(iii) where each Power Feed Equipment (PFE) and each Submarine Line

Terminal Equipment (SLTE) is connected with the terrestrial land based system(s) and from where each is operated; and

(iv) the route position list including the wet segment of the submarine cable system; and

(8) Anticipated time frame when the applicant(s) intends to place the submarine cable system into service.

90. In addition, we adopt the proposal to modify the rules by requiring applicants to provide a specific description of the submarine cable system, including a map and geographic data in generally accepted GIS formats or other formats. We adopt the proposal to delegate authority to OIA, in coordination with the Office of Economics and Analytics (OEA), to determine the file formats and specific data fields in which data will ultimately be collected. We will allow applicants for a cable landing license to initially file a general geographic description of the geographic location information described in our newly adopted rule at § 1.70005(e)(7) concerning the submarine cable, but grant of the application will be conditioned on the Commission's final approval of specific geographic location information, consistent with the new requirements, to be filed by the applicant no later than ninety (90) days prior to construction.

91. With respect to route position lists, cable landing licensees with a license granted prior to the effective date of the new rules must submit a route position list consistent with the requirement under § 1.70005(e)(7)(iv) under the relevant license file number in the Commission's International Communications Filing System (ICFS), or any successor system, no later than sixty (60) days after the effective date of the new rules. Existing licensees may petition the Commission for waiver of the requirement, which may be granted only to the extent the licensee demonstrates that the required information is unavailable by the submission deadline.

92. We disagree with commenters' suggestions that requiring applicants and licensees to provide this information does not serve a regulatory purpose. We find that requiring specific

information about the submarine cable system, including a map and route list data, is essential for ensuring the Commission can properly evaluate applications for cable landing licenses for their national security implications, determining if the application is in the public interest, and ensuring the Commission has fundamental and accurate knowledge about the security and resilience of submarine cable systems. The Coalition, for example, is generally supportive of requiring the specific location of each beach manhole, cable landing station (including locations of each PFE and each SLTE), NOC, and route position lists, provided the Commission ensures it does not involve disclosure of material non-public technical information and does not delay the review of the Commission or the Committee. We find the concerns about application delay are addressed by our adopted rules, permitting a general description at the application stage supplemented by landing points notifications. We find that concerns regarding confidentiality are addressed below by our adoption of the Commission's proposal to provide confidential treatment. We are unpersuaded by the Coalition's suggestion that the Commission should require route position lists only for the portion of the wet segment that is in U.S. territorial waters because the Commission's jurisdiction does not extend beyond U.S. territory. We agree with the Committee that route position lists would enhance the ability of the Commission and Committee to ensure the protection of this critical infrastructure.

93. NASCA requests that the Commission allow applicants to file this information at a time closer to the in-service date. While we decline to adopt the in-service date, we recognize that the final specific geographic location information may not be available at the time an application for a cable landing license is filed. In those cases, the Commission will accept a general geographic description, provided the Commission is notified of the specific geographic location no later than ninety (90) days prior to commencing construction as a condition of any grant of such application. NASCA also requests that the Commission accept a route position list that is limited to the geocoordinate data in a full route position list. We believe our clarification to § 1.70005(e)(7) of our adopted rules shows that the Commission will require geographic

location information and not other potentially competitively-sensitive information about system design as raised by NASCA. NASCA asserts that the Committee does not currently require NOC information and recommends that the Commission instead require a certification that a NOC is not located in a "high-risk jurisdiction." We find that the location information of NOCs is critical for the Commission's knowledge and assessment of from where a submarine cable is or will be accessed and controlled, including by third parties, through network management, monitoring, maintenance, performance measurement, or other operational functions, and any risks presented by such access and control.

94. *Confidential Treatment*. Based on our review of the record, we adopt the Commission's proposal to provide confidential treatment for the exact addresses and specific geographic coordinates required by the newly adopted rule at § 1.70005(e)(7). We adopt the proposal to withhold the exact location information from public inspection where it concerns the wet segment as it approaches the shore, the submarine cable as it reaches the beach manhole, and the dry segment including the cable landing station(s), such as where the SLTE is located and/or from where it is operated. The record supports adoption of these proposals. Commenters explain that such location information is competitively sensitive and that public disclosure would harm the security of the submarine cable. We will release publicly more general location information, such as the city or locality, state/province/department, and country in which the submarine cable system will land.

95. *Sharing with Federal Agencies.* We adopt a rule to allow the Commission to share with the Committee information about the submarine cable system—including the location information of cable landing stations, beach manholes, PFE, SLTE, NOCs and backup NOCs, SOCs and backup SOCs, and route position lists—that is filed on a confidential basis without the pre-notification procedures of § 0.442(d) of the Commission's rules. The Commission may share information that has been submitted to it in confidence with other federal agencies when they have a legitimate need for the information and the public interest will be served by sharing

the information. In the *2024 Cable NPRM*, the Commission sought comment on whether to adopt a rule that would allow the Commission to share submarine cable landing geographic coordinates, route position lists, and other information with relevant federal agencies, including information for which confidential treatment is requested, without the pre-notification procedures of § 0.442(d). No commenters oppose the sharing of the information with federal agencies. The Committee supports adoption of this rule and recommends that the Commission include all of the Committee members in any effort to share relevant submarine cable infrastructure information.

d. Third-Party Foreign Adversary Service Provider or Access from Foreign Adversary Information

96. We adopt a modified, narrower version of the Commission's proposals to require applicants to report whether or not they use and/or will use third-party foreign adversary service providers in the operation of the submarine cable. Specifically, we will require applicants to report whether or not they use and/or will use the following third-party service providers in the operation of the submarine cable system:

(1) any entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(2) any entity identified on the Covered List that the Commission maintains pursuant to the Secure Networks Act, 47 U.S.C. 1601-1609; and/or

(3) any entity that can access the submarine cable from a foreign adversary country, as defined in § 1.70001(f), and to identify any such foreign adversary country.

97. This targeted approach sufficiently addresses the national security and law enforcement risks from foreign adversaries. In the *2024 Cable NPRM*, the Commission used the term "managed network service provider" (MNSP) to refer to the kinds of service providers licensees should disclose. The Commission proposed to define an "MNSP" as "any entity other than the applicant(s) or licensee(s) (i.e., third-party entity) with whom the applicant(s) or

licensee(s) contracts to provide, supplement, or replace certain functions for the U.S. portion of the submarine cable system (including any cable landing station and SLTE located in the United States) that require or may require access to the network, systems, or records of the applicant(s) or licensee(s)." We agree with the Committee that we should refer more generally to "service providers" to avoid confusion about which service providers are involved in managing networks as compared to other tasks that involve access to and control of the cable system. We also clearly define "third-party service provider" as an entity that is involved in providing, hosting, analyzing, repairing, and maintaining the equipment of a submarine cable system, including third-party owners and operators of NOCs. We find that our approach provides requested clarity in response to commenters that claim the Commission's proposed definition of MNSP is too vague.

98. We find that obtaining information about the third-party service providers is important and relevant to the Commission's consideration of national security, law enforcement, and other risks associated with a submarine cable application. We therefore disagree with INCOMPAS' suggestion that information about providers of "supporting services" exceeds the scope of the Cable Landing License Act. While NASCA and Microsoft argue that the most effective way to address risks of third-party access involves implementing "rigorous" or "robust" access controls, we find that requiring disclosure as to whether untrustworthy third-party actors have access to this critical U.S. communications infrastructure will ensure that the Commission and applicants and licensees consistently identify and address such threats. The Committee supports prohibiting licensees from using vendors for equipment or services that are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. While we do not go so far as to *prohibit* use of such third-party service providers, because the Commission did not seek comment on it in the *2024 Cable NPRM*, we do seek comment on whether to prohibit the use of such third-party service providers.

99. A few commenters recommend requiring such information only to the extent it is

available at the time an application is filed given third-party service arrangements may not be known until a later time. Based on this, if an applicant is unable to confirm this information at the time of filing, we will require such applicants to file a request for waiver with status updates every thirty (30) days until they provide the information. We also find that our tailored approach addresses concerns that the information requirements we adopt relating to third-party service providers would duplicate information that is currently submitted to the Committee. Finally, as discussed below, as an initial step, we adopt a one-time collection that requires licensees to disclose whether they use certain third-party service providers.

3. Required Certifications for Applicants and Licensees

100. Below, we adopt rules requiring applicants to certify whether or not they exhibit any of the criteria set out in the presumptive disqualifying conditions adopted herein; that they have created and will implement and update a cybersecurity and physical security risk management plan; and that they comply with Covered List requirements. We will require licensees to inform the Commission of any Covered List equipment/services in a one-time collection. We also hold applicants and licensees responsible for the acts, omissions, or failures of third-parties with whom the applicant or licensee has a contractual relationship that impact the cybersecurity of the applicant's or licensee's systems and services.

a. Certification of Presumptive Disqualifications

101. We adopt new certification requirements consistent with the presumptive disqualifying conditions adopted herein. Specifically, we will require an applicant seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license to certify whether or not it exhibits any of the criteria set out in the foreign adversary and character presumptive disqualifying conditions. We will require an applicant seeking a cable landing license or modification, or renewal or extension of a cable landing license to certify whether or not it exhibits any of the criteria set out in the foreign adversary cable landing presumptive disqualifying condition. We delegate authority to OIA to

develop the questions and certifications for the applications.

102. As discussed above, we will apply the foreign adversary and character presumptive disqualifying conditions to: (1) any initial application for a cable landing license that is filed after the effective date of the *Report and Order*, and (2) all other types of submarine cable applications—including an application for modification, assignment, transfer of control, or renewal or extension of a cable landing license—filed by a licensee whose initial application for a cable landing license is granted after the effective date of the *Report and Order* or an existing licensee that currently does not exhibit (prior to the effective date of the *Report and Order*) any of the criteria set out in the disqualifying condition. We will apply the foreign adversary cable landing disqualifying condition to: (1) any initial application for a cable landing license that is filed after the effective date of the *Report and Order*, and (2) an application for modification or renewal or extension of a cable landing license that is filed after the effective date of the *Report and Order* by a licensee whose initial application for a cable landing license is granted after the effective date of the *Report and Order* or by an existing licensee.

b. Cybersecurity and Physical Security Risk Management Plan Certifications

103. To protect submarine cable infrastructure from cybersecurity and physical security threats, we require all applicants for an initial cable landing license to certify that they have created and will implement and update a cybersecurity and physical security risk management plan and will take reasonable measures to protect their systems and services from these threats that could affect their provision of communications services through the submarine cable system, as supported by the record. We require all licensees seeking a modification, assignment, transfer of control, or renewal or extension of a cable landing license to certify in the application that they have created, updated, and implemented a cybersecurity and physical security risk management plan and will take reasonable measures to protect their systems and services from cybersecurity and physical security risks that could affect their provision of

communications services through the submarine cable system. We also require existing licensees to implement a cybersecurity and physical security risk management plan within one year of the effective date of the new rules to also protect against these threats that could affect the provision of communications services through the submarine cable system. As discussed below, we do not require that these plans use any particular framework, in line with commenters who supported a flexible approach. Cybersecurity and physical security risk management plan certification is also supported by the Committee, as it will "bring all licensees up to the minimum standards . . . needed to protect our critical infrastructure from foreign adversary threats."

104. All applicants and licensees must certify that the cybersecurity and physical security risk management plan meets the following three requirements:

- The plan describes how the applicant or licensee takes or will take reasonable measures to employ its organizational resources and processes to ensure the confidentiality, integrity, and availability of its systems and services that could affect their provision of communications services through the submarine cable system;
- The plan identifies the cyber risks they face, the controls they use or plan to use to mitigate those risks, and how they ensure that these controls are applied or will be applied effectively to their operations; and
- The plan addresses both logical and physical access risks, as well as supply chain risks.

105. Although the *2024 Cable NPRM* proposal focused on cybersecurity, rather than physical security, the Commission sought comment on "whether to require applicants' and licensees' cybersecurity risk management plans to include provisions for identifying, assessing, and mitigating supply chain cybersecurity threats" and proposed to require that plans cover all "systems and services that could affect [applicants'/ licensees'] provision of communications services." The *2024 Cable NPRM* also sought comment on whether the Commission should

require the implementation of other "common security controls to protect applicants' and licensees' systems and services." Additionally, several commenters urged the Commission to address physical risks. Most notably, the Committee "additionally propose[d] applicants to certify that they have created, updated, and implemented comprehensive security risk management plans, consistent with industry best practices, for the cable systems that would also include supply chain risk management and physical security." Therefore, we require the risk management plans have measures to address physical security risks as well.

106. Beyond those baseline requirements, applicants and licensees will retain flexibility to tailor their cybersecurity and physical security risk management plans to the risks they face that could affect their provision of communications services through the submarine cable system and their organizational needs. Applicants and licensees will have flexibility to determine, for example, how to best mitigate the risks of compromised access controls by, at a minimum, using multifactor authentication or other suitable measures to protect their systems and services. Although we do not require applicants and licensees to follow any particular frameworks in creating their plans, we further find a plan will presumptively satisfy our requirements if it is structured according to an established risk management framework, such as the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF), and incorporates best practices, such as the standards and controls set forth in the Cybersecurity and Infrastructure Security Agency's (CISA) Cybersecurity Cross-Sector Performance Goals and Objectives (CISA CPGs), or the Center for Internet Security's Critical Security Controls (CIS Controls). The plan should address both cybersecurity and physical security risks.

107. This approach is consistent with views of commenters that support a flexible approach to cybersecurity grounded in the NIST CSF. Given our approach and to reflect the evolving nature of cybersecurity risks, we decline to require that all plans include the six additional security controls identified in the *2024 Cable NPRM* or some other subset of common security controls. However, we still expect applicants and licensees to consider these types of

controls, or reasonable alternatives, as may be necessary to mitigate the risks that they face or will face that could affect their provision of communications services through the submarine cable system. Importantly, the Committee emphasized in its reply comment, that the CISA CPGs and CIS Controls represent a "baseline" of cybersecurity measures "that all licensees can and should surpass"—in other words, they are "a floor, not a ceiling, when it comes to cybersecurity." Thus, allowing licensees and applicants to satisfy their duty under our rules by adopting a cybersecurity and physical security risk management plan that adheres to these well-established best practices ensures that submarine cable networks will be operated with a baseline of key security controls.

108. The rules promote the harmonization of cybersecurity certification requirements for licensees and applicants, as many commenters requested. CTIA and USTelecom suggest that the Commission should align its rules for submarine cable licensees with its rules for 5G Fund recipients. Submarine cable applicants and licensees that satisfy the requirements adopted in the *5G Fund Order* will necessarily also satisfy the requirements we impose today. Those rules require 5G Fund recipients to implement operational cybersecurity and supply chain risk management plans that "must reflect" the NIST CSF as well as "established cybersecurity best practices that address each of the Core Functions described in the NIST CSF, such as the standards and controls set forth in" the CISA CPGs or the CIS Controls. The same is true of the Commission's other rules governing the receipt of Universal Service Funds, which similarly require recipients' plans to reflect those sources. SCCL also urges us to also conclude that certain International Organization for Standardization (ISO) standards would satisfy the Commission's rules. While we do not conclude that compliance with any particular ISO standard would necessarily satisfy the rules, we observe that ISO standards, where appropriately mapped onto the NIST CSF's Core Functions, may also be useful to applicants and licensees seeking to comply and mitigate the risks they face or will face.

109. We agree with commenters on the importance of harmonizing cybersecurity

certification requirements with requirements imposed by the Committee and other Executive Branch agencies. We find that licensees that have an existing mitigation agreement or are required to enter into a new mitigation agreement with the Committee, and who implement those agreements in full, will be presumed to satisfy the cybersecurity certification requirements. We expect that the logical security measures or other measures to prevent unauthorized or unlawful access, use, or disclosure of information being carried on a licensee's cable imposed by the Committee in such agreements will be comparable to, or more demanding than, the baseline measures we require here.

110. We stress that, while this is our expectation, a mitigation agreement would not satisfy the requirements of the rules if it does not comprehensively identify the cybersecurity risks that the licensee faces (including physical and supply chain risks), the controls it uses to mitigate those risks, and how it ensures that these controls are applied effectively to its operations. This approach is consistent with the Committee's request in its reply comments that the Commission work with the Committee to harmonize cybersecurity requirements to the extent possible, while supporting the Commission's proposed certification requirement and acknowledging that "there may be instances where the Commission needs . . . information independent of the Committee's actions." NCTA suggests that the rules are unnecessary in view of the Committee's imposition of logical access requirements as part of its review. We disagree as the Committee does not review all cable landing license applications, therefore, not all cable landing licenses are subject to mitigation agreements. Instead, we agree with Microsoft that "adoption of uniform rules for cybersecurity" is important "to avoid unnecessary duplication or complexity," and we establish a baseline certification requirement here that applies to all applicants and licensees, with the conditions in a mitigation agreement presumed to satisfy these requirements, which will contribute to a more streamlined approach across the U.S. government.

111. We also reject ICC's argument that the physical resiliency of submarine cable infrastructure should be the sole focus of the Commission's security requirements, and that

adopting cybersecurity requirements that also address logical access and supply chain risks would "significantly increase regulatory burden and privacy concerns without meaningfully increasing the security of the underlying data." While the most common threat to submarine cables remains physical damage from fishing, shipping, or undersea weather events, intentional damage from state or non-state actors using more subtle means of infiltration is "of greater concern." These threats require holistic planning, including both cybersecurity and physical security. Physical resiliency protections (e.g., identity management, authentication and access controls) should also be included in applicants' and licensees' cybersecurity and physical security risk management plans, to the extent necessary to reasonably protect the confidentiality, integrity, and availability of their communications systems and services. While more difficult, infiltrators (including foreign adversaries) could also tap into cables to "record, copy, or steal data" for espionage, thereby compromising its confidentiality. This could occur through backdoors inserted during the cable manufacturing process, targeting onshore landing stations and SLTEs, or by tapping cables at sea. Encryption alone is insufficient to ensure cyber protections, as encrypted data can still be disrupted or delayed, and encrypted data can be exfiltrated and stored pending technological advances that will enable decryption and exploitation of the data at a later time. Although some of these attack vectors present technical challenges using current technologies, it is critical for cable systems to be secure into the future as technology advances.

112. Submarine cable infrastructure also faces a threat of malicious cyber activities that target the broader networks of which submarine cables represent only one link. Malicious actors may take advantage of vulnerabilities in these larger networks at locations with remote access to the submarine cable infrastructure to disrupt data flows, divert traffic, or delete data transmitted through the submarine cables, with serious consequences for the operational security of this critical infrastructure and the confidentiality, availability, and integrity of the information. Accordingly, we adopt cybersecurity and physical security risk management requirements to

ensure that appropriate cybersecurity protections are in place against the physical, logical, and supply chain threats to applicants' and licensees' communications systems and services that could affect their provision of communications services through the submarine cable system.

113. We adopt commenters' suggestion to limit the scope of the cybersecurity certification requirement to the submarine cable system operator and the submarine cable network management systems only. In the interests of tailoring our requirements to the specific problem of submarine cable security and to limit regulatory burdens, the risk management plans only need to explain how the applicant or licensee takes or will take reasonable measures to employ its organizational resources and processes to ensure the confidentiality, integrity, and availability of its systems and services that could affect its provision of communications services through the submarine cable system.

114. *Senior Officer Review.* We adopt the Commission's proposal that an applicant's or licensee's Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Technology Officer (CTO), or a similarly situated senior officer responsible for governance of the organization's security practices, must sign the applicant's or licensee's cybersecurity and physical security risk management plan. We affirm that a signatory with organization-wide visibility and governance authority is critical to ensuring that the plan is comprehensively, effectively, and widely implemented.

115. Commenters raise a variety of concerns regarding this requirement. CTIA recommends harmonizing the signatory requirement with the *5G Fund Order*, which does not specify who must sign a plan. Microsoft contends that requiring senior staff signoff would be impractical for large network operators and suggests allowing entities to designate another appropriate authority within the organization. USTelecom expresses similar concerns, and suggests that a Chief Information Security Officer (CISO) or equivalent technical expert would be better positioned to assess and certify the plan's content. In response to these comments, we clarify that the requirement is not intended to impose unnecessary burdens or to prescribe a one-

size-fits-all governance structure. Rather, the objective is to ensure meaningful executive oversight and accountability for cybersecurity and physical security risk management. Accordingly, we expressly recognize that an applicant's or licensee's CISO, or an equivalent officer with overall responsibility for the organization's security governance, qualifies as a "similarly situated senior officer" under this rule. This approach maintains the integrity of the executive accountability framework while providing sufficient flexibility for applicants and licensees to designate an officer who possesses the requisite authority and subject matter expertise.

116. *Submarine Cable Applications.* Applicants for a cable landing license must certify in the application that they have created and will implement and update a cybersecurity and physical security risk management plan consistent with the requirements herein. If an application for a cable landing license is filed prior to the effective date of the new rules and remains pending on or after the effective date of the new rules, the applicant(s) must submit a certification, within thirty (30) days of the effective date of the new rules, attesting that it will create and implement a cybersecurity and physical security risk management plan as of the date the submarine cable is placed into service. All licensees seeking a modification, assignment, transfer of control, or renewal or extension of a cable landing license must certify in the application that they have created, updated, and implemented a cybersecurity and physical security risk management plan and will take reasonable measures to protect their systems and services from cybersecurity risks that could affect their provision of communications services through the submarine cable system. We delegate authority to OIA to update application forms as necessary to include applicants' certifications.

117. *Routine Conditions for Licensees*. All licensees whose cable landing license is granted after the effective date of the new rules must implement a cybersecurity and physical security risk management plan as of the date the submarine cable is placed into service. We will require licensees to submit a certification, within thirty (30) days of the date the submarine cable

is placed into service, that they have created and implemented a cybersecurity and physical security risk management plan as of the in-service date. Licensees must continue to implement and update the cybersecurity and physical security risk management plan, as required based on material changes to the cybersecurity and physical security risks and vulnerabilities that the licensee faces that could affect their provision of communications services through the submarine cable system.

118. *Implementation Timeline for Existing Licensees.* Existing licensees must implement a cybersecurity and physical security risk management plan within one year of the effective date of the new rules. To the extent an existing licensee does not commence service on the submarine cable by this timeframe, the licensee must implement a cybersecurity and physical security risk management plan as of the date the submarine cable is placed into service. Existing licensees must file a certification, within thirty (30) days of the effective date of the new rules, attesting that they will implement a cybersecurity and physical security risk management plan within this timeframe. The certification shall be submitted in the license file number(s) associated with the licensee's cable landing license(s) in ICFS. We find that this phased approach appropriately balances the urgency of enhancing cybersecurity preparedness with the need to allow for thoughtful, effective plan development and integration into existing operations.

119. *Reporting Requirements and Confidentiality*. We adopt the Commission's proposal requiring that applicants and licensees submit cybersecurity and physical security risk management plans to the Commission upon request. We delegate to OIA, in coordination with PSHSB, the authority to request, at their discretion, submission of such plans and to evaluate them for compliance with the rules adopted in this proceeding. We decline to adopt NCTA's recommendation that the Commission should only obtain the plans based on a specific need. Access to these plans will enable the Commission to confirm whether cybersecurity and physical security risk management plans are being regularly updated, to review a specific plan as needed, or to proactively review a sample of plans to ensure they identify the relevant cybersecurity risks

to communications systems and services. Consistent with the Commission's proposal and with the unanimous support of commenters, we will treat cybersecurity and physical security risk management plans as presumptively confidential under our rules. We agree with commenters that this approach will best protect and cultivate their cybersecurity practices.

120. *Recordkeeping.* We also adopt a recordkeeping requirement to support Commission oversight and ensure that applicants and licensees maintain accountability for creating and implementing their cybersecurity and physical security risk management plans. Specifically, applicants and licensees must preserve data and records related to their cybersecurity and physical security risk management plans, including documentation necessary to demonstrate how those plans are or will be implemented, for a period of two years from the date the related risk management plan certification is submitted to the Commission. We agree with FDD that ensuring documentation of cybersecurity efforts is important to bolster the resilience of submarine cable infrastructure and mitigate intrusions. Accordingly, we adopt the proposed two-year record retention requirement, which aligns with industry practices and supports our ability to assess compliance when needed.

121. *Third-Party Liability*. As part of today's action, we hold applicants and licensees responsible for the acts, omissions, or failures of third parties with whom the applicant or licensee has a contractual relationship, or whose acts or omissions the applicant or licensee otherwise has the ability to control, that impact the cybersecurity of the applicant's or licensee's systems and services. For purposes of this requirement, third parties include non-licensee individuals and entities with access to U.S.-licensed submarine cable systems that are hired by the licensee to provide services in connection with the management of the cable system (including service providers) and other third-party entities with access to the cable system's NOC. In connection with the Commission's requirement that an applicant or licensee take reasonable measures to protect the confidentiality, integrity, and availability of its communications systems and services, if an applicant or licensee relies on a third party to

provide equipment or services, and an unreasonable act or omission of that third party results in the applicant's or licensee's failure to protect the confidentiality, integrity, or availability of its systems and services, the applicant or licensee will be responsible for that act or omission.

122. However, we find that reliance upon a third party to manage, route, or otherwise contribute to critical system operations does not relieve licensees of their cybersecurity responsibilities. The Commission has long held that "licensees and other regulatees are responsible for the acts and omissions of their employees and independent contractors," and has recognized that "under long established principles of common law, statutory duties are nondelegable." The risk of systemic harm to critical infrastructure warrants a regulatory approach that ensures licensees remain ultimately accountable for the security of their systems, including those operated or maintained by third parties.

c. Covered List Certifications

123. We adopt the proposal in the *2024 Cable NPRM* with some modifications, as described in detail below. We require applicants submitting initial cable landing license applications to certify that their submarine cable system will not use covered equipment or services (i.e., the equipment or services identified on the Covered List). We require existing licensees to certify that they will not add covered equipment or services to their submarine cable system under the license in two scenarios, as described below. We further require licensees to disclose information about the covered equipment or services in their submarine cable system as part of the one-time information collection adopted today. We find that such equipment and services have been deemed to pose an unacceptable risk to the national security of the United States and the security and safety of United States persons. As discussed below, there is general support in the record for the proposal to protect U.S. communications networks and the communications supply chain against national security threats. These certifications will further both the Commission's efforts and whole-of-government efforts to prevent untrusted equipment or services from entering the submarine cable communications ecosystem.

124. *Covered List Certification for Cable Landing License Applications, and for Addition of New Segment to Currently Licensed Cable.* Specifically, we adopt the proposal that, as a condition of a potential grant of an application for a cable landing license, applicants are required to certify that the submarine cable system will not use equipment or services identified on the Commission's Covered List. At this time, we decline to require such certification based on entity lists of other Federal agencies or the Department of Commerce's identification of foreign adversaries in 15 CFR 791.4, which were discussed in the *2024 Cable NPRM*. In addition, we decline to require existing licensees to file a certification on or after sixty (60) days after the date that any equipment or service is newly placed on the Covered List, and instead seek comment in the *Further Notice of Proposed Rulemaking*. Applicants must certify that the submarine cable system will not use covered equipment or services. Since the Commission's Covered List was originally created, PSHSB has added multiple entries to the Covered List, the most recent as of July 23, 2024.

125. Many commenters are generally supportive of the use of the Commission's Covered List as a tool to promote national security. Equipment or services are placed on the Covered List based on a determination made by, among others, an appropriate national security agency that the equipment and/or services pose an unacceptable risk to the national security of the United States or the security and safety of United States persons pursuant to the Secure Networks Act. NASCA explicitly supports adopting the Commission's proposal to require applicants to certify that any proposed submarine cable systems will not use covered equipment or services. NASCA supports the Commission's proposal to "require applicants . . . to certify whether or not they use equipment or services identified on the Commission's 'Covered List,' provided the Commission's rules limit application to the relevant submarine cable system." We agree with NASCA and will require that the certification apply to the submarine cable system relevant to the particular application pending before the Commission.

126. We also require, as a condition of a potential grant of an application to modify a

cable landing license to add a new segment, that applicants must certify that the new submarine cable segment and landing point will not use equipment or services identified on the Commission's Covered List. For example, if a licensee files a modification application to add a new landing point, the certification would apply to the segment connecting the submarine cable to the new landing point to ensure the protection of the new segment and landing point from any national security threats.

127. We are not persuaded by CTIA's argument that we should decline to prohibit the use of covered equipment or services in submarine cable systems because it would expand the Covered List "in ways that were not originally contemplated by pertinent statutory authorities" and "without Congressional direction." The Commission's responsibility to place equipment and services on the Covered List is set out in section 2 of the Secure Networks Act, and both that Act and the Secure Equipment Act of 2021 impose certain related duties on the Commission. However, the Commission can adopt, and has adopted, certain requirements that are not specifically required by statute but that take into consideration the fact that the Covered List represents a list of equipment and services that have been determined to pose risks to national security and public safety. In fact, the Secure Equipment Act recognizes the Commission's legal authority to take actions concerning the Covered List to fulfill the Commission's national security mission. We act here pursuant to our authority under the Cable Landing License Act and on the basis of this record to prevent new or additional insecure equipment and services from being integrated into this critical U.S. infrastructure by a cable landing licensee.

128. Finally, we received a variety of viewpoints on using other federal government lists. For example, SentinelOne supports expanding the sources used for identifying untrusted equipment, encouraging the Commission "to align its Covered List with other federal authorities, including the Department of Defense's 1260H list, the Department of Commerce Bureau of Industry and Security Entity List, and related U.S. Government assessments." TIA argues that while it makes sense to rely on the Covered List to limit the participation by untrusted vendors,

the Commission should also collaborate with its national security counterparts in the federal government to investigate the need for additional restrictions. We are not prepared at this time, however, to draw from the lists of those other federal agencies or apply the certification requirement to all vendors "from" foreign adversaries, given the uncertain nature of this latter category. Rather, in the *Further Notice of Proposed Rulemaking*, we propose instead to extend this certification requirement to communications equipment and services produced or provided by any entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g). In the meantime, we will continue to rely on the Commission's Covered List, which Congress has directed the Commission to maintain and which is specific to communications equipment and services.

129. *Covered List Certification for Cable Landing Licenses*. To enhance the security of submarine cable systems, we adopt the Commission's proposals in the *2024 Cable NPRM*, with some modifications. We require cable landing licensees to certify that they will not add to the submarine cable system under the license (or if a licensee holds multiple licenses, for each submarine cable system under each license), covered equipment or services. Licensees shall submit this certification within sixty (60) days of the effective date of the new rules. In the *2024 Cable NPRM*, the Commission proposed to require licensees to certify whether they use, for the relevant submarine cable system, equipment or services identified on the Covered List, and sought comment on a requirement to remove the covered equipment or service. Some commenters support the certification proposal, while others explain that for substantially launched or completed projects, the replacement costs for covered equipment or services may have substantial cost constraints. Others oppose the certification proposal and disfavor suggestions to replace equipment or services, explaining that the Committee's role with respect to monitoring individual submarine cables and the respective mitigation agreements with licensees address national security concerns.

130. We provide an exception to this certification requirement for existing licensees

that are entities identified on the Commission's Covered List. Such entities identified on the Covered List can continue to add covered equipment or services on their submarine cable system. Based on the determinations that equipment or services produced or provided by entities on the Covered List have been found to present national security risks, the Commission believes there is little national security benefit to prohibiting their use of covered equipment or services on their submarine cable system. Rather, the risks these entities pose are best mitigated through the presumptive disqualifying conditions and the Foreign Adversary Annual Report that we adopt in this *Report and Order*.

131. We find that it is premature to establish a "rip and replace"-like framework for current submarine cable infrastructure. We recognize that for existing licensees with covered equipment or services, there are costs associated with replacing these equipment or services, as well as other challenges, as suggested by commenters. Unlike the context of section 4 of the Secure Networks Act, where funds have been allocated to reimburse entities that are required by the federal government to remove equipment determined to present a national security risk, no such funds have been appropriated for submarine cable systems. Under these circumstances, we find that requiring licensees to replace existing covered equipment or services in their submarine cable systems would be overly burdensome and could have adverse effects, such as fewer deployment of submarine cables or related facilities.

132. In addition, given the national security risks and threats posed by covered equipment or services, and the Commission's responsibilities as a licensing agency for submarine cables, we believe that the Commission should have a greater understanding of the covered equipment or services involved with licensed submarine cables. While the Committee may have individual mitigation agreements with certain cable landing licensees, the Commission is in the position as the licensing agency for submarine cables to understand the collective U.S. submarine cable ecosystem. Therefore, we modify the proposed scope of the certification and require licensees to certify that they will not add to their submarine cable systems, covered

equipment or services that are currently identified or newly identified in the future. Licensees will be required to provide this certification in ICFS no later than sixty (60) days of the effective date of the new rules.

133. *Covered List One-Time Information Collection From Licensees.* We adopt the Commission's proposal in the *2024 Cable NPRM*, with some modifications, to require existing licensees to disclose as to whether or not their submarine cable systems use equipment or services identified on the Covered List. We require licensees to disclose this information as part of the one-time information collection adopted in this *Report and Order*. In the *2024 Cable NPRM*, the Commission proposed to require licensees to provide a certification as to whether or not they use, for the relevant submarine cable system, equipment or services identified on the Covered List within sixty (60) days of the effective date of any rule adopted in this proceeding, following approval by OMB. While commenters express support or do not otherwise object to the proposal to require licensees to certify whether or not they use covered equipment or service in their respective cables, we require this certification in the one-time information collection and require licenses to respond with information about their respective submarine cables and any use of equipment or services identified on the Commission's Covered List as of the date that OIA publishes notice of the effective date of the information collection requirement and the filing deadline in the *Federal Register*.

E. New Routine Conditions for Cable Landing Licenses

134. We adopt new routine conditions and modify the Commission's existing routine conditions that are attached to cable landing licenses under § 1.767(g) of the current rules. The routine conditions we adopt: (1) eliminate a distinction that applies the routine conditions only to licensees of a cable landing license granted on or after March 15, 2002, (2) ensure the protection of this critical submarine cable infrastructure through prohibitions, (3) require commencement of service within three years following the grant of a cable landing license, and (4) require important updated information regarding the submarine cable system, including

contact information. These measures are necessary to ensure that licensees remain vigilant against foreign adversary threats and that the Commission has updated and accurate information about licensees and the operation of licensed submarine cable systems. The routine conditions will promote the security, integrity, and resilience of critical submarine cable infrastructure.

135. *Eliminate 2002 Distinction*. We adopt the proposal to eliminate the distinction in § 1.767(g) that applies the routine conditions only "to each licensee of a cable landing license granted on or after March 15, 2002." No commenter addressed this issue. As the Commission explained in the *2024 Cable NPRM,* we believe that this distinction is no longer meaningful given that cable landing licenses granted prior to March 15, 2002 either have expired or are nearing the expiration of their 25-year term. Further, to the extent we grant applications to renew the license of a submarine cable, our current practice is to issue a new cable landing license based on the rules in effect at the time of renewal, instead of renewing the terms of the license that were in effect prior to March 15, 2002. We therefore modify § 1.767(g) by eliminating the text "granted on or after March 15, 2002" and apply the routine conditions, as amended in this proceeding, "to each licensee of a cable landing license" irrespective of the date of grant.

136. *Prohibition on IRUs and Capacity Leases with Foreign Adversaries*. As discussed above, to further protect U.S. communications networks from national security, law enforcement, and other threats, we adopt a routine condition that prohibits cable landing licensees from entering into new or an extension of existing arrangements for IRUs or leases for capacity on submarine cable systems landing in the United States, where such arrangement or lease would give an entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g), the ability to install, own, or manage SLTE on a submarine cable landing in the United States. This routine condition will ensure compliance with the prohibition and ensure the security, integrity, and resilience of this critical infrastructure against foreign adversary threats.

137. *Prohibit Licensees from Adding Covered Equipment or Services.* Consistent with

the actions we take in this *Report and Order*, we adopt a routine condition that a licensee whose application for a cable landing license is filed and granted after the effective date of the *Report and Order*, shall not use equipment or services identified on the Covered List on its submarine cable system subject to the license. A licensee whose modification application to add a new segment is filed and granted after the effective date of the *Report and Order*, shall not use covered equipment or services on the new segment and the new landing point. Cable landing licensees shall not add equipment or services currently identified or newly identified in the future on the Covered List to their submarine cable system(s) subject to their respective license(s), with an exception discussed above. In the *Further Notice of Proposed Rulemaking*, we propose, among other things, to adopt a routine condition that requires cable landing licensees, irrespective of when the license was granted, to certify, within sixty (60) days of a *Federal Register* publication announcing any new addition of equipment or services to the Covered List, if they use such covered equipment or services in their respective submarine cable system.

138. *Foreign Adversary Annual Report*. As discussed below under section III.G., we adopt a new routine condition requiring a cable landing licensee whose license was or is granted prior to the effective date of the new rules, to file a Foreign Adversary Annual Report if such licensee meets one or more of the criteria specified therein.

139. *Commencement of Service Requirement*. We adopt a routine condition requiring that a licensee must commence commercial service on the submarine cable under its license within three years following the grant of the license or submit a waiver request. In the *2024 Cable NPRM*, the Commission tentatively concluded that cable landing licensees should retain their license only if they construct and operate the submarine cable under that license. The Commission proposed to require a cable landing licensee to commence commercial service on the cable under its license within three years following the grant, and that if a licensee requested a waiver of the three-year time period, the licensee must identify the projected in-service date and reasons for the delay and demonstrate good cause for grant of a waiver.

140. We did not receive comment on this proposal, and we adopt it as a routine condition on all grants of a cable landing license granted after the effective date of the new rules. We find this requirement would provide the Commission with more accurate information as to which license grants were not utilized to construct and operate submarine cables and improve the administration of the Commission's rules. Failure to notify the Commission of commencement of service within three years following the grant of the license shall result in automatic termination of the license after seeking approval of the State Department, unless the licensee submits a waiver request. If a licensee cannot commence commercial service during that time period, we require the licensee to submit a waiver request and provide an expected in-service date, explain the reasons for delay, and show why the license should not be terminated. Upon a showing of good cause, the Commission may extend the date to commence service beyond the three-year period.

141. *Notification of Name Changes of the Licensee or Submarine Cable System*. We adopt the Commission's proposal to add a new routine condition requiring licensees to notify the Commission of any changes to the name of the licensee (including the name under which it is doing business) or the name of the submarine cable system within thirty (30) days of such change. We adopt a slightly modified version of the proposal to require the lead licensee to file the notification with the Commission if there are multiple licensees of the submarine cable system. Specifically, we will require that the lead licensee file a notification of any change in the name of the submarine cable system within the 30-day timeframe. We will require each licensee to notify the Commission of any changes to its own name within the 30-day timeframe as each licensee is best situated to know and timely disclose this information. As the Commission explained in the *2024 Cable NPRM*, it is important for the Commission to maintain updated information that is critical to identifying the licensees and the licensed submarine cable system. No commenter addressed this proposal.

142. *Changes in the Points of Contact*. We adopt the proposal to add a new routine

condition requiring cable landing licensees to notify the Commission of any changes to their contact information within thirty (30) days of such change. Specifically, cable landing licensees must inform the Commission of any changes to the contact information provided in their most recent submarine cable application—including the application for a new cable landing license or any modification, assignment, transfer of control, or renewal or extension of the license—and the most recent Foreign Adversary Annual Report if applicable. We did not receive comment on this. Among other things, it is essential for the Commission to maintain updated contact information for the appropriate points of contact to whom any matters concerning a licensed submarine cable may be addressed for national security, law enforcement, and emergency preparedness and response purposes, including where a cable is rendered inoperable.

F. Other Changes to Current Requirements

1. Existing Streamlining Process

143. In noting existing licensing delays, commenters indicate that applications that qualify for streamlining under the Commission's rules often are removed from streamlined processing. Commenters encourage the Commission to use the existing streamlining process. While the *Further Notice of Proposed Rulemaking* is pending, and to streamline the processing of submarine cable applications during this time, we will consistently implement our streamlined processing rules and not defer action on a submarine cable application unless the Committee provides specific and compelling national security, law enforcement, or other justifications to defer action. Applicants seeking streamlined processing must certify, among other things, that "all ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States." We believe that our streamlined processing rules, combined with the strong national security measures we adopt in this *Report and Order*—including presumptive disqualifying conditions, prohibitions, and information and certification requirements—to identify and mitigate foreign adversary threats to new and existing submarine cable systems would lessen the need in many

cases to refer applications that qualify for streamlined processing. We note that Executive Order 13913 continues to apply and is effective when the Commission refers an application to the Committee, or when the Committee reviews "existing licenses" to identify any additional or new risks to national security or law enforcement interests of the United States.

2. Renewal Applications, Extension Applications, and Streamlined Processing

144. We adopt a rule specifying the requirements for an application to renew or extend a cable landing license upon expiration of the 25-year license term. Specifically, we adopt the proposals set out in the *2024 Cable NPRM* to require applicants for renewal or extension of an existing cable license to provide the same information and certifications required in an application for a new license. Applicants for a license renewal or extension must also provide a public interest statement demonstrating how grant of the renewal application will promote and protect national security and serve other statutory objectives. NASCA states that licensees should not be required to restate information to the Commission that has not changed, noting the Commission's proposal to require periodic reports. It has been the case that there are often changes in the licensees of a cable when a cable landing license is renewed or extended. Further, since we are not adopting the proposal to file periodic reports updating information about the cable system and the licensees, except for foreign adversaries, there may have been numerous changes to the cable system and licensees that have not been reported to the Commission and the information the Commission has on the cable may be outdated.

145. *Renewal or Extension Must be Filed Six Months Prior to License Expiration.* We adopt the proposed rule to require licensees to file an application for renewal or extension of a license six months prior to its expiration. Upon the filing of a timely and complete application in accordance with our rules, a licensee may continue operating the cable system while the application is pending with the Commission. NASCA supports the Commission's proposal to allow a licensee to continue to operate the cable system while its renewal application is pending with the Commission. In cases where the renewal or extension application is not filed six

months prior to the expiration and the Commission has not acted on the renewal or extension application prior to expiration of the license, the licensees will need to file a request for special temporary authority (STA) to continue to operate the cable past the expiration of the license, unless the Commission has granted a waiver of the rules to allow continued operation before then. The licensees should file the STA request at least 30 days prior to the expiration of the license to allow the Commission to process and act on the STA request prior to the expiration of the license.

146. *Renewal or Extension Streamlined Processing Procedures.* We adopt with one modification the proposals made in the *2024 Cable NPRM* regarding streamlined processing for renewal or extension applications similar to the existing 45-day streamlined process for initial applications. NASCA states that any renewal process should be streamlined, with non-streamlined processing being the exception even if there is foreign ownership. Upon further reconsideration and in light of the comments from NASCA, we modify the criteria to allow for streamlined processing if the only reportable foreign ownership has previously been reviewed by the Commission and the Committee. In cases where the only reportable foreign ownership in a renewal or extension application has been previously reviewed by the Commission and the Committee, we will follow our current procedure and not formally refer the renewal or extension application but will send a courtesy copy of the Accepted For Filing public notice to the Executive Branch agencies.

147. We will place a renewal or extension application on streamlined Accepted for Filing public notice and take action on such application within forty-five (45) days after release of the public notice if: (1) the Commission does not refer the application to the Executive Branch agencies because (a) the applicant does not have reportable foreign ownership, as defined in § 1.40001(d), or (b) the only reportable foreign ownership is not ownership or control by a foreign adversary, as defined in § 1.70001(g), and has been previously reviewed by the Commission and the Committee and (c) the application does not raise other national security or law enforcement

concerns, or other considerations warranting Executive Branch review; (2) the application does not raise other public interest considerations, including regulatory compliance; (3) the Executive Branch agencies do not separately request during the comment period that the Commission defer action and remove the application from streamlined processing; (4) no objections to the application are timely raised by an opposing party; and (5) any proposed grant of a renewal or extension application is approved by the State Department.

3. Requirements to File a Modification Application

148. We adopt the proposal in the *2024 Cable NPRM* to set out in the rules what changes to a submarine cable system require the filing of a modification application or a notification and the process for review of those filings. Based on the comments, we make changes to the proposals to minimize the burden on licensees where a change to an existing cable system does not present additional risks with the cable system, but will require that the licensee(s) notify the Commission about those changes. Specifically, we will require licensees to file modification applications and receive prior approval from the Commission before adding a new landing point or a new licensee to a cable system. For other changes to the cable system, the licensees will be required to file a notification of the change in the cable with the Commission. The removal of a landing point or a licensee or a change in a national security condition on a cable landing license will require a post-action notification which must be filed within 30 days after the change occurs. In situations where two Commission-licensed cable systems will interconnect in waters beyond the U.S. territorial waters or a new segment and landing point will be added to connect two (or more) foreign points and the connection cannot be used to connect directly or indirectly with the United States, the licensee(s) must notify the Commission 90 days prior to the change taking effect.

a. New Landing Point or New Licensee

149. As was discussed in the *2024 Cable NPRM,* the addition of a new landing point or a new licensee is a major change to a cable landing license that requires an application and

Commission approval before the change takes place. ICC and NASCA agree that these are major changes to a cable. As proposed in the *2024 Cable NPRM*, we will continue our current practice and require a full application for these types of changes to a cable system. Applications for a new landing point must describe the proposed new landing point including the exact location, how the new landing point will be connected to the cable, and the ownership and control of any new U.S. landing point and the segment connecting the cable to the new landing point. In situations where a landing point is being moved within the same town/city/county as approved in the cable landing license, the licensee(s) need only file a letter informing the Commission of the new location of the landing within 30 days of the change of location. An application to add a new licensee must provide the contact information for the proposed licensee, its ownership and the specific ownership interest it will have in the cable system, and how the ownership interests of the other licensees will change with the new licensee. If the proposed new owner has reportable foreign ownership or the licensees on a cable proposing a new cable landing point have reportable foreign ownership, the application will be subject to our rules and policies regarding coordination of submarine cable applications with the Executive Branch.

b. Removal of a Licensee or Landing Point, or Change in a National Security Mitigation Condition

150. We find that removal of a previously approved landing point, licensee, or condition to comply with a national security mitigation condition does not raise concerns that would normally require a full application. Based on the record in the proceeding, we agree with ICC and NASCA that certain types of changes to a submarine cable system, such as the removal of a licensee or a cable landing point or a minor change in the location of an existing landing point can be handled through a notification to the Commission. Consequently, we will not adopt the proposal in the *2024 Cable NPRM*. Instead, we will require the licensee(s) to file a notification with the Commission within 30 days of the change. Similar to a *pro forma* transaction notification, the Commission will place the notification of the change to the cable

landing license on public notice. In cases where the proposed change involves adding or modifying a condition requiring compliance with a mitigation agreement with the Committee regarding national security and law enforcement concerns, the modification will be effective upon public notice.

151. *Relinquishment by a Licensee.* Notifications filed by a licensee that relinquished an interest in the submarine cable must contain the following information: (1) the name of the licensee relinquishing its interests in the cable; (2) the ownership interests held by that licensee prior to the relinquishment; (3) whether the licensee relinquished all its interests or whether it is seeking to be removed as a licensee because its interests decreased to a point where it is no longer required to be a licensee (in which case, the remaining interest must be identified); (4) an explanation of what happened to the interests that were relinquished (i.e. were the interests re-distributed pro rata amongst the remaining licensees or otherwise re-distributed); and (5) a certification that the remaining licensees retain collectively *de jure* and *de facto* control of the U.S. portion of submarine cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license. The filer must also certify that the notification has been served on all the other licensees of the cable. This requirement will also apply to joint licensees of a submarine cable that collectively relinquish the license.

152. *Removal of a Licensee by the Other Licensee(s) on the Cable Landing License.* We adopt a rule based on the *2024 Cable NPRM* by which joint licensee(s) of a consortium submarine cable may collectively request the removal of a licensee that no longer exists from the cable landing license. Under this rule, if any joint licensee(s) of a submarine cable no longer exists and is unable to file a notification to modify the license to relinquish its interest in the license, the remaining joint licensee(s) of the cable, if any, may collectively file a notification to remove the licensee from the license by demonstrating and certifying that (1) the licensee no longer exists as a legal entity, and (2) the remaining joint licensee(s) retain collectively *de jure* and *de facto* control of the U.S. portion of the submarine cable system sufficient to comply with

the requirements of the Commission's rules and any specific conditions of the license. Any notification submitted under this rule shall be certified and signed by each remaining joint licensee(s) of the submarine cable, respectively. Joint licensees may appoint one party to act as proxy for purposes of complying with this requirement.

153. *Removal of a Landing Point*. Notifications regarding the removal of a landing point must contain the following information: (1) specific identification of the landing point that was removed from the submarine cable and the segment connecting the cable to that landing point; (2) an explanation of what happened with the physical facilities of the landing point and the connecting segment upon removal from the cable; (3) an explanation of how the removal affected the ownership of the remaining portions of the cable; and (4) updated information on the cable with the removal of the landing station and connecting segment.

154. *Changes to National Security Condition*. Notifications regarding changes to a condition requiring compliance with a national security mitigation agreement—typically either a letter of agreement (LOA) or a national security agreement (NSA) —must explain the change that has occurred. The notification must explain whether the condition is being removed or if the mitigation agreement is being replaced. If an existing mitigation agreement is being replaced with a new agreement, a copy of the new mitigation agreement must be included in the filing. The removal of the condition or the replacement of the condition will be effective upon release of the public notice.

c. Adding an Interconnection Between Two Commission-Licensed Cables

155. We adopt a pre-action notification requirement when two Commission-licensed cables propose to interconnect. In the *2024 Cable NPRM*, the Commission proposed to require that a modification application be filed when two licensed cables interconnect in the water. Both the Coalition and NASCA object to this proposal, arguing that because there are no new landing points and no change in ownership of the two cables, such an interconnection does not require

Commission approval or filing of a modification application. Although the Coalition argues that the Commission has no jurisdiction over interconnections in international waters, NASCA acknowledges that the Commission can require notification of an interconnection. We have jurisdiction as these interconnections allow for direct connections to the United States from these cables to new landing points that were not set out or approved in their respective cable landing licenses. We do acknowledge, however, that these landings have been approved for the pre-interconnecting cable configuration and thus these interconnections present a lower risk than the addition of new landing points never previously approved.

156. Although such a change may not raise concerns, there may be instances where an interconnection—whether it be in U.S. territorial waters or outside of U.S. territorial waters—may raise national security concerns and the Commission should be notified about such a change in advance. Accordingly, we adopt procedures for such changes similar to the process used for landing point notifications. Licensees will be required to file a notification about a proposed interconnection at least 90 days prior to the construction of the proposed interconnection. The Commission will give public notice of the notification of modification. The modification will be considered granted, without further Commission action, unless the Commission notifies the licensees otherwise in writing no later than 60 days after the submission of the notification. If, upon review of the notification, the Commission finds that such an interconnection presents a risk to national security, law enforcement, foreign policy and/or trade policy or raises other concerns, it may require the licensee(s) to file a complete modification application to seek Commission approval for the interconnection. We find that this notification process will be less burdensome on licensees than the full modification process proposed in the *2024 Cable NPRM*.

157. The notification about a proposed interconnection must be filed 90 days prior to construction of the proposed connection. The filing must include information on: (1) the cable systems being interconnected, including the names and file numbers for the cables and (2) a general description of where the interconnection will take place and the terms of the

interconnection agreement.

d. New Connection Between a Branching Unit of a Licensed Submarine Cable System and a Foreign Landing Point

158. We agree with the Coalition and NASCA that if a new segment and landing point only connects two (or more) foreign points and the connection cannot be used to connect directly with the United States, the segment does not need to be licensed by the Commission. In the *2024 Cable NPRM*, the Commission proposed to require a modification application be filed when a new segment from a foreign country is connected to a branching unit of the licensed submarine cable system to allow connection to another foreign country. The Coalition and NASCA both oppose this proposal arguing that such connections are outside of Commission jurisdiction. Such a new connection using a U.S.-licensed cable does affect the cable, however, and the Commission should be aware of the proposed connection. We find that the Commission should have an opportunity to review the proposed connection before it is constructed to determine if the Commission agrees that there will not be a direct connection to the United States and thus the connection requires the filing of a modification application. Therefore, we will require the licensee(s) to file a notification with the Commission at least 90 days before construction of the proposed connection. The modification will be considered granted, without further Commission action, unless the Commission notifies the licensees otherwise in writing no later than 60 days after the submission of the notification. If, upon review of the notification, the Commission finds that such a connection presents a risk to national security, law enforcement, foreign policy or trade policy and/or raises other concerns, it may require the licensee(s) to file a complete modification application to seek Commission approval for the connection.

159. The filing must include: (1) the name and file number of the U.S. licensed cable whose branching unit will be used to make the proposed connection between two (or more) foreign points; (2) a description of the proposed connection, including which foreign points would be connected; (3) the relationship between the owner of the proposed connection and the

licensees; and (4) an explanation of how the proposed connection would not allow for direct connection from the new foreign point(s) to the United States. This will allow the Commission to determine if this new connection would allow direct connection to the United States and require a full application for prior Commission approval.

4. New Requirements for Assignments and Transfer of Control Applications

160. We adopt the proposal to require that an applicant seeking to assign or transfer control of a cable landing license must include the percentage of voting and ownership interests being assigned or transferred, including in the U.S. portion of the cable system, which includes all U.S. cable landing station(s). The applicant must also demonstrate that grant of the transaction will serve the public interest. In addition, the rule regarding assignments and transfer of control applications is amended to incorporate the changes adopted herein for all applications, including the required certifications. No commenter addressed these proposals.

5. Pro Forma Assignment and Transfer of Control Post-Transaction Notifications

161. We adopt the proposal to have a separate rule section regarding notification of *pro forma* assignments and transfers of control. By creating a specific section for *pro forma* assignments and transfers of control, we provide clarity on the requirements for such notifications. Section 1.70013 of our newly adopted rules also provides information on what constitutes a *pro forma* transaction. We decline to adopt the Commission's earlier proposal that a *pro forma* notification contain substantially the same information as required for a substantive transaction, and instead, streamline the requirements. NASCA argues that there is no need for a *pro forma* notification to mirror a substantive transaction application, stating that with the significant reporting updates proposed in the *2024 Cable NPRM*, a licensee would be providing the same information repeatedly. ICC argues that *pro forma* notifications should be streamlined and requiring the inclusion of the same information as substantive transactions would undermine the simplicity of the notifications.

162. Under the rules we adopt, a licensee will continue to be required to file a *pro forma* notification no later than thirty (30) days after the assignment or transfer of control is consummated. In response to NASCA and ICC, we will not mirror the requirements of applications for substantive transactions but instead adopt streamlined *pro forma* notification rules. Consistent with our practice, the notification must include information about the transaction, including (1) the contact information and place of organization of the assignor/transferor and the assignee/transferee, (2) the name of the submarine cable system, (3) a narrative describing the means by which the *pro forma* assignment or transfer of control occurred, (4) ownership information as required in § 63.18(h), including both the pre-transaction and post-transaction ownership diagram of the licensee, (5) specification, on a segment specific basis, of the percentage of voting and ownership interests that were assigned or transferred in the cable system, including in the U.S. portion of the cable system (which includes all U.S. cable landing station(s)), (6) a certification that the assignment or transfer of control was *pro forma*, as defined in § 1.70013(b), and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control, and (7) a certification that the assignee or the transferee and the licensee that is the subject of the transfer of control accepts and will abide by the routine conditions of the cable landing license as specified in § 1.70007. The notification must include the foreign carrier affiliation information and certifications currently required in § 1.767(a)(8)(ii) through (iv), and the certifications required in § 63.18 (o) and (q) for the assignee or the transferee and the licensee that is the subject of the transfer of control.

163. Additionally, to ensure the Commission has up-to-date information on national security or compliance matters affecting a cable landing license, we will require that notifications of *pro forma* transactions contain the same certifications as applications for substantive transactions as to whether or not the licensee, assignor/transferor, or assignee/transferee exhibit any of the criteria set out in the foreign adversary and character presumptive disqualifying conditions that will apply to certain applications as discussed above.

6. Requests for Special Temporary Authority (STA)

164. We adopt the proposal to create a rule specific to requests for an STA for submarine cables rather than continuing to rely on the STA rule in Part 63 for temporary or emergency service by international carriers. Generally, the Commission will consider requests for an STA: (1) seeking to commence construction of or commercial service on a cable system while the cable landing license or modification application is pending Commission approval; (2) seeking to continue operating a cable system following the expiration of a license and pending the filing of an application to renew or extend the cable landing license when the renewal or extension application is not filed in a timely or complete manner; (3) where the cable system is being operated without first obtaining a license; (4) where a transaction was consummated without prior Commission consent; or (5) seeking to provide emergency service arising from a need occasioned by conditions unforeseen by, and beyond the control of, the licensee(s), among other examples. ICC is generally supportive of the proposals related to STAs.

165. An application for an STA must include the following information: (1) the name(s), contact(s), and citizenship(s) or place(s) of organization of each applicant requesting an STA with respect to the submarine cable, including the licensees that jointly hold a cable landing license; (2) the name of the cable system for which applicant(s) request an STA; (3) a description of the request for an STA: (a) the reason why the applicants seek an STA, (b) whether it is a new request for an STA, a request to extend or renew an STA, or other type, and (c) the justification for such request, including why grant is warranted; (4) the date by which applicants seek grant of the STA; and (5) the duration for which applicants seek an STA (up to 180 days). Applicants must acknowledge that any grant of an STA (1) does not prejudice action by the Commission on any underlying application(s); (2) is subject to revocation/cancellation or modification by the Commission on its own motion without a hearing; (3) will expire automatically upon the termination date unless the applicant has made a timely and complete application for extension of the STA; and (4) does not preclude enforcement action for non-compliance with the Cable

Landing License Act, the Communications Act, or the Commission's rules for action or failure to act at any time before or after grant of the STA.

166. If the STA application relates to a licensed cable or a cable whose license expired, the applicant(s) must provide the license file number(s) of the cable landing license. If the request for an STA is associated with an application(s) pending with the Commission (e.g., application for a new license, or modification of an existing license), the applicants must provide the file number(s) of the application(s). If the STA application relates to unauthorized operation of a cable system, including unauthorized operation of a segment/branch of a licensed system or operating a submarine cable system after the expiration of its license, and an application seeking authority for such operation has not yet been filed (e.g., application for a new license or modification or renewal or extension of an existing license), the STA applicant(s) must include information on when the application seeking authority to operate will be filed.

167. All STA applications require a certification that none of the applicant(s) are subject to a denial of Federal benefits pursuant to of the Anti-Drug Abuse Act of 1988. If the STA application is for operation of the cable system, the applicant(s) must include the certifications required in an application for a new cable landing license, with the exception of § 1.70006(d).

168. We will continue to follow our current practice related to STA applications. Once an STA application is found to be Acceptable For Filing, we will place it on public notice for comment. While we will not formally refer the STA application to the Executive Branch agencies, we will send a courtesy copy of the public notice to the Executive Branch agencies if any of the applicants have reportable foreign ownership. The Commission may consult with the Committee on a particular request for an STA, where appropriate, prior to releasing the public notice. Any grant of an STA does not prejudice action by the Commission on any underlying application, including enforcement action.

7. Foreign Carrier Affiliation Notifications

169. We adopt the Commission's proposal to amend § 1.768(e)(4) of the rules to require that licensees must include voting interests in a notification of a foreign carrier affiliation, in addition to the equity interests, and a diagram of individuals or entities with a 10% or greater direct or indirect ownership in the licensee. Currently, a licensee is required to include, among other things, in a foreign carrier affiliation notification "[t]he name, address, citizenship, and principal business of any person or entity that directly or indirectly owns at least ten percent (10%) of the equity of the licensee, and the percentage of equity owned by each of those entities (to the nearest one percent (1%))." In the *2024 Cable NPRM*, the Commission proposed revisions to § 1.768(e)(4) that would be consistent with the ownership reporting requirements of other submarine cable applications and notifications. Specifically, we amend § 1.768(e)(4) to require that licensees must provide the name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns 10% or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). We find there is a public benefit in ensuring that ownership reporting requirements are consistent across the Commission's submarine cable rules. We disagree with NASCA who argues that the Commission should "only require ownership restatements with substantive applications involving a change in control or notification of *pro forma* ownership changes." Any application that a licensee is required to file thereafter should include relevant and consistent information.

170. NASCA also contends that the Commission should "reassess the rule's purpose" and "the rule should be narrowed to apply only to foreign carriers in the countries where the relevant cable lands," but offers no justification for this proposal nor explains with particularity how this would be implemented. In any event, we find that our regulatory framework ensures that the Commission considers whether foreign participation in U.S. markets would raise national security, law enforcement, foreign policy, and/or trade policy concerns due to an applicant's foreign ownership, as well as potential anti-competitive behavior by a carrier with

market power at the foreign end of a U.S. cable.

8. Other Administrative Changes

171. *Contact Information.* We adopt the proposals in the *2024 Cable NPRM* regarding requirements for applicants to provide contact information. Specifically, we amend the rules to expressly require the provision of contact information for applications to modify, renew or extend a cable landing license. We will also require all applicants for cable landing licenses and for modification, assignment, transfer of control, and renewal or extension of licenses to provide an e-mail address on behalf of the applicant and an e-mail address on behalf of the officer and any other contact point, to whom correspondence regarding the application can be addressed. In addition, we require while an application is pending for purposes of § 1.65 of the rules, the applicant for a modification and renewal or extension of a cable landing license must notify the Commission and the Committee of any changes in the licensee information and/or contact information promptly, and in any event within thirty (30) days. We did not receive any comments on these proposals.

172. *Eliminate Certain Rules.* We adopt the proposals to eliminate record-keeping or disclosure rules, 47 CFR 1.767(c), (d), and (f), as described in the *2024 Cable NPRM*, because they are no longer applicable or consistent with the Commission's current rules or practice. These actions today strike a balance between modernizing the rules for current needs and securing sensitive submarine cable infrastructure information.

173. In the *2024 Cable NPRM*, the Commission proposed to remove 47 CFR 1.767(c) and (d). These rule requirements direct the Commission to keep: (a) original applications, documents and exhibits for submarine cable licenses the Commission granted since June 30, 1934, with some exceptions for certain maps; and (b) original files, license applications, and licenses for cable landing operations prior to June 30, 1934. Both rules either permanently or on a temporary basis, directed the Commission to hold these files for public inspection. No comments were received on the proposals. These rules no longer reflect current record keeping

requirements, are not statutorily required under the Cable Landing License Act or Executive Order 10530, nor are they consistent with a different rule, § 1.767(n)(1), that requires information filed in § 1.767 be submitted electronically. Therefore, we adopt the Commission's proposals and eliminate § 1.767(c) and (d).

174. Similarly, in the *2024 Cable NPRM*, the Commission proposed to remove 47 CFR 1.767(f). This rule directs submarine cable applicants to furnish information about submarine cables' construction location and timing, within 30 days upon written request from the public. No comments were received on this proposal. We find that the requirement in § 1.767(f) to disclose information is inconsistent with a different rule, § 0.457(c)(1)(i), which provides that cable maps with exact locations should be withheld from public inspection. Further, this requirement is inconsistent with the proposal in the *2024 Cable NPRM* to provide confidential treatment for the exact addresses and specific geographic coordinates of cable landing stations, beach manholes, and other sensitive locations associated with a submarine cable system." Thus, we adopt the proposal to eliminate § 1.767(f).

175. *Amendments.* We adopt the proposal to codify long standing practices regarding amendments to pending submarine cable applications. No commenter addressed these proposals. Any submarine cable application may be amended as a matter of right prior to the date of any final action taken by the Commission or designation for hearing. Amendments to applications shall be signed and submitted in the same manner as the original application. If a petition to deny or other formal objection has been filed in response to the application, the amendment shall be served on the parties.

176. *Other Administrative Changes.* We adopt the proposals in the *2024 Cable NPRM* and redesignate the submarine cable rules under subpart FF as stated in Appendix A, Final Rules, of the released document. We received no comment on these proposals. We also adopt the ministerial, non-substantive changes throughout Appendix A that the Commission proposed in the *2024 Cable NPRM*, such as the conversion of Notes into respective subsections for

consistency with the Office of Federal Register requirements. We decline to adopt the requirement that applicants file a copy of a submarine cable application with CISA, DHS or to remove cross-references to other sections of our rules in Appendix A, Final Rules. We note that DHS already receives a cable landing license application as a member of the Committee and pursuant to our adopted rules in this *Report and Order*, DHS will also receive a copy of the Foreign Adversary Annual Reports filed by required licensees, pursuant to its status as a member of the Committee. We decline to remove the proposed cross-references in our adopted rules because we find that it will ensure clarity. We note that if we were to repeat the language of the cross-referenced section of the Commission's rules and such section is amended, this would require an amendment to the cable rules as well. We delegate to OIA the authority to amend the relevant rule (after notice and comment if OIA deems required or advisable) and to amend the referenced website therein as necessary to update contact information and the list of agencies for filing with the Executive Branch agencies. We also adopt an administrative change to § 1.767(g)(4) by revising the text "traffic" to instead state "telecommunications services," and therefore clarify the applicability of the rule consistent with section 214 of the Communications Act.

G. Foreign Adversary Annual Report

177. We adopt an annual report requirement for existing licensees that meet certain conditions below. We adopt this Foreign Adversary Annual Report to ensure that the Commission has the information it needs to timely monitor and continually assess national security or other risks that may arise over the course of a licensee's 25-year license term, which may inform decisions to revoke or impose additional conditions upon a license in response to changed circumstances. In the *2024 Cable NPRM*, the Commission explained that it is critical that the Commission has a continuous and systematic understanding of who owns and controls submarine cables and how they are used because submarine cables are a critical component of the global communications ecosystem. The Commission further explained that outside of certain

transactions, foreign carrier notifications, or renewal applications, it does not ordinarily receive updated information about changes in the ownership of licensees or the submarine cable system itself over the course of the 25-year license term. For this reason, the Commission likely has incomplete or outdated information regarding cable landing licensees with foreign ownership and the submarine cable system. The Commission tentatively concluded that the periodic reporting requirement would improve the Commission's oversight of cable landing licenses and ensure that the license continues to serve the public interest during the license term.

178. In an effort to ease burdens on licensees that do not meet the applicable criteria, we adopt a routine condition as proposed in the *2024 Cable NPRM* in lieu of periodic reporting. Many commenters raised concerns with the Commission's original proposal to require three-year periodic reporting of all licensees. For example, commenters contended that the three-year periodic reporting will result in administrative burden to licensees, and if the Commission chooses to adopt the reporting, it must be tailored and not duplicative to the reporting required by licensees who are parties to a mitigation agreement with the Committee. We agree that a three-year periodic reporting requirement as applied to all licensees could be burdensome to licensees that are already subject to consistent monitoring by the Committee. Yet certain information is necessary to our oversight of cable landing licensees.

179. We require existing licensees that meet one or more of the criteria below to provide an annual report. We find that although the frequency of filing for the annual report is more than would be required for the three-year periodic report, the burden is outweighed by the benefit because the licensees subject to this requirement present a potentially heightened national security risk. This annual reporting requirement applies to an existing licensee:

(1) That is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(2) That is identified on the Covered List that the Commission maintains pursuant to the Secure Networks Act;

(3) Whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity; and/or

(4) Whose submarine cable system is licensed to land or operate in a foreign adversary country, as defined in § 1.70001(f).

180. *Information Content*. For existing licensees that meet the above criteria, we adopt the information content of the report as proposed in the *2024 Cable NPRM* and listed in Appendix A of the released document, § 1.70017, as modified according to the *Report and Order* we adopt today. The content of the Foreign Adversary Annual Report will therefore require the following information that is current as of thirty (30) days prior to the date of the submission: (1) the information as required in § 1.70005(a) through (g), (i), and (m), and (2) certifications as set forth under § 1.70006.

181. *Reporting Deadlines.* In the *2024 Cable NPRM*, the Commission proposed to assign, in Appendix D of the released document, each existing submarine cable system and license file number one of four categories with a different deadline to file the originally-proposed three-year periodic report. The entities in Category 1 of Appendix D of the *2024 Cable NPRM* likely meet at least one of the articulated criteria above for those existing licensees that must file a Foreign Adversary Annual Report. The Commission recognizes that other licensees that have not been identified might meet one or multiple of the articulated criteria. We will require those licensees to self-identify and fulfill the reporting requirements for the Foreign Adversary Annual Report, depending on whether the licensee had been licensed pursuant to the requirements under § 1.767(h) of the Commission's current rule. We note that licensees that are owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, are typically not parties to a mitigation agreement with the Committee or its predecessor because such agreements

are traditionally entered into by the U.S.-incorporated co-licensee in the case of a consortium cable. This removes concerns of duplicative reporting between the Commission and the Committee as to these particular licensees.

182. We adopt the requirement that licensees that meet the criteria under our newly adopted rule, § 1.70017, shall submit their initial Foreign Adversary Annual Report within six months of the effective date of the new rules, and each year. We delegate authority to OIA to establish and modify, as appropriate, deadlines for the report.

183. *Manner of Filing Foreign Adversary Annual Report*. Licensees that meet the criteria under section III.G. of this *Report and Order* shall submit a Foreign Adversary Annual Report in the relevant license file number in the Commission's International Communications Filing System (ICFS), or any successor system.

184. *Application Fees*. We adopt the requirement that licensees must pay a fee when submitting the Foreign Adversary Annual Reports and that the fee required be in the amount of $1,445. In the *2024 Cable NPRM* the Commission sought comment on whether to require cable landing licensees to pay a fee when submitting reports.

185. Section 8(a) of the Communications Act mandates that the Commission assess and collect application fees based on the Commission's costs to process applications. Section 8(c) also requires the Commission to amend the application fee schedule if the Commission determines that the schedule requires amendment to ensure that: (1) such fees reflect increases or decreases in the costs of processing applications at the Commission or (2) such schedule reflects the consolidation or addition of new categories of applications.

186. The Commission processes a wide range of applications that are subject to a filing fee. Based on the comments, we determine that the filing fee for Foreign Adversary Annual Reports should be lower than the fee for the three-year periodic reports proposed in the *2024 Cable NPRM*. Most commenters disagree with the application fee for the three-year periodic reports, which we decline to adopt as discussed above. NASCA, in addition to disagreeing with

the three-year periodic reporting proposal as a whole, critiqued the Commission's proposed fee, noting that the Commission's estimate of 29 total labor hours to review the report is greater than the 24 hours the Commission estimates a licensee would spend preparing and submitting the report. We agree with NASCA's critique and lower the estimate of time required to review Foreign Adversary Annual Reports, relative to the proposed estimate for reviewing the proposed three-year periodic reports in the *2024 Cable NPRM*. The estimated hours, though lower than the Commission's previous estimate, take into account the Commission's review time, which is necessary to protect national security. We also conclude the fee for the Foreign Adversary Annual Report should be consistent with that of a cable landing license modification, as the information sought and the Commission's effort to review is comparable.

H. Modifying the Capacity Data Collection for National Security and Other Purposes

187. We modify the circuit capacity reporting requirements to enhance the quality and usefulness of the data for national security and other purposes, provide greater clarity on the reporting requirements to Filing Entities, and eliminate duplicative burdens. The Commission has found that the data from the circuit capacity reports are necessary for the Commission to fulfill its statutory obligations and serve a vital role by sharing this information with other federal agencies. The Committee regularly requests these data for its work on national security and law enforcement issues, as has DHS for its national security and homeland security functions. We find that the data provided through the Capacity Holder Reports provides the information necessary for these purposes and thus eliminate the Cable Operator Report. We direct OIA to revise the Filing Manual to conform with the changes we adopt here.

1. Elimination of the Cable Operator Report

188. Based on our review of the record, we eliminate the requirement for licensees to file a Cable Operator Report. Microsoft and NASCA propose eliminating the Cable Operator Report, as it requires joint licensees for a system to share competitively sensitive information with each other and the information provided is redundant of the Capacity Holder Reports. The

Coalition supports "allowing for each licensee on a cable to report its 'available capacity' on the cable on an individual basis," and suggests the Commission could aggregate the data provided by each licensee to determine the total capacity for each system, which "would necessarily require each licensee to report its own capacity in order for the Commission to have accurate data." We agree with commenters that certain data collected in the Cable Operator Report and Capacity Holder Report are redundant. We find that we can streamline the reporting requirements by eliminating the Cable Operator Report and collecting the information currently obtained through the Cable Operator Report in the Capacity Holders Reports which will eliminate the concerns about sharing confidential information with other licensees on the cable.

189. While we will no longer collect the total "available capacity" on a per system basis through the Cable Operator Report, we provide definitional clarifications, as discussed in section III.H.3., to ensure we can reliably assess the "owned capacity" data individually and in the aggregate to ascertain the total available capacity of each submarine cable.

190. In addition, we will retain important information from the Cable Operator Report by integrating planned capacity data and design capacity data into the Capacity Holder Report. As explained below, we modify the approach raised in the *2024 Cable NPRM* in light of our review of the record and elimination of the Cable Operator Report. Therefore, the licensee or licensees of a U.S.-international submarine cable will no longer be required to file a Cable Operator Report on a per system basis showing the planned capacity and design capacity of the submarine cable. Instead, each cable landing licensee and common carrier will be required to include in the Capacity Holder Report its planned capacity and design capacity on each submarine cable landing in the United States.

2. Reporting of Capacity Holdings on Domestic Submarine Cables

191. We modify the rules to require Capacity Holder Reports for domestic cables licensed by the Commission. We find that the lack of information on domestic cables creates a critical gap in the Commission's insight into the ownership and use of capacity on submarine

cables regulated by the Commission. We find that extending the capacity reporting requirements to domestic submarine cables will strengthen our ability and that of the Committee to identify and assess national security, law enforcement, and other risks to this critical U.S. communications infrastructure.

192. We disagree with commenters' arguments that the Commission should not extend the annual capacity reporting requirements to domestic submarine cables because it would "impose burdens disproportionate to their benefit" and domestic submarine cables "do not implicate the national security risks that the [*2024 Cable*] NPRM seeks to address." Currently, the Commission has no visibility into which entities hold capacity on other domestic submarine cables and whether any such capacity holders are associated with foreign adversaries. Commenters provide no arguments or evidence that refute or dispel these concerns. Indeed, the Committee states that "the United States and its networks are under constant threat from various foreign adversaries, particularly China," noting, for example, how Chinese state-sponsored hackers "were hiding within the U.S. networks waiting to attack our critical U.S. telecommunications infrastructure, which in turn serves other critical sectors such as energy, water, and government services." We find that the lack of information regarding domestic submarine cables creates a serious gap in the Commission's knowledge regarding ownership and use of capacity on critical U.S. communications infrastructure.

193. We therefore modify § 43.82 to require cable landing licensees and common carriers to file Capacity Holder Reports for their capacity holdings on domestic submarine cables. We find it is appropriate to require Filing Entities to report the same capacity information that we collect for U.S.-international submarine cables, especially in light of other changes we adopt for the circuit capacity reporting requirements. Accordingly, Filing Entities shall report their capacity holdings on domestic submarine cables in accordance with § 43.82, as amended in this proceeding.

3. Modifications to the Capacity Holder Report

a. Reporting of Available, Planned and Design Capacity

194. We find that eliminating the Cable Operator Report and consolidating the capacity data into the Capacity Holder Reports – a report filed by each Filing Entity on an individual basis – will enable the Commission to continue collecting accurate and important data for national security and public safety purposes while addressing the concerns of commenters about sharing competitively sensitive information with other joint licensees and duplicative reporting requirements. We will therefore amend the Capacity Holder Report to integrate information about available, planned and design capacity that was previously reported in the Cable Operator Report. We also clarify the definitions to provide clarity to Filing Entities and improve the consistency and reliability of the data. We believe that clarifying the definitions will better ensure that Filing Entities report their data accurately and consistently, and consequently, will enable the Commission to rely on aggregation of owned capacity data from the Capacity Holder Reports to assess the total available capacity of a submarine cable in absence of the Cable Operator Report.

195. *Available Capacity*. We define "available capacity" on a submarine cable as all of the capacity (both lit and unlit capacity) based on equipment currently used on the submarine cable. The Coalition supports clarification of the terms "available capacity" and "design capacity," and recommends a similar definition of "available capacity" as capacity that is "presently possible to provide across the cable as a result of the type of electronic equipment currently attached to the cable." The Coalition explains this is the widely accepted definition of "available capacity" in the industry, while "design capacity" is "the maximum amount of capacity that can be handled by the fibers themselves regardless of the type of electronic equipment utilized." Other commenters did not specifically address this issue or propose alternative approaches, but recommend generally that the Commission clarify existing requirements. To further reduce confusion for Filing Entities, we will also refer to "available capacity" as "current equipped capacity."

196. Accordingly, we will apply this definition of "available capacity" to the existing categories of capacity holdings in the Capacity Holder Report. These categories include (1) owned capacity ("Cable Ownership"), (2) the net amount of IRUs, (3) net amount of ICLs, (4) net capacity, (5) activated (i.e., lit) capacity, and (6) non-activated (i.e., unlit) capacity. Consistent with this definition of "available capacity," these capacity holdings should be reported based on equipment currently used on the submarine cable. To further ensure consistency in the data, we also clarify that "owned capacity" is the capacity that an entity holds through its direct ownership or controlling interest in a submarine cable pursuant to § 1.767(h). With few exceptions, "owned capacity" is reported by the licensee(s) of the submarine cable. To the extent an entity other than the licensee(s) of the submarine cable holds capacity through a direct ownership or controlling interest in the cable that does not meet the threshold licensing requirements of § 1.767(h), the entity should report that capacity as "owned capacity."

197. *Planned Capacity and Design Capacity*. We define "planned capacity" as the intended capacity (both lit and unlit capacity) on the submarine cable two years from the reporting date (December 31 of the preceding calendar year) that includes any current plans to upgrade the technology. Further, we will no longer use the definition currently reflected in the Filing Manual, where "available capacity" of a submarine cable is also referred to as "design capacity," and instead define "design capacity" as the maximum theoretical capacity on the submarine cable regardless of equipment currently used or current plans to upgrade the technology. Our definition incorporates the Coalition's recommendation that "design capacity" is "the maximum amount of capacity that can be handled by the fibers themselves regardless of the type of electronic equipment utilized." We note that planned capacity data and design capacity data should be reported separately from the existing categories of capacity holdings, consistent with our definitional clarifications herein.

b. Additional Categories of Capacity Holdings

198. In light of the national security and other risks raised in the record, and the

important role of capacity data for advancing national security purposes, we adopt additional categories for reporting capacity holdings to include data for fiber and spectrum holdings. The current circuit capacity data collection does not provide visibility into how and to what extent capacity holders, including any entity that is owned and/or controlled by foreign adversaries, use their capacity to access, route, and maintain such "connectivity comparable to operating their own communications cable to the United States." We find that this information gap presents serious national security, law enforcement, and other vulnerabilities to this critical U.S. communications infrastructure. We therefore will require licensees and common carriers to identify in the Capacity Holder Report whether they sold or leased out and/or purchased or leased a fiber pair and/or spectrum on any submarine cable landing in the United States as of the reporting date.

199. While industry commenters did not address these issues specifically, a few commenters generally oppose expanding the capacity reporting requirements and argue the Commission should focus on clarifying and simplifying existing requirements. We agree with the Committee, however, that it would be useful to identify in the Capacity Holder Reports how the capacity is held "on a fiber or spectrum basis." The Committee explains that an entity with a dark fiber interest in a submarine cable "typically is responsible for 'lighting' its own dark fiber or spectrum" and may "attach its own SLTE, or equivalent equipment, to the fiber, in its own facility to route its own U.S. communications traffic, all operated, monitored, and secured by its own network operations center (NOC) and its own employees and service providers." Significantly, as noted by the Committee, "[a] foreign adversary-controlled non-licensee entity that owns, controls, or operates its own SLTE, or equivalent equipment, on a submarine cable landing in the United States may have connectivity comparable to operating their own communications cable to the United States without a license, or any regulatory review, mitigation, or monitoring for national security or law enforcement risk."

200. Accordingly, licensees and common carriers will be required to identify, with

respect to each sale, lease, or purchase of a fiber pair and/or spectrum, the submarine cable, the U.S. and foreign landing points of the fiber pair and/or spectrum, and the entity that manages the fiber pair and/or spectrum, if different from the entity that owns it. We thus will apply consistent reporting requirements where, for example, a Filing Entity sold, leased, or purchased whole fiber pairs or spectrum partitioned on a fiber. We will tailor these requirements by not requiring licensees and common carriers to separately report the amount of capacity that is sold, leased, and/or purchased by fiber pair or spectrum. We expect this capacity information will be represented in the data that Filing Entities must report under existing categories of owned capacity, net IRUs, and net ICLs.

c. Reporting of SLTEs on Submarine Cables Landing in the United States

201. Consistent with other actions in this *Report and Order*, we will require cable landing licensees and common carriers to provide certain information about their SLTEs in the Capacity Holder Report. As the Commission stated in the *2024 Cable NPRM*, and consistent with our findings today, the SLTE is among the most important equipment associated with the submarine cable system for national security and law enforcement purposes. We find that identifying which entities own or control an SLTE on Commission-licensed submarine cables will, among other things, enable the Committee and Commission to identify licensees that "have increased exposure to foreign adversary entities" and also "enhance the Committee's ability to triage risks when deciding whether to initiate *ad hoc* reviews of existing licenses."

202. The Coalition opposes incorporating "a new reporting category regarding SLTE ownership and operation on a cable system," arguing that it is unnecessary and, "[w]ithout a demonstrable gain to national security, increases in the reporting and compliance burdens on the industry should be avoided." We disagree with the Coalition's views that there is no "demonstrable gain to national security" in collecting this information. Indeed, we find that addressing this critical information gap is essential for our national security objectives.

Moreover, as discussed above, the Committee emphasizes the importance of obtaining information about entities with access to, or ownership or control of, SLTE and equivalent equipment in light of "the risk of foreign adversary-controlled non-licensee entities owning, controlling, and operating SLTE, or equivalent equipment, on submarine cables landing in the United States."

203. We therefore modify § 43.82 to require cable landing licensees and common carriers to identify in the Capacity Holder Report whether they *own or control* an SLTE on the U.S. and/or foreign ends of each submarine cable landing in the United States. For purposes of circuit capacity reporting, we will require Filing Entities to report information about their SLTEs directly to the Commission. Moreover, we clarify that this requirement will apply to all cable landing licensees, including licensees that do not hold capacity on a submarine cable and do not otherwise file Capacity Holder Reports under the current rules. Further, we adopt the Commission's proposal to share with our federal partners the information that is collected pursuant to this requirement, including any information for which confidential treatment is requested, through the procedures discussed below.

d. Which Corporate Entity May File Reports

204. We find that any subsidiary, parent entity, or affiliate should be allowed to file the Capacity Holder Report on behalf of a licensee or common carrier, so long as the legal name of the licensee or common carrier is identified in the report and an officer of the licensee or common carrier certifies that the information in the report is accurate and complete. To the extent a subsidiary, parent entity, or affiliate of a Filing Entity submits the circuit capacity reports on the Filing Entity's behalf, the Filing Entity shall be held accountable for any defects in the certification as to the accuracy and completeness of information filed in the circuit capacity reports. While no commenter addressed these issues, based on Commission staff review of the annual capacity data, we find that allowing any subsidiary, parent entity, or affiliate to file the Capacity Holder Report on behalf of a licensee or common carrier, subject to identification and

certification requirements, would be consistent with a common filing practice. Further, we find that our approach will improve the administrative efficiency of our current practice, which involves informal inquiries by Commission staff, to confirm whether the licensee or common carrier has complied with its reporting obligations.

205. To the extent a subsidiary, parent entity, or affiliate files the Capacity Holder Report on behalf of a licensee or common carrier, we will require that the report must identify the legal name of the licensee or common carrier that is subject to the § 43.82 reporting requirements. To the extent a consolidated Capacity Holder Report is filed on behalf of multiple affiliated entities, we will require that the report must identify the legal name of each entity and, where applicable, indicate whether certain information (e.g., ownership or control of an SLTE) pertains to a specific licensee or common carrier. Further, we modify § 43.82 to codify the requirement that licensees and common carriers subject to § 43.82 shall be held accountable for any defects in the certification as to the accuracy and completeness of information filed in the Capacity Holder Report. To this end, we will also require that an officer of the licensee or common carrier must also certify that the information in the Capacity Holder Report is accurate and complete, notwithstanding any certification that may be provided by a subsidiary, parent entity, or affiliate.

4. Compliance

206. We adopt the Commission's proposal to codify a compliance provision in § 43.82 of the rules. In the *2024 Cable NPRM*, the Commission proposed to state specifically in the rules that filing false or inaccurate certifications or failure to file timely and complete annual capacity reports in accordance with the Commission's rules and the Filing Manual shall constitute grounds for enforcement action, including but not limited to a forfeiture, revocation, or termination of the cable landing license or international section 214 authorization, pursuant to the Communications Act and any other applicable law, including the Cable Landing License Act. We find that having a compliance provision in the rules will ensure greater compliance overall

with the reporting requirements. Although we sought comment on whether we should exempt certain entities from filing a capacity report, such as an entity that controls the U.S. landing station but does not hold capacity on the cable, no commenter addressed this issue. We find that it is important to receive as much information about capacity holdings on licensed cables, and thus do not adopt exceptions to reporting for licensees and common carriers subject to § 43.82 of the rules.

5. Sharing the Circuit Capacity Data with Federal Agencies

207. As was proposed in the *2024 Cable NPRM*, we modify § 43.82 of the rules to allow the Commission to share with the Committee, DHS, and the State Department the capacity data filed on a confidential basis without the pre-notification requirements of § 0.442(d). The Commission may share information that has been submitted to it in confidence with other federal agencies when they have a legitimate need for the information and the public interest will be served by sharing the information. We find that the Committee, DHS, and the State Department each have a legitimate need for the capacity data.

208. Since 2019, the Commission has annually issued a Public Notice to announce its intent to share the annual capacity data with DHS and subsequently the Committee pursuant to the procedures set out in § 0.442 of the Commission's rules, and no party has opposed such disclosure of the capacity data for which confidential treatment was requested. The Commission has found that the data provided in the Circuit Capacity Reports "are essential for our national security and public safety responsibilities in regulating communications submarine cables" and that "circuit capacity data are important for the Commission's contributions to the national security and defense of the United States. The data are also useful for federal agencies in fulfilling their other duties and responsibilities.

209. The Committee supports adoption of a rule to allow the Commission to share with other federal government agencies the capacity data filed on a confidential basis without the pre-notification requirements of § 0.442(d) and states that streamlining the sharing of information

would "help the Committee efficiently fill some information gaps on older cable systems and reduce delays, administrative burden, and duplicative filings on behalf of industry." The Committee "recommends that the Commission include at least all the Committee members," and states that it "intends to treat any information, received from the Commission in accordance with Commission confidentially rules . . . and the confidentiality provisions contained in Section 8 of E.O. 13913." The Committee states that it also "intends to treat such information as eligible for exemption under the Freedom of Information Act, to the extent applicable." Industry commenters do not object to the sharing of the data with federal agencies provided that "licensees' requests for confidential treatment are honored" and "such information remains confidential.

210. Pursuant to the new rule we adopt today, the Commission will be able to share the confidential data with federal agencies that have a legitimate need for the data consistent with their functions without the delay attendant to providing parties an opportunity to object to the sharing. Further, the rule we adopt will make clear that sharing of the confidential circuit capacity data with other federal government agencies is subject to the requirements of the confidentiality protections contained in the Commission's regulations and 44 U.S.C. 3510, and, in the case of the Committee, section 8 of Executive Order 13913 that require the Committee to keep the information confidential. Therefore, sharing of confidential capacity data will continue to be subject to the requirement that each of the other federal agencies comply with the confidentiality protections applicable both to the Commission and the other agency relating to the unlawful disclosure of information. We will also provide notice to the parties whose information is being shared.

211. We find that the Committee states that it has a legitimate need for reviewing the capacity data to fulfill its mandate under Executive Order 13913, as the data are relevant to its national security and law enforcement reviews and "[h]aving this information provides a clearer picture of how such cables are being used and by whom and better enables the Committee to

evaluate international data flows on various cables." We also find that DHS has a legitimate need for the capacity data. In the *2017 Section 43.62 Report and Order,* the Commission specifically noted that DHS "finds this information to be critical to its national and homeland security functions" and "[DHS] states that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes. Finally, we find that Executive Order 10530 provides a basis for the Commission to share annual capacity data with the State Department in light of the agency's legitimate need for the information in furtherance of its functions related to approving (or disapproving) certain Commission actions on submarine cable licenses.

I. One-Time Information Collection

212. We adopt a mandatory one-time information collection applicable to cable landing licensees. As noted above, the one-time information collection is necessary to obtain information to assist the Commission in fulfilling the purposes of the Cable Landing License Act. *First*, we require licensees to provide updated information on currently licensed submarine cables and licensees to assess for any insolvent cables or licensees. This information will enable the Commission to initiate revocation proceedings to revoke the cable landing license or licensee(s) that are insolvent or no longer exist. *Second*, we require all licensees to provide information concerning the SLTE owners and operators on the licensed cable to inform our regulatory approach in the *Further Notice of Proposed Rulemaking*. *Third*, we require licensees to provide information as to whether or not the licensee currently uses any equipment or services identified on the Commission's Covered List, uses a third-party foreign adversary service provider, or uses a third-party service provider that can access the submarine cable system from a foreign adversary country. The information collected will provide the Commission with information to assess current national security risks.

213. *Legal Authority.* Pursuant to the Cable Landing License Act and Executive Order 10530, the Commission holds broad legal authority to regulate submarine cables that connect to

the United States. Under section 35 of title 47, the Commission has legal authority to withhold or revoke a license if such action will "promote the security of the United States." The Commission is obligated to ensure that a license for a submarine cable system remains in the public interest, which includes obtaining complete and accurate submarine cable and licensee information, obtaining information to inform our regulatory approach on SLTEs, and ensuring that the Commission has information to protect the national security or law enforcement interests of the United States.

214. *Information Collection on Licensees and Cables*. We seek updated information from each cable landing licensee, regardless of whether the licensee is a member of a consortium cable, to provide the name of the submarine cable and identify all of the current licensees and known licensees that are no longer in business or insolvent. The Commission has incomplete information as to all licensees, as the Commission's records in ICFS and other records indicate that some submarine cables licensed by the Commission may not have commenced service and/or some cable landing licensees of record may be insolvent or no longer in operation.

215. *Information Collection on SLTEs.* The Commission has incomplete information as to the identities and the number of SLTE owners and operators that connect to a Commission-licensed submarine cable system and the information collected will inform our regulatory approach in the *Further Notice of Proposed Rulemaking*. Importantly, SLTEs are among the most important equipment associated with the submarine cable system for national security and law enforcement purposes. We adopt information collection requirements for each licensee to provide to the Commission information regarding SLTEs based on the newly adopted rules set forth in § 1.70005(a) through (d), (e)(7)(i) and (iii), (g), and (i) in this *Report and Order*. This will include such information as to the contact and business organizational information of the licensee; information about the landing stations and SLTE; and other information deemed necessary for the purposes of the collection.

216. *Information Collection Regarding the Covered List and Third-Party Service*

Providers. We require licensees to disclose whether or not their submarine cable system uses equipment or services identified on the Commission's Covered List; provide information about each particular covered equipment or service that they use in the submarine cable system; disclose whether they use a third-party service provider that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g); or use a third-party service provider that can access the submarine cable system from a foreign adversary country, as defined in § 1.70001(f). For national security reasons, the Commission needs this information to assess the current risks identified in submarine cable infrastructure.

217. *Process and Deadline*. We direct OIA to conduct this information collection, including the creation of forms, to submit the information collection for Office of Management and Budget (OMB) review and, following OMB review, to publish notice of the effective date of the information collection requirement and the filing deadline in the *Federal Register*. The filing deadline shall be no fewer than thirty (30) days following the effective date of this *Report and Order*. OIA also will issue a Public Notice announcing the deadline and will provide instructions for filing this information with the Commission. We note that licensees that fail to comply with the information collection required in this *Report and Order* are subject to monetary forfeitures, in addition to enforcement action up to and including cancellation or revocation/termination of the license.

218. *Certification*. In general, submarine cable owners and operators should have knowledge concerning our information collection requirements above. A cable landing licensee is expected to conduct due diligence. If, after conducting appropriate due diligence, licensees are unable to ascertain all of the requested information, such licensees may certify that the information provided in the one-time information collection is accurate to the best of the licensee's knowledge and explain the reasoning for non-compliance. We anticipate that this standard for our information collection will provide a scope of expectation for cable landing licenses that will not be unduly burdensome, including for small entities.

219. *Surrender of Cable Landing License.* Entities that seek to surrender their cable landing license can file a notification that includes information set out in § 1.70011(d) of our adopted rules before the filing deadline. If the filing is made before the deadline, the entity does not need to respond to the one-time information collection. Cable landing licensees may file a notification in ICFS.

220. *Manner of Authentication of Identify of Filer*. OIA is delegated the authority to determine the appropriate manner of authentication of the identity of each filer in this one-time information collection.

J. Costs and Benefits

221. We estimate that the rules that we adopt today will facilitate faster and more efficient deployment of submarine cables, while at the same time ensuring the security and resilience of this critical infrastructure. Applying conservative assumptions, we estimate that licensees will incur total costs of no more than approximately $2.5 million per year to implement the rules. Our estimate includes all the expected ongoing costs that would be incurred as a result of the rules adopted in the *Report and Order*. The benefits of the actions we adopt today are significant and difficult to quantify, such as preventing untrustworthy elements in the communications network from impacting our nation's defense, public safety, and homeland security operations, our military readiness, and our critical infrastructure, not to mention the collateral damage such as loss of life that may occur with any mass disruption to our nation's communications networks. As we explain below, we find that such benefits are likely to substantially outweigh the costs.

222. We implement the following proposals from the *2024 Cable NPRM*. We take action to protect the security, integrity, and resilience of submarine cable systems by targeting foreign adversary threats to this critical United States communications infrastructure. Specifically, we adopt a clear and consistent standard that incorporates the Department of Commerce's definitions for identifying a "foreign adversary," "foreign adversary country," and

an individual or entity "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary." Using these definitions, we adopt rules that will better protect U.S. national security from foreign adversaries.

223. To protect critical U.S. communications infrastructure against foreign adversary threats, we will presumptively preclude the grant of applications filed by: any entity owned by, controlled by, or subject to the jurisdiction or control of a foreign adversary; any entity on the Commission's "Covered List;" and/or any entity whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity. To ensure that applicants have the requisite character qualifications, we adopt a presumption that an applicant is not qualified to hold a cable landing license if it meets certain criteria. We adopt a presumption that denial of an application is warranted where an applicant seeks to land a new submarine cable in a foreign adversary country, as defined in § 1.70001(f), or that seeks to modify, renew, or extend its cable landing license to add a new landing located in a foreign adversary country, as defined in § 1.70001(f). To ensure that applicants have the requisite character qualifications, we adopt a presumption that an applicant is not qualified to hold a cable landing license if it meets any of the criteria listed below, unless the applicant overcomes the adverse presumption. Additionally, we adopt a condition prohibiting cable landing licensees from entering into new or an extension of existing arrangements for IRU or leases for capacity on submarine cable systems landing in the United States, where such arrangement for IRUs or lease for capacity would give the entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, the ability to install, own, or manage SLTE on a submarine cable landing in the United States. For current licensees that meet the above definition or whose cable lands in a foreign adversary country, we adopt increased oversight tools as they must file an annual Foreign Adversary Annual Report containing

information about the submarine cable system operations and the licensee and submarine cable system ownership. We also adopt a written hearing process for denial or revocation and/or termination of cable landing licenses.

224. We modernize our submarine cable rules by adopting a definition of the term, "submarine cable system," that acknowledges the range of technological advancement in existing submarine cable systems. This definition incorporates the future technological evolution of submarine cable systems, all of which include SLTE as a significant component of the system itself. While at this time we decline to require SLTE owners and operators to become licensees, we take steps to identify, through a one-time information collection, how many entities currently own or operate SLTEs on existing licensed cable systems. The one-time information collection we adopt will further inform the Commission about the identities of SLTE owners and operators and their respective role in operating a portion of the submarine cable system, including information about system capacity, spectrum, or the lighting of a fiber. The one-time collection will also assess for insolvent cables or licensees, and require licensees to disclose whether they use covered equipment or services.

225. We also codify the Commission's longstanding practice of requiring a cable landing license for submarine cables that lie partially outside of U.S. territorial waters. Moreover, while we do retain a number of our current rules, we eliminate the requirement that entities that solely own, and do not control, a U.S. cable landing station must be applicants for, and licensees on, a cable landing license. We also update our application rules to ensure applicants provide sufficient information about the submarine cable infrastructure for which they are seeking a license and to require compliance with ongoing certifications regarding cybersecurity and physical security risk management plans and use of equipment and services identified on the Covered List. These rules will ensure that licensees protect their networks from cybersecurity threats and threats from individuals and entities subject to foreign adversary ownership, control, jurisdiction, or direction. We clarify when a modification of an existing

license is required and whether the change requires prior approval or a post-action notification. We formalize rules for applications to renew a cable landing license upon expiration of the license term and for special temporary authority. To make it easier for applicants and licensees to navigate our rules, we update the organization of rules for applications to modify, assign, transfer control of, or renew or extend a cable landing license or request special temporary authority. We adopt rules to obligate licensees to keep the Commission abreast of changes to important information such as the contact information of the licensee and other information that will enable the Commission to maintain accurate records regarding licensees. We eliminate the requirement for licensees to file a Cable Operator Report about the capacity on a cable. We will require licensees and common carriers to report their capacity on domestic as well as international cables and clarify the types of capacity that need to be reported

226. The rules we adopt today should benefit national security, law enforcement, foreign policy, and trade policy, as well as fulfill our public interest responsibilities under the Cable Landing License Act. The rules overall will increase our ability to monitor international data flows over the international submarine cable network, to identify those entities that are using the cables, and to detect attacks on the U.S. government, private sector, and critical infrastructure. Updating the circuit capacity data collection to include more granular information on submarine cable equipment and more precise measures of circuit capacity should enable the Commission to identify new risks to submarine cables. Including SLTE in the formal definition of a submarine cable system should strengthen our oversight of potentially vulnerable SLTE end points which should increase the security of the entire submarine cable network. Adopting an information collection on cable landing licensees to learn about SLTE owners and operators and whether the licensee currently uses any equipment or services identified on the "Covered List," uses a third-party foreign adversary service provider, or uses a third-party service provider that can access the submarine cable system from a foreign adversary country should inform our efforts in coordination with the Committee to respond to potential vulnerabilities of the

submarine cable system.

227. We couple our rules improving risk identification and monitoring with rules that allow us to mitigate potential risks. Strengthening our rules on presumptive denials of certain applications filed by applicants with previous adverse actions on national security grounds should reduce the surveillance of sensitive data and disruption to online commerce and international financial transactions. By prohibiting IRUs and leasing capacity agreements owned by foreign adversaries, we are reducing their access to capacity on submarine cables that access the United States, thereby mitigating the risk of hostile actions. Prohibiting new cables from using covered equipment and strengthening certification requirements should reduce the risk of cyberattacks by foreign adversaries through covered equipment accessing the United States.

228. Our actions today balance the need to strengthen national security with efforts to expedite and streamline our processes, thereby reducing the burden of compliance. By narrowing the Commission's proposals to require applicants to report whether or not they use and/or will use third-party foreign adversary service providers in the operation of a submarine cable, we balance our goals of strengthening national security while minimizing the burden on our trading partners and allies. Similarly, streamlining the information sharing procedures with the Committee should reduce the burden on industry of preparing reports and filings while expediting coordinated efforts across the federal government to protect U.S. cable systems from foreign adversary attacks.

229. Submarine cables are estimated to carry 99% of intercontinental Internet traffic and serve as the backbone to global communications. In updating our submarine cable rules for the first time since 2001, the Commission is responding to recent geopolitical developments and addressing potential hostile actions by foreign adversaries against our submarine cable network, including potentially severing submarine cables or damaging equipment located at cable landing stations, disrupting communications, and negatively impacting international financial transactions and online commerce. In recent years the threat of malicious cyberattacks by

foreign adversaries, most notably China, on U.S. telecommunications companies and critical infrastructure has become more significant. Cyber threats to the U.S. government, private sector, and infrastructure include espionage, surveillance, and the suppression of communications. There has been an increase in reports of physical cutting of submarine cable infrastructure, and these incidents appear to be deliberately targeting the key linkages between the United States and its trading partners. Cybercrime and malicious cyber activities have become more costly over the past decade. The hacking group Salt Typhoon compromised the networks of several major U.S. Internet companies in 2024. A third party entity reports that the volume of attacks by China to the U. S. government, technology and communications sectors increased by 50% between 2023 and 2024.

230. The U.S. gross domestic product was over $29 trillion in 2024. The digital economy added approximately $2.6 trillion in value to the overall U.S. economy in 2022, representing approximately 10% of gross domestic product, and represents a rapidly growing segment of the overall economy. Globally, the volume of financial transactions flowing over submarine cables has been estimated to be greater than ten trillion dollars per day. Thus, even a temporary, localized disruption to data passing through submarine cables would likely result in very substantial economic losses. The harms would encompass business imports and exports, the operations of multinational corporations, international financial flows, online commerce, residential and government communications, and online access to information including emergency services. Although such losses are very difficult to measure, on an annual basis, we find that they are likely well in excess of the annual costs that we estimate would be associated with our rules.

231. Our revised estimate of costs is $2.5 million per year, including all additional expected costs that would be incurred as a result of the rules adopted in this *Report and Order*. We note that our revised estimate represents an increase of $1.2 million over the estimate provided in the *Notice*. This increase reflects two primary factors. First, the *Report and Order*

more clearly defines the additional information required under the application requirements, including: the location of all landing points and branching units of the cable by segment, the number of segments in the submarine cable system and the designation of each, the length of the cable by segment and in total, the location of each cable landing station, the number of optical fiber pairs by segment, the design capacity by segment, the anticipated time frame when the cable system will be placed in service, route position lists, location of SLTE, location of NOC or backup NOC, location of SOC or backup SOC, third-party foreign adversary service provider information, cybersecurity certifications, covered list certification, and foreign carrier affiliations. Second, in response to commenter input, we have attempted to lighten the regulatory burden on industry by declining to adopt the proposal for a 3-year reporting requirement for all licensees and instead focusing our review on foreign adversaries, declining to include service providers and SLTE owners as applicants, harmonizing cybersecurity requirements based on common standards, and by revising the estimated number of hours required to prepare an application.

232. We base our cost estimate on the Commission's records that indicate, as of July 31, 2025, there are currently 91 submarine cable systems licensed by the Commission that are owned by approximately 147 unique licensees. Furthermore, we estimate that there are approximately ten (10) applications for new cables landing licenses filed every year. We also estimate that there are approximately 24 applications filed every year for modification, assignment, or transfer of control of a cable landing license. Based on these estimated numbers of applications, and our estimate that there will be four renewal applications filed annually, we estimate that 38 submarine cable applications are submitted annually.

233. Our cost estimate assumes that approximately 114 licensees will undergo the application process each year for the estimated 38 cable systems that are submitting applications for that year. We base this on the conservative assumption that each cable landing license application will have an average of three licensees. In addition, we estimate that applicants will

incur an additional cost associated with the rules we adopt to certify compliance with baseline cybersecurity standards, including implementing the cybersecurity and physical security risk management plans. We expect that the amount of work associated with preparing a new license application likely will be similar to the work associated with preparing a renewal application.

234. In the *2024 Cable NPRM*, we estimated that the preparation of a new or renewal application for each submarine cable system by an average of three licensees will require 80 hours of work by attorneys and 80 hours of work by support staff at a cost of $27,200 per application. NASCA states that the Commission understated the costs of preparing a license application. Similarly, the Coalition states that the proposals in the *2024 Cable NPRM* will result in significantly higher compliance costs than the estimate. While neither commenter provided alternative estimates, in order to have confidence that we do not underestimate the costs borne by filers, we double the estimated number of hours required to 160 hours of work by attorneys and 160 hours of work by support staff, at a cost of $54,400 per application. To this cost, we add the cost of cybersecurity certification required for all new and renewal applications, which we estimate to be $9,100. We then multiply the sum of these costs by 38 to produce an estimate of approximately $2.5 million per year for annual application costs. We estimate that the Foreign Adversary Annual Report will require twelve hours of attorney time and twelve hours of support staff time, at a cost of $4,100. We multiply this amount by ten to account for the total cost that U.S. entities may incur in preparing these reports. We sum these costs to produce a total estimate of approximately $2.5 million per year for the 25-year period, as a baseline estimate of the annual application and license review costs.

IV. SEVERABILITY

235. The rules adopted in this *Report and Order* advance the Commission's comprehensive strategy to facilitate submarine cable deployment while protecting submarine cable infrastructure. Though complementary, each of the separate rules serves their own distinct and specific purpose to promote these goals. Therefore, it is our intent that each of the rules

adopted in this *Report and Order* shall be severable. If any of the rules are declared invalid or unenforceable for any reason, we find that the remaining portions of the regulatory framework continue to fulfill our goal of promoting faster and more efficient deployment of submarine cables while simultaneously protecting submarine cable infrastructure, and that any remaining rules not deemed invalid or unenforceable shall remain in effect and be enforced to the fullest extent permitted by law.

V. PROCEDURAL MATTERS

236. *Transition of Rules*. Until the new rules become effective, we will retain §§ 1.767 and 1.768 to ensure that the Commission may continue to receive and process applications and related filings. The specific rules that are retained until the respective transition are identified in paragraph 336 below.

237. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this *Report and Order* on small entities. The FRFA is set forth in Appendix C of the released document.

238. *Paperwork Reduction Act*. This *Report and Order* may contain new or substantively modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-3521. All such new or modified information collections will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on any new or modified information collections contained in this proceeding. Additionally, this document may contain non-substantive modifications to approved information collections. Any such modifications will be submitted to OMB for review pursuant to OMB's non-substantive

modification process. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this present document, we have assessed the effects of obtaining information about covered equipment and services in submarine cable systems, and other related information important for, and find that the impact to small entities and businesses is difficult to ascertain but will not be disproportionate to the impact on larger businesses and entities.

239. Additionally, this *Report and Order* may contain non-substantive modifications to approved information collections. Any such modifications will be submitted to OMB for review pursuant to OMB's non-substantive modification process.

240. *OPEN Government Data Act*. The OPEN Government Data Act requires agencies to make "public data assets" available under an open license and as "open Government data assets," *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization. This requirement is to be implemented "in accordance with guidance by the Director" of the OMB. The term "public data asset" means "a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [the Freedom of Information Act (FOIA)]." A "data asset" is "a collection of data elements or data sets that may be grouped together," and "data" is "recorded information, regardless of form or the media on which the data is recorded."

241. *Congressional Review Act*. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the

Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

242. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. When the FCC Headquarters reopens to the public, these documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

VI. FINAL REGULATORY FLEXIBILITY ANALYSIS

243. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules* (*2024 Cable NPRM*), released in November 22, 2024. The Commission sought written public comment on the proposals in the *2024 Cable NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and it (or summaries thereof) will be published in the *Federal Register*.

A. Need for, and Objectives of, the Rules

244. In this *Report and Order*, we undertake the first major comprehensive update of our submarine cable rules since 2001. Since that time, technology, consumer expectations, international submarine cable traffic patterns, and investment in and construction of submarine cable infrastructure have greatly changed. This *Report and Order* modernizes and streamlines the Commission's submarine cable rules to facilitate faster and more efficient deployment of submarine cables, while at the same time ensuring the security, resilience, and protection of this critical infrastructure. We adopt rules that place a strong emphasis on prohibiting and mitigating national security risks from foreign adversaries, while welcoming investment from United States

allies and partners We also lighten the regulatory burden on industry by modernizing and simplifying the submarine cable license approval process.

245. Specifically, we adopt a standard for identifying a "foreign adversary," "foreign adversary country," and an individual or entity "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary," and use these to adopt rules that will better protect U.S. national security and critical U.S. communications infrastructure from foreign adversaries. We presumptively preclude the grant of applications filed by any entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; any entity identified on the Commission's "Covered List"; and/or any entity whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity. We adopt a presumption that an applicant is not qualified to hold a cable landing license if it meets any of the criteria identified in the *Report and Order*, unless the applicant overcomes the adverse presumption. We adopt a presumption that denial of an application is warranted where an applicant seeks to land a new submarine cable in a foreign adversary country. Additionally, we adopt a condition prohibiting cable landing licensees from entering into a new or extension of an existing arrangement for Indefeasible Rights of Use (IRU) or leases for capacity on submarine cable systems landing in the United States, where such arrangement would give certain entities the ability to install, own, or manage Submarine Line Terminal Equipment (SLTE) on a submarine cable landing in the United States. For certain entities, we adopt a requirement to file an annual report (Foreign Adversary Annual Report) containing information about the submarine cable system operations and the licensee and submarine cable system ownership. We also adopt a written hearing process for denial or revocation and/or termination of cable landing licenses

246. We define the term, "submarine cable system," that acknowledges the range of

technological advancement in existing submarine cable systems, including SLTEs. We adopt a one-time information collection to collect the number of entities that currently own or operate SLTEs on existing licensed cable systems, and the respective SLTE owners and operators' identities and their role in operating a portion of the submarine cable system, among other information. The one-time collection will also assess for insolvent cables or licensees, and require licensees to disclose whether they use covered equipment or services.

247. We also codify the Commission's longstanding practice of requiring a cable landing license for submarine cables that lie partially outside of U.S. territorial waters. We eliminate the requirement that entities that solely own, and do not control, a U.S. cable landing station must be applicants for, and licensees on, a cable landing license. We require a statement that grant of the application is in the public interest, to ensure applicants provide sufficient information about the submarine cable system for which they are seeking a license, to report whether or not they use and/or will use third-party foreign adversary service providers in the operation of the submarine cable, and to require compliance with ongoing certifications regarding cybersecurity and physical security risk management plans and use of equipment and services identified on the Covered List. We clarify when a modification of an existing license is required and whether the change requires prior approval or a post-action notification. We formalize rules for applications to renew or extend a cable landing license upon expiration of the license term and for special temporary authority. We update the organization of rules for applications to modify, assign, transfer control of, or renew or extend a cable landing license or request special temporary authority. We adopt rules for licensees to keep the Commission abreast of changes to important information such as the contact information of the licensee and other information that will enable the Commission to maintain accurate records regarding licensees. We eliminate the requirement for licensees to file a Cable Operator Report about the capacity on a cable. We require licensees and common carriers to report their capacity on domestic as well as international cables and clarify the types of capacity that need to be reported.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

248. No comments were made on the record on the IRFA specifically. However, several commenters addressed the impact of the Commission's proposed rules in the *2024 Cable NPRM* on small businesses or smaller players in specific industries. We summarize these comments here and analyze the impact of the Commission's adopted rules in section F, *infra*.

249. Commenters raised small business impacts in the context of the Commission's seeking comment on whether to retain the requirement that an entity that owns or controls a 5% or greater interest in the cable and uses the U.S. points of the cable system be an applicant for and licensee on a cable landing license. As an example, the Submarine Cable Coalition argues in favor of keeping the 5% or greater threshold for licensing and claimed "[a]ny proposed changes to modify the 5% ownership threshold . . . will specifically and disproportionately impact small carriers and investors." Microsoft similarly argues the Commission should not "impos[e] unnecessary burdens on small investors" who do not have the ability to materially influence the operation of the cable.

250. The Commission's proposal in the *2024 Cable NPRM* to license data center owners received comment on its impact to smaller data center owners. The Submarine Cable Coalition supported the Commission maintaining its current practice of waiving licensing to "avoid unnecessarily burdening . . . passive infrastructure owners," stating that requiring data center owners who only own the facility in which the cable landing station is located to be licensed would "disparately impact smaller data center owners that do not have the necessary resources to address the myriad of reporting and compliance requirements that come along with becoming a submarine cable licensee." INCOMPAS supports the Commission codifying its practice of waiving licensing for data center operators, claiming "[s]maller data center operators face significant market and cost pressure that continually increases with no end in sight . . . Adding unnecessary, duplicative, and burdensome regulation to the market will further this negative trend . . . ultimately leav[ing] small data center operators unable to compete effectively

in the market with larger operators."

251. Commenters noted the burdens of the *2024 Cable NPRM*'s proposed three-year periodic reports on smaller businesses and small entities. CTIA advocated the Commission revise the proposal, noting it would "impose significant new administrative burdens, particularly on smaller companies." CTIA noted that the "frequent reporting cadence could deter smaller companies . . . ultimately limiting competition and innovation in the industry." CTIA also claimed the three-year periodic reports would place greater burdens and slow the submarine cable license approval process, which would cause "substantial difficulty" to small- and medium-sized enterprises seeking to attract capital to deploy submarine cables.

252. USTelecom generally expressed support for the Commission's proposed cybersecurity requirements and noted that its small and medium enterprise members "have a mature cybersecurity culture," agreed with the Commission on letting companies demonstrate compliance with proposed cybersecurity requirements by following an established risk management framework like the NIST CSF and using government resources. USTelecom advocated allowing organizations to combine their cybersecurity risk management and supply chain risk management plans, citing "unnecessary administrative burdens, particularly on small and medium-sized enterprises."

253. USTelecom also notes that a "rip and replace" mandate would be especially difficult for "smaller and rural operators" to implement overall.

254. The Committee notes that "[s]maller businesses are more likely to acquire lit capacity, fiber, or spectrum leaseholds from dark fiber owners or IRU holders" rather than own, control, or operate their own SLTE, and therefore claims the new SLTE reporting requirements suggested in the *2024 Cable NPRM* are "narrowly tailored to capture information on entities effectively operating submarine cables to the United States without imposing undue burdens on small businesses."

255. Finally, AP&T notes the general burden of regulation on small businesses, "the

administrative burden is same for large and small carriers alike . . . small carriers have fewer customers, the fixed costs of managing the carrier's regulatory requirements are significantly more burdensome on a per-customer basis."

256. The Commission responds to the concerns of commenters by not adopting some of the proposals from the *2024 Cable NPRM* and implementing others in a modified, narrowed fashion. The Commission has considered the above-mentioned comments and has adopted alternatives, discussed in Section F below, to address some of the concerns raised by small entities.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

257. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

258. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as under the Small Business Act. In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act." A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

259. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite

tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

260. *Competitive Local Exchange Carriers (CLECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

261. *Computer Infrastructure Providers, Data Processing, Web Hosting, and Related Services*. This industry comprises establishments primarily engaged in providing computing

infrastructure, data processing services, Web hosting services (except software publishing), and related services, including streaming support services (except streaming distribution services). Cloud storage services, computer data storage services, computing platform infrastructure provision Infrastructure as a service (IaaS), optical scanning services, Platform as a service (PaaS), and video and audio technical streaming support services are included in this industry. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. U.S. Census Bureau data for 2017 indicate that 9,058 firms in this industry were operational for the entire year. Of this total, 8,345 firms had revenue of less than $25 million. Thus, under the SBA size standard the majority of firms in this industry are small.

262. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

263. *Internet Publishing and Broadcasting and Web Search Portals*. This industry comprises establishments primarily engaged in 1) publishing and/or broadcasting content on the Internet exclusively or 2) operating Web sites that use a search engine to generate and maintain

extensive databases of Internet addresses and content in an easily searchable format (and known as Web search portals). The publishing and broadcasting establishments in this industry do not provide traditional (non-Internet) versions of the content that they publish or broadcast. They provide textual, audio, and/or video content of general or specific interest on the Internet exclusively. Establishments known as web search portals often provide additional Internet services, such as e-mail, connections to other web sites, auctions, news, and other limited content, and serve as a home base for Internet users. The SBA small business size standard for this industry classifies firms having 1,000 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were firms that 5,117 operated for the entire year. Of this total, 5,002 firms operated with fewer than 250 employees. Thus, under this size standard the majority of firms in this industry can be considered small.

264. *Internet Service Providers (Non-Broadband).* Internet access service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications. The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small. For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

265. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, in general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, “small

organizations" are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

266. *Wired Broadband Internet Access Service Providers (Wired ISPs)*. Providers of wired broadband Internet access service include various types of providers except dial-up Internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the Internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Wired broadband Internet services fall in the Wired Telecommunications Carriers industry. The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees.

267. Additionally, according to Commission data on Internet access services as of June 30, 2019, nationwide there were approximately 2,747 providers of connections over 200 kbps in at least one direction using various wireline technologies. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2022 Communications Marketplace Report*, we believe that the majority of wireline Internet access service providers can be considered small entities.

268. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

269. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

E. Description of Economic Impact and Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

270. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

271. It is not possible to separately estimate the costs of compliance for large and small entities. The cost estimate for compliance with the new rules is no more than approximately $2.5 million per year for licensees, including all additional expected costs that would be incurred as a result of the rules adopted in this *Report and Order*. We note that our revised estimate represents an increase of approximately $1.2 million per year over the estimate provided in the *2024 Cable NPRM*. This increase reflects two primary factors. First, the *Report and Order* more clearly defines the additional information required under the application requirements, including: the location of all landing points and branching units of the cable by segment, location of SLTE, location of NOC or backup NOC, location of SOC or backup SOC, the number of segments in the submarine cable system and the designation of each, the length of the cable by segment and in total, the location of each cable landing station, the number of optical fiber pairs by segment, the design capacity by segment, the anticipated time frame when the cable system will be placed in service, route position lists, third-party foreign adversary service provider information, cybersecurity and physical security certifications, covered list certification, and foreign carrier affiliations. Second, in response to commenter input, we have attempted to lighten the regulatory burden on industry by declining to adopt the proposal for a 3-year reporting requirement for all licensees and instead focusing our review on foreign adversaries, declining to include service providers and SLTE owners as applicants, harmonizing cybersecurity and physical security requirements based on common standards, and by revising the estimated number of hours required to prepare an application.

272. We based our cost estimate on the Commission's records that indicate, as of July 31, 2025, there are currently 91 submarine cable systems licensed by the Commission that are owned by approximately 147 unique licensees. Furthermore, we estimate that there are approximately ten (10) applications for new cable landing licenses filed every year. We also estimate that there are approximately 24 applications filed every year for modification, assignment, or transfer of control of a cable landing license. Based on these estimated numbers

of applications, and our estimate that four (4) renewal applications are filed annually, we estimate that 38 submarine cable applications are submitted annually.

273. Our cost estimate assumes that approximately 114 licensees will undergo the application process each year for the estimated 38 cable systems that are submitting applications for that year. We base this on the conservative assumption that each cable landing license application will have an average of three licensees. In addition, we estimate that applicants will incur an additional cost associated with the rules we adopt to certify compliance to baseline cybersecurity and physical security standards, including implementing the cybersecurity and physical security risk management plans. We expect that the amount of work associated with preparing a new license application likely will be similar to the work associated with preparing a renewal or extension application.

274. In the *2024 Cable NPRM*, we estimated that the preparation of a new or renewal application for each submarine cable system by an average of three licensees will require 80 hours of work by attorneys and 80 hours of work by support staff at a cost of $27,200 per application. NASCA states that the Commission understated the costs of preparing a license application. Similarly, the Coalition states that the proposals in the *2024 Cable NPRM* will result in significantly higher compliance costs than the estimate. While neither commenter provided alternative estimates, in order to have confidence that we do not underestimate the costs borne by filers, we accept their comments and double the estimated number of hours required to 160 hours of work by attorneys and 160 hours of work by support staff, at a cost of $54,400 per application. To this cost, we add the cost of cybersecurity and physical security certification required for all new and renewal applications, which we estimate to be $9,100. We then multiply the sum of these costs by 38 to produce an estimate of approximately $2.4 million per year for annual application costs. We estimate that the Foreign Adversary Annual Report will require twelve hours of attorney time and twelve hours of support staff time, at a cost of $4,100. We multiply this amount by ten to account for the total cost that U.S. entities may incur in

preparing these reports. We sum these costs to produce a total estimate of approximately $2.5 million per year for the 25-year period, as a baseline estimate of the annual application and license review costs.

275. We do not believe these rules would disproportionately impact small entities; all applicants are required to submit the additional information required for applications. We also deliberately chose a cybersecurity and physical security compliance requirement that is flexible and can be customized for different types of entities. We also clarified that the requirement pertains to the reasonable measures to protect the system and services that could affect the provision of communications services through the submarine cable system. The Foreign Adversary Annual Report would impact large and small entities alike.

276. The one-time information collection requirement will only apply to current cable landing licensees, and so will not have a significant impact on a substantial number of small entities.

F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

277. The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the significant economic impact on small entities…including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."

278. Commenters expressed concern about impact on small businesses or smaller carriers of removing the 5% threshold for licensing. We retain the existing requirement that an entity owning or controlling a 5% or greater interest in the cable system and using the U.S. points of the cable system must submit an application to become a licensee, and decline to adopt any other proposals at this time. We agree with the commenters that there is not a sufficient reason to disturb the existing requirement. Lowering or removing the 5% threshold would

increase the number of entities that must comply with our regulatory framework, and we believe our approach, coupled with new rules that tailor the licensing requirements to identify entities that can exercise ownership or control over a submarine cable system allow us to achieve the goals we sought in proposing to lower the ownership threshold, without impacting small businesses.

279. Commenters raised implications for smaller entities in the context of the proposal to license data center owners. We adopt rules to limit licensing to entities that control the cable landing station, which would exclude entities that may own the cable landing station but are not directly involved in cable operations and do not control the cable system's operations. We believe this strikes the right balance between our need to license those who control the submarine cable system while not burdening data center owners who do not control the system.

280. Commenters expressed concern about the burden of the three-year periodic reports. We do not adopt the proposed three-year periodic reports, rather adopt only a Foreign Adversary Annual Report, which will impact only those licensees that meet specific criteria. We do not believe any small businesses will fall into the category required to file the Foreign Adversary Annual Report, but if any do, we deem the national security benefits of the Foreign Adversary Annual Report significant enough to justify the burden.

281. With regard to commenters advocating for allowing organizations to combine their cybersecurity risk management and supply chain risk management plans to avoid administrative burdens on small or medium-sized enterprises, the rules we adopt today regarding cybersecurity and physical security risk management plans permit a great deal of flexibility for structuring such plans. We do not require any particular framework, rather find that applicants and licensees will presumptively satisfy the Commission's cybersecurity and physical security risk management plan requirement if their plan is structured according to an established risk management framework such as the NIST CSF, and follows an established set of best practices, such as the standards and controls set forth in the CISA CPGs or the CIS Controls.

282. Commenters noted that a proposed "rip and replace" mandate would be especially difficult for smaller operators to implement. We do not adopt a requirement that licensees remove "Covered List" equipment from their systems currently, and so this burden will not impact smaller operators.

283. We decline to adopt rules for SLTE owners and operators in the *Report and Order*, and instead propose and seek comment in the *Further Notice of Proposed Rulemaking*. Therefore, at this time there should be no burden on smaller entities that own or operate SLTE.

284. Regarding the general burden placed on smaller entities by regulation, throughout this item we considered options and adopt rules that focus reporting or other requirements on the narrow set of entities that we describe may involve foreign adversary threats, keeping regulatory burdens to a minimum for other entities.

G. Report to Congress

285. The Commission will send a copy of the *Submarine Cable Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Submarine Cable Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Submarine Cable Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the *Federal Register*.

VII. ORDERING CLAUSES

286. IT IS ORDERED that, pursuant to sections 1, 4(i), 4(j), 201-255, 303(r), 403, 413 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-255, 303(r), 403, 413, and the Cable Landing License Act of 1921, 47 U.S.C. 34-39, and Executive Order No. 10530, section 5(a) (May 12, 1954) reprinted as amended in 3 U.S.C. 301, this Report

and Order and Notice of Proposed Rulemaking IS HEREBY ADOPTED.[2]

287. IT IS FURTHER ORDERED that this Report and Order and Further Notice of Proposed Rulemaking SHALL BE EFFECTIVE 30 days after publication in the *Federal Register*, except that the amendments to 47 CFR 1.70002(b), 1.70003, 1.70005, 1.70006, 1.70007(f) through (h), (l), (m), (q), (s), (t), (v), and (x), 1.70008, 1.70009, 1.70011, 1.70012, 1.70013, 1.70016(b)(2), 1.70017, 1.70020, 1.70023, 1.70024, and 43.82, and the one-time information collection, which may contain new or substantively modified information collections, will not become effective until the Office of Management and Budget completes review of any information collections that the Office of International Affairs determines is required under the Paperwork Reduction Act. The Commission directs the Office of International Affairs to announce the effective date for §§ 1.70002(b), 1.70003, 1.70005, 1.70006, 1.70007(f) through (h), (l), (m), (q), (s), (t), (v), and (x), 1.70008, 1.70009, 1.70011, 1.70012, 1.70013, 1.70016(b)(2), 1.70017, 1.70020, 1.70023, 1.70024, and 43.82 by notice in the *Federal Register* and by subsequent public notice, and directs the Office of International Affairs to publish notice of the effective date of the one-time information collection and the filing deadline in the *Federal Register*.

288. IT IS FURTHER ORDERED that the following sections shall be removed and reserved upon 30 days after publication in the *Federal Register*: 47 CFR 1.767(b) through (d), (f), (g)(1) through (5), (9) through (11), (14), and (16), (i) through (l), (o), and final note, and 43.82(a)(1). Sections 1.767 and 1.768, 47 CFR 1.767 and 1.768, shall be removed upon the completion of the review of any information collections by the Office of Management and Budget under the Paperwork Reduction Act and the announcement by the Office of International Affairs of the effective date of the new rules.

289. IT IS FURTHER ORDERED that the Office of International Affairs shall conduct

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[2] Pursuant to Executive Order 14215, 90 FR 10447 (Feb. 20, 2025), this regulatory action has been determined to be significant under Executive Order 12866, 58 FR 68708 (Dec. 28, 1993).

the information collection required by the Report and Order, including the creation of any information collection forms or other instrument, and shall publish notice of the effective date of the information collection required by the Report and Order and the filing deadline in the *Federal Register*. The filing deadline shall be no fewer than 30 days following the effective date of the Report and Order. The Office of International Affairs shall announce the effective date and the filing deadline for the requirements in the Report and Order by subsequent Public Notice.

290. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this Report and in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

291. IT IS FURTHER ORDERED that the Commission's Office of the Secretary SHALL SEND a copy of this Report and Order the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 0, 1, and 43

Communications, Communications common carriers, Communications equipment, Cuba, Internet, Security measures, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer,

Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 1, and 43 as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 409, and 1754, unless otherwise noted.

2. Amend § 0.351 by revising paragraph (a)(9) to read as follows:

§ 0.351 Authority delegated.

(a) * * *

(9) To act upon applications for cable landing licenses or revoke or terminate cable landing licenses under the Cable Landing License Act, 47 U.S.C. 34 through 39, and Executive Order 10530, dated May 10, 1954.

* * * * *

3. Amend § 0.457 by adding paragraph (c)(1)(iv) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(c) * * *

(1) * * *

(iv) The exact specific geographic location information of submarine cables as specified in § 1.70005(e)(7) and (f) of this chapter.

* * * * *

PART 1 – PRACTICE AND PROCEDURE

4. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

Subpart E—Complaints, Applications, Tariffs, and Reports Involving Common Carriers

§ 1.767 [Amended]

5. Amend § 1.767 by:

a. Removing and reserving paragraphs (b) through (d), (f), (g)(1) through (5), (g)(9) through (11), (14), and (16), (i) through (l), and (o); and

b. Removing the note to § 1.767.

§ 1.767 [Removed]

6. Delayed indefinitely, remove § 1.767.

§ 1.768 [Removed]

7. Delayed indefinitely, remove § 1.768.

Subpart G—Schedule of Statutory Charges and Procedures for Payment

8. Amend § 1.1107 by adding the entry "Foreign Adversary Annual Report" at the end of table 1 to read as follows:

§ 1.1107 Schedule of charges for applications and other filings for the international services.

Table 1 to § 1.1107

International services		
Cable landing license, per application	**Payment type code**	**New fee**
* * * * * * *		
Foreign Adversary Annual Report	DAQ	1,445

* * * * *

9. Add subpart FF, consisting of §§ 1.70000 through 1.70024, to read as follows:

Subpart FF—Cable Landing Licenses

Sec.

1.70000 Purpose.

1.70001 Definitions.

1.70002 General requirements.

1.70003 [Reserved]

1.70004 Additional presumptive disqualifying conditions.

1.70005-1.70006 [Reserved]

1.70007 Routine conditions.

1.70008-1.70009 [Reserved]

1.70010 Amendment of applications.

1.70011-1.70013 [Reserved]

1.70014 Processing of applications.

1.70015 Quarterly reports.

1.70016 Eligibility for streamlining.

1.70017-1.70020 [Reserved]

1.70021 Electronic filing.

1.70022 Action on applications, revocation, and termination.

1.70023-1.70024 [Reserved]

§ 1.70000 Purpose.

The provisions contained in this subpart implement the Cable Landing License Act of 1921, codified at 47 U.S.C. 34 through 39, as amended, and section 5(a) of Executive Order 10530, dated May 10, 1954, and provide requirements for initial applications for a cable landing license; certifications; routine conditions; requests for special temporary authority; foreign carrier affiliation notifications; amendment of applications; modification applications; substantial assignment and transfer of control of a cable landing license; *pro forma* assignment and transfer of control notifications; requests for streamlining of applications; quarterly reports; foreign adversary annual reports; renewal or extension applications; public viewing of applications;

electronic filing; and provide for the grant, denial, revocation, and termination of cable landing license applications or licenses.

§ 1.70001 Definitions.

(a) *Affiliated.* The term "affiliated" as used in this subpart is defined as in § 63.09 of this chapter.

(b) *Country.* The term "country" as used in this subpart refers to the foreign points identified in the U.S. Department of State's list of Independent States in the World and its list of Dependencies and Areas of Special Sovereignty. *See* https://www.state.gov.

(c) *Foreign carrier*. The term "foreign carrier" as used in this subpart is defined as in § 63.09 of this chapter except that the term "foreign carrier" shall also include any entity that owns or controls a cable landing station in a foreign market.

(d) *Third-party service provider.* The term "third-party service provider" as used in this subpart is defined as an entity that is involved in providing, hosting, analyzing, repairing, and maintaining the equipment of a submarine cable system, including third-party owners and operators of network operations centers (NOCs).

(e) *Foreign adversary.* The term "foreign adversary" as used in this subpart is defined as any foreign government or foreign non-government person determined by the Secretary of Commerce, pursuant to Executive Order 13873 of May 15, 2019, to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons as identified in 15 CFR 791.4.

(f) *Foreign adversary country***.** The term "foreign adversary country" as used in this subpart refers to foreign governments identified as foreign adversaries in 15 CFR 791.4, and countries controlled by a foreign adversary identified in 15 CFR 791.4.

(1) The term "foreign adversary country" includes Venezuela to the extent Venezuelan politician Nicolás Maduro (Maduro Regime) is identified as a foreign adversary in 15 CFR 791.4.

(2) [Reserved]

(g) *Owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary*. The term "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary" as used in this subpart applies to:

(1) Any individual or entity, wherever located, who acts as an agent, representative, or employee, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign adversary or of an individual or entity whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by a foreign adversary;

(2) Any individual, wherever located, who is a citizen of a foreign adversary or a country controlled by a foreign adversary, and is not a United States citizen or permanent resident of the United States;

(3) Any entity, including a corporation, partnership, association, or other organization, that has a principal place of business in, or is headquartered in, incorporated in, or otherwise organized under the laws of a foreign adversary or a country controlled by a foreign adversary; or

(4) Any entity, including a corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary, to include circumstances in which any person identified in paragraphs (g)(1) through (3) of this section possesses the power, direct or indirect, whether or not exercised, through the ownership of a majority or a dominant minority (10% or greater) of the total outstanding voting interest and/or equity interest, or through a controlling interest, in an entity, board representation, proxy voting, a special share, contractual arrangements, formal or informal arrangements to act in concert, or other means, to determine, direct, or decide important matters affecting an entity.

(h) *Submarine cable system.* The term submarine cable system as used in this subpart is defined as a cable system that carries bidirectional data and voice telecommunications traffic

consisting of one or more submarine cable(s) laid beneath the water, and all associated components that support the operation of the submarine cable system end-to-end, including the segments up to the system's terrestrial terminations at one or more Submarine Line Terminal Equipment (SLTEs) as well as the transponders that convert optical signals to electrical signals and vice versa.

§ 1.70002 General requirements.

(a) *Cable landing license requirements.* A cable landing license must be obtained prior to landing a submarine cable that connects:

(1) The continental United States with any foreign country;

(2) Alaska, Hawaii, or the U.S. territories or possessions with—

(i) A foreign country;

(ii) The continental United States; or

(iii) Each other; or

(3) Points within the continental United States, Alaska, Hawaii, or a territory or possession in which the cable is laid in areas beyond the U.S. territorial waters, which extend 12 nautical miles seaward from the coastline.

(b) [Reserved]

(c) *Character presumptive disqualifying condition*—(1) *Presumptive disqualifying condition.* An applicant will be presumed not to possess the requisite character qualifications to become a cable landing licensee if the applicant has within the last 20 years:

(i) Materially violated the Cable Landing License Act, 47 U.S.C. 34 through 39, where the violation—

(A) Was not remediated with an adjudication involving a consent decree and/or compliance plan;

(B) Resulted in a loss of Commission license or authorization; or

(C) Was found by the Commission to be intentional;

(ii) Committed national security-related violations of the Communications Act, 47 U.S.C. 151 *et seq.*, or Commission rules as identified in Commission orders, including but not limited to violations of rules concerning the Covered List that the Commission maintains on its website pursuant to the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), 47 U.S.C. 1601 through 1609;

(iii) Made materially false statements or engaged in fraudulent conduct concerning national security or the Cable Landing License Act;

(iv) Been subject to an adjudicated finding of making false statements or engaging in fraudulent conduct concerning national security before another U.S. Government agency; or

(v) Materially failed to comply with the terms of a cable landing license, including but not limited to a condition requiring compliance with a mitigation agreement with the Executive Branch agencies, including the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), where the violation—

(A) Was not remediated with an adjudication involving a consent decree and/or compliance plan;

(B) Resulted in a loss of Commission license or authorization; or

(C) Was found by the Commission to be intentional.

(2) *Applicability*. The presumptive disqualifying condition shall apply to the following applications:

(i) *Initial application*. An initial application for a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*];

(ii) *Application filed by licensees whose cable landing license is granted after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification, assignment, transfer of control, or renewal or extension of a cable

landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose initial application for a cable landing license is granted after such date; and

(iii) *Application filed by licensees whose cable landing license is granted prior to [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification, assignment, transfer of control, or renewal or extension of a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose cable landing license was or is granted prior to such date and that does not exhibit any of the criteria in paragraphs (c)(1)(i) through (v) of this section prior to such date.

(3) *Presumption*. An applicant subject to paragraphs (c)(1) and (2) of this section can overcome the adverse presumption only by establishing that the applicant has the requisite character, despite its past conduct. An ~~a~~applicant need not disclose pending investigations, but rather must only disclose violations as preliminarily or finally determined by the Commission, and as adjudicated by another U.S. Government agency or a court in the United States.

(d) *State Department coordination.* Cable landing licenses shall be granted or revoked by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as the Commission may deem necessary. See section 5(a) of Executive Order 10530, dated May 10, 1954.

§ 1.70003 [Reserved]

§ 1.70004 Additional presumptive disqualifying conditions.

(a) *Foreign adversary presumptive disqualifying condition*—(1) *Presumptive disqualifying condition*. The disqualifying condition will presumptively preclude the grant of an application, as specified in paragraph (a)(2) of this section, filed by any applicant:

(i) That is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(ii) That is identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609; and/or

(iii) Whose authorization, license, or other Commission approval, whether or not related to the operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates and subsidiaries of any such entity as defined in § 2.903(c) of this chapter.

(2) *Applicability*. The presumptive disqualifying condition shall apply to the following applications:

(i) *Initial application*. An initial application for a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*];

(ii) *Application filed by licensees whose cable landing license is granted after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification, assignment, transfer of control, or renewal or extension of a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose initial application for a cable landing license is granted after such date; and

(iii) *Application filed by licensees whose cable landing license is granted prior to [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification, assignment, transfer of control, or renewal or extension of a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose cable landing license was or is granted prior to such date and that does not exhibit any of the criteria in paragraphs (a)(1)(i) through (iii) of this section prior to such date.

(3) *Presumption*. An applicant subject to paragraphs (a)(1) and (2) of this section can overcome the adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption, or that grant of the application would not pose risks to national security or that the national security benefits of granting the application would substantially outweigh any risks.

(b) *Foreign adversary cable landing presumptive disqualifying condition*—(1) *Presumptive disqualifying condition*. The disqualifying condition will presumptively preclude the grant of an application, as specified in paragraph (b)(2) of this section, filed by any applicant:

(i) That seeks to land a new submarine cable in a foreign adversary country, as defined in § 1.70001(f).

(ii) That seeks to modify, renew, or extend its cable landing license to add a new landing located in a foreign adversary country, as defined in § 1.70001(f).

(2) *Applicability*. The presumptive disqualifying condition shall apply to the following applications:

(i) *Initial application*. An initial application for a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*];

(ii) *Application filed by licensees whose cable landing license is granted after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification or renewal or extension of a cable landing license that is filed after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose initial application for a cable landing license is granted after such date; and

(iii) *Application filed by licensees whose cable landing license is granted prior to [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. An application for modification or renewal or extension of a cable landing license that is filed

after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], by a licensee whose cable landing license was or is granted prior to such date.

(3) *Presumption*. An applicant subject to paragraphs (b)(1) and (2) of this section can overcome the adverse presumption only by establishing through clear and convincing evidence that the applicant does not fall within the scope of the adverse presumption, or that grant of the application would not pose risks to national security or that the national security benefits of granting the application would substantially outweigh any risks.

§§ 1.70005-1.70006 [Reserved]

§ 1.70007 Routine conditions.

Except as otherwise ordered by the Commission, this section applies to each licensee of a cable landing license.

(a) Grant of the cable landing license is subject to:

(1) All rules and regulations of the Federal Communications Commission in this chapter;

(2) Any treaties or conventions relating to communications to which the United States is or may hereafter become a party; and

(3) Any action by the Commission or the Congress of the United States rescinding, changing, modifying or amending any rights accruing to any person by grant of the license.

(b) The location of the cable system within the territorial waters of the United States of America, its territories and possessions, and upon its shores shall be in conformity with plans approved by the Secretary of the Army. The cable shall be moved or shifted by the licensee at its expense upon request of the Secretary of the Army, whenever he or she considers such course necessary in the public interest, for reasons of national defense, or for the maintenance and improvement of harbors for navigational purposes.

(c) The licensee shall at all times comply with any requirements of United States government authorities regarding the location and concealment of the cable facilities, buildings,

and apparatus for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America.

(d) The licensee, or any person or company controlling it, controlled by it, or under direct or indirect common control with it, does not enjoy and shall not acquire any right to handle telecommunications services to or from the United States, its territories or its possessions unless such service is authorized by the Commission pursuant to section 214 of the Communications Act, as amended.

(e) The following prohibition on special concessions applies:

(1) The licensee shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier, including any entity that owns or controls a foreign cable landing station, where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market, and from agreeing to accept special concessions in the future.

(2) For purposes of this section, a special concession is defined as an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary to land, connect, or operate submarine cables, where the arrangement is not offered to similarly situated U.S. submarine cable owners, indefeasible-right-of-user holders, or lessors, and includes arrangements for the terms for acquisition, resale, lease, transfer and use of capacity on the cable; access to collocation space; the opportunity to provide or obtain backhaul capacity; access to technical network information; and interconnection to the public switched telecommunications network.

(3) Licensees may rely on the Commission's list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points for purposes of determining which foreign carriers are the subject of the requirements of this section. The Commission's list of foreign carriers that do not qualify for the presumption that they lack

market power is available from the Office of International Affairs' website at: https://www.fcc.gov/international-affairs.

(f)-(h) [Reserved]

(i) The Commission reserves the right to require the licensee to file an environmental assessment should it determine that the landing of the cable at the specific locations and construction of necessary cable landing stations may significantly affect the environment within the meaning of § 1.1307 implementing the National Environmental Policy Act of 1969. See § 1.1307(a) and (b). The cable landing license is subject to modification by the Commission under its review of any environmental assessment or environmental impact statement that it may require pursuant to its rules. See also note 1 to § 1.1306 and § 1.1307(c) and (d).

(j) The Commission reserves the right, pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, Executive Order 10530 as amended, and section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, to impose common carrier regulation or other regulation consistent with the Cable Landing License Act on the operations of the cable system if it finds that the public interest so requires.

(k) The licensee, or in the case of multiple licensees, the licensees collectively, shall maintain *de jure* and *de facto* control of the U.S. portion of the cable system, including the cable landing stations in the United States, sufficient to comply with the requirements of the Commission's rules in this chapter and any specific conditions of the license.

(l)-(m) [Reserved]

(n) The cable landing license is revocable or subject to termination by the Commission after due notice and opportunity for hearing pursuant to section 2 of the Cable Landing License Act, 47 U.S.C. 35, or for failure to comply with the terms of the license or with the Commission's rules in this chapter.

(o) The cable landing license shall expire twenty-five (25) years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.

(p) The licensee(s) must commence service provided under its license within three years following the grant of its license.

(1) The licensee must notify the Commission within thirty (30) days of the date the cable is placed into service.

(2) Failure to notify the Commission of commencement of service within three years following the grant of the license shall result in automatic termination of the license after the Commission receives approval from the State Department, unless the licensee submits a request for waiver showing good cause why it is unable to commence commercial service on the cable, why the license should not be terminated, and the expected commencement of service date. The requirement to commence service may be extended upon a showing of good cause.

(q) [Reserved]

(r) Licensees shall file submarine cable outage reports as required in part 4 of this chapter.

(s)-(t) [Reserved]

(u) A licensee whose application for a cable landing license is filed and granted after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], shall not use equipment or services identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609, on its submarine cable system under the license.

(1) A licensee whose modification application to add a new segment is filed and granted after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], shall not use equipment or services identified on the Covered List on the new segment and the new landing point. No licensee shall add to its submarine cable system(s) under

its respective license(s) equipment or services identified on the Covered List; except, this paragraph (u)(1) shall not apply to a licensee that is identified on the Covered List whose cable landing license was or is granted prior to [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

(2) [Reserved]

(v) [Reserved]

(w) The licensee shall not enter into a new or extension of an existing arrangement for Indefeasible Rights of Use (IRUs) or leases for capacity on submarine cable systems landing in the United States, where such arrangement for IRUs or lease for capacity would give an entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g), the ability to install, own, or manage SLTE on a submarine cable landing in the United States, unless so authorized by the Commission.

(1) A licensee may petition the Commission for waiver of the condition; however, any waiver of the condition would be granted only to the extent the licensee demonstrates by clear and convincing evidence that a new or extension of an existing arrangement for IRUs or lease for capacity subject to this subpart would serve the public interest and would present no risks to national security or that the national security benefits of granting the waiver would substantially outweigh any risks.

(2) [Reserved]

(x) [Reserved]

§§ 1.70008-1.70009 [Reserved]

§ 1.70010 Amendment of applications.

Any application may be amended as a matter of right prior to the date of any final action taken by the Commission or designation for hearing. Amendments to applications shall be signed and submitted in the same manner as was the original application. If a petition to deny or

other formal objection has been filed in response to the application, the amendment shall be served on the parties.

§§ 1.70011-1.70013 [Reserved]

§ 1.70014 Processing of applications.

(a) *Processing of submarine cable applications.* The Commission will take action upon an application eligible for streamlined processing, as specified in § 1.70016, within forty-five (45) days after release of the public notice announcing the application as acceptable for filing and eligible for streamlined processing. If the Commission deems an application seeking streamlined processing acceptable for filing but ineligible for streamlined processing due to national security or law enforcement concerns or other public interest considerations, or if an applicant does not seek streamlined processing, the Commission will issue public notice indicating that the application is ineligible for streamlined processing. Within ninety (90) days of the public notice, the Commission will take action upon the application or provide public notice that, because the application raises questions of extraordinary complexity, an additional 90-day period for review is needed. Each successive 90-day period may be so extended.

(b) *Submission of application to executive branch agencies.* On the date of filing with the Commission, the applicant shall also send a complete copy of the application, or any major amendments or other material filings regarding the application by electronic mail or postal mail, to: U.S. Coordinator, EB/CIP, U.S. Department of State, 2201 C Street NW, Washington, DC 20520-5818; Office of Chief Counsel/NTIA, U.S. Department of Commerce, 14th St. and Constitution Ave. NW, Washington, DC 20230; and Defense Information Systems Agency, ATTN: OGC/DDC, 6910 Cooper Avenue, Fort Meade, MD 20755-–7088, and to electronic mail addresses identified on the FCC website at https://www.fcc.gov/submarine-cables and shall certify such service by electronic mail or postal mail on a service list attached to the application or other filing. Authority is delegated to the Office of International Affairs to amend this rule

and to amend the referenced website herein as necessary to update contact information and the list of agencies for filing.

§ 1.70015 Quarterly reports.

Any licensee that is, or is affiliated with, a carrier with market power in any of the cable's destination countries must comply with the following requirements:

(a) File quarterly reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market, within ninety (90) days from the end of each calendar quarter. These reports shall contain the following:

(1) The types of facilities and services provided (for example, a lease of wet link capacity in the cable, collocation of licensee's equipment in the cable station with the ability to provide backhaul, or cable station and backhaul services provided to the licensee);

(2) For provisioned facilities and services, the volume or quantity provisioned, and the time interval between order and delivery; and

(3) The number of outages and intervals between fault report and facility or service restoration; and

(b) File quarterly, within 90 days from the end of each calendar quarter, a report of its active and idle 64 kbps or equivalent circuits by facility (terrestrial, satellite and submarine cable).

§ 1.70016 Eligibility for streamlining.

(a) *Eligibility for streamlining*. Each applicant must demonstrate eligibility for streamlining, except as otherwise set out in paragraph (b) of this section, by:

(1) Certifying that it is not a foreign carrier and it is not affiliated with a foreign carrier in any of the cable's destination markets;

(2) Demonstrating pursuant to § 63.12(c)(1)(i) through (iii) of this chapter that any such foreign carrier or affiliated foreign carrier lacks market power; or

(3) Certifying that the destination market where the applicant is, or has an affiliation with, a foreign carrier is a World Trade Organization (WTO) Member and the applicant agrees to accept and abide by the reporting requirements set out in § 1.70015. An application that includes an applicant that is, or is affiliated with, a carrier with market power in a cable's non-WTO Member destination country is not eligible for streamlining.

(4) Certifying that all individuals or entities that hold a ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are U.S. citizens or entities organized in the United States.

(5)(i) For a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, the applicant must certify that it is not required to submit a consistency certification to any state pursuant to section 1456(c)(3)(A) of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456.

(ii) Streamlining of cable landing license applications will be limited to those applications where all potentially affected states, having constructive notice that the application was filed with the Commission, have waived, or are deemed to have waived, any section 1456(c)(3)(A) right to review the application within the thirty-day period prescribed by 15 CFR 930.54.

(b) *Eligibility for streamlining of renewal or extension applications.* Each applicant for a renewal or extension of a cable landing license must demonstrate eligibility for streamlined processing of the application by:

(1) Including the information and certifications required in paragraph (a) of this section.

(2) [Reserved]

§§ 1.70017-1.70020 [Reserved]

§ 1.70021 Electronic filing.

(a) With the exception of submarine cable outage reports, and subject to the availability of electronic forms, all applications and notifications described in this subpart must be filed electronically through the International Communications Filing System (ICFS). A list of forms

that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see subpart Y of this part, and the ICFS homepage at https://www.fcc.gov/icfs. See also §§ 63.20 and 63.53 of this chapter.

(b) Submarine cable outage reports must be filed as set forth in part 4 of this chapter.

§ 1.70022 Action on applications, revocation, and termination.

The Office of International Affairs shall determine appropriate procedures on a case by case basis for grant or denial of an application or revocation and/or termination of a cable landing license, and grant or deny an application, initiate and conduct application, revocation, and/or termination proceedings, and revoke and/or terminate a cable landing license, as required by due process and applicable law and in light of the relevant facts and circumstances, including providing the applicant or licensee with notice and opportunity to cure noncompliance to the extent such an opportunity is required by the Administrative Procedure Act, 5 U.S.C. 558(c), and to respond to allegations and evidence in the record.

§§ 1.70023-1.70024 [Reserved]

10. Delayed indefinitely, amend § 1.70002 by adding paragraph (b) to read as follows:

§ 1.70002 General requirements.

* * * * *

(b) *Public interest statement*. An applicant seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license shall include in the application information demonstrating how the grant of the application will serve the public interest.

* * * * *

11. Delayed indefinitely, add § 1.70003 to read as follows:

§ 1.70003 Applicant/licensee requirements.

Except as otherwise required by the Commission, the following entities, at a minimum, shall be applicants for, and licensees on, a cable landing license:

(a) Any entity that controls a cable landing station in the United States; and

(b) All other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system.

12. Delayed indefinitely, add §§ 1.70005 and 1.70006 to read as follows:

§ 1.70005 Initial application for a cable landing license.

An applicant must demonstrate in the initial application for a cable landing license that it meets the requirements under § 1.70002(b) and (c), and the initial application must contain:

(a) The name, address, e-mail address(es), and telephone number(s) of each applicant.

(b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized.

(c) The name, title, address, e-mail address(es), and telephone number of the officer and any other contact point, such as legal counsel, of each applicant to whom correspondence concerning the application is to be addressed.

(d) The name of the submarine cable system.

(e) A description of the submarine cable system, including:

(1) The States, Territories, or possessions in the United States and the foreign countries where the submarine cable system will land;

(2) The number of segments in the submarine cable system and the designation of each (e.g., Segment A, Main Trunk, A-B segment);

(3) The length of the submarine cable system by segment and in total;

(4) The location, by segment, of any branching units;

(5) The number of optical fiber pairs, by segment, of the submarine cable system;

(6) The design capacity, by segment, of the submarine cable system;

(7) Specific geographic location information (geographic coordinates, street address, county or county equivalent, as applicable), or if not available, a general geographic description

and specific geographic location information to be filed no later than ninety (90) days prior to construction regarding:

(i) Each U.S. and non-U.S. cable landing station and beach manhole;

(ii) Each network operations center (NOC) and backup NOC and, if distinct from the NOC, each security operations center (SOC) and backup SOC, or else a statement that the SOC and backup SOC are not distinct from the NOC and/or backup NOC;

(iii) Where each Power Feed Equipment (PFE) and each Submarine Line Terminal Equipment (SLTE) is connected with the terrestrial land based system(s) and from where each is operated; and

(iv) The route position list including the wet segment of the submarine cable system;

(8) Anticipated time frame when the applicant(s) intends to place the submarine cable system into service; and

(9) For each U.S. cable landing station that is not owned by the applicant(s), provide—

(i) The name of the entity(ies) that owns the cable landing station;

(ii) A statement that the owner(s) of the cable landing station will have no ability to significantly affect the operation of the submarine cable system;

(iii) A statement that the applicant(s) will meet the requirements under § 1.70007(k); and

(iv) A statement that the applicant(s) will ensure the landing station lease agreement(s) have initial terms, with extension options at the sole discretion of the applicant(s), for a total of 25 years, coextensive with the term of the cable landing license.

(f) A specific description of the submarine cable system consistent with paragraph (e)(7) of this section, including a map and geographic data in generally accepted GIS formats or other formats. The Office of International Affairs, in coordination with the Office of Economics and Analytics, shall determine the file formats and specific data fields in which data will ultimately be collected.

(1) The applicant initially may file a general geographic description of the information required in paragraph (e)(7) of this section; however, grant of the application will be conditioned on the Commission's final approval of specific location information, consistent with paragraph (e)(7), to be filed by the applicant no later than ninety (90) days prior to construction. The Commission will give public notice of the filing of each description, and grant of the license will be considered final with respect to that specific geographic location unless the Commission issues a notice to the contrary no later than sixty (60) days after receipt of the specific description, unless the Commission designates a different time period.

(2) Information under paragraph (e)(7) of this section and the exact location information of the wet segment as it approaches the shore, the submarine cable as it reaches the beach manhole, and the dry segment including the cable landing station(s), such as where the SLTE is located and/or from where it is operated, will be withheld from public inspection.

(3) The Commission may disclose to relevant Federal Government agencies information submitted by an applicant, petitioner, licensee, or authorization holder about the submarine cable system, including the location information of cable landing stations, beach manholes, PFE, SLTE, NOCs and backup NOCs, SOCs and backup SOCs, and route position lists. Where such information has been submitted in confidence pursuant to § 0.457 or § 0.459 of this chapter, such information may be shared subject to the provisions of § 0.442 of this chapter and, notwithstanding the provisions of § 0.442(d)(1) of this chapter, notice will be provided at the time of disclosure.

(g) A statement disclosing whether or not the applicant uses and/or will use the following third-party service providers, as defined in § 1.70001(d), in the operation of the submarine cable system:

(1) Any entity that is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(2) Any entity identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609; and/or

(3) Any entity that can access the submarine cable from a foreign adversary country, as defined in § 1.70001(f), and to identify any such foreign adversary country.

(h) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis. Applicants for common carrier cable landing licenses shall also separately file an application for an international section 214 authorization for overseas cable construction under § 63.18 of this chapter.

(i) A list of all of the proposed owners of the submarine cable system including those owners that are not applicants, their respective equity and/or voting interests in the submarine cable system as a whole, their respective equity and/or voting interests in each U.S. cable landing station including SLTE, and their respective equity and/or voting interests by segment of the cable.

(j) For each applicant:

(1) The information and certifications required in § 63.18(h), (o), (p), and (q) of this chapter;

(2) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a cable landing station, in any foreign country. The certification shall state with specificity each such country;

(3) A certification as to whether or not the applicant seeks to land and operate a submarine cable connecting the United States to any country for which any of the following is true. The certification shall state with specificity the foreign carriers and each country:

(i) The applicant is a foreign carrier in that country; or

(ii) The applicant controls a foreign carrier in that country; or

(iii) There exists any entity that owns more than 25 percent of the applicant, or controls the applicant, or controls a foreign carrier in that country; or

(iv) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer and use of capacity on the cable in the United States; and

(4) For any country that the applicant has listed in response to paragraph (j)(3) of this section that is not a member of the World Trade Organization, a demonstration as to whether the foreign carrier lacks market power with reference to the criteria in § 63.10(a) of this chapter.

(5) Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

(k) The certifications in § 1.70006, including a certification that the applicant accepts and will abide by the routine conditions specified in § 1.70007, and information pursuant to §§ 1.70002(c) and 1.70004(a) and (b);

(l) [Reserved]

(m) Each applicant shall certify that it has created and will implement and update a cybersecurity and physical security risk management plan consistent with § 1.70006(c). Applicants shall submit cybersecurity and physical security risk management plans to the Commission upon request. The Office of International Affairs, in coordination with the Public Safety and Homeland Security Bureau, may request, at its discretion, submission of such cybersecurity and physical security risk management plans and evaluate them for compliance with the Commission's rules in this subpart. The cybersecurity and physical security risk management plans provided under this paragraph (m) shall be treated as presumptively confidential.

(n) Any other information that may be necessary to enable the Commission to act on the application.

(o) Applicants for cable landing licenses may be subject to the consistency certification requirements of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1456, if they propose to conduct activities, in or outside of a coastal zone of a state with a federally-approved management plan, affecting any land or water use or natural resource of that state's coastal zone.

(1) Before filing their applications for a license to construct and operate a submarine cable system or to modify the construction of a previously approved submarine cable system, applicants must determine whether they are required to certify that their proposed activities will comply with the enforceable policies of a coastal state's approved management program. In order to make this determination, applicants should consult National Oceanic Atmospheric Administration (NOAA) regulations, 15 CFR part 930, subpart D, and review the approved management programs of coastal states in the vicinity of the proposed landing station to verify that this type of application is not a listed federal license activity requiring review.

(2) After the application is filed, applicants should follow the procedures specified in 15 CFR 930.54 to determine whether any potentially affected state has sought or received NOAA approval to review the application as an unlisted activity. If it is determined that any certification is required, applicants shall consult the affected coastal state(s) (or designated state agency(ies)) in determining the contents of any required consistency certification(s). Applicants may also consult the Office for Coastal Management (OCM) within NOAA for guidance.

(3) The cable landing license application filed with the Commission shall include any consistency certification required by 16 U.S.C. 1456(c)(3)(A) for any affected coastal state(s) that lists this type of application in its NOAA–approved coastal management program and shall be updated pursuant to § 1.65 to include any subsequently required consistency certification with respect to any state that has received NOAA approval to review the application as an unlisted federal license activity. Upon documentation from the applicant—or notification from each

coastal state entitled to review the license application for consistency with a federally approved coastal management program—that the state has either concurred, or by its inaction, is conclusively presumed to have concurred with the applicant's consistency certification, the Commission may take action on the application.

§ 1.70006 Certifications.

An applicant must certify to the following in the initial application for a cable landing license:

(a) That the applicant accepts and will abide by the routine conditions specified in § 1.70007.

(b) Whether or not it exhibits any of the criteria set out in the presumptive disqualifying conditions per §§ 1.70002(c) and 1.70004(a) and (b):

(1) *Character presumptive disqualifying condition*. An applicant seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license, shall also certify in the application whether or not the applicant has the requisite character qualifications as set out in § 1.70002(c). In an application for an assignment or transfer of control, the licensee, assignee/transferee, and assignor/transferor must submit this certification;

(2) *Foreign adversary presumptive disqualifying condition*. An applicant seeking a cable landing license or modification, assignment, transfer of control, or renewal or extension of a cable landing license, shall certify in the application whether or not it exhibits any of the criteria set out in the presumptive disqualifying condition under § 1.70004(a); and

(3) *Foreign adversary cable landing presumptive disqualifying condition*. An applicant seeking a cable landing license or modification or renewal or extension of a cable landing license, shall certify whether or not it exhibits any of the criteria set out in the presumptive disqualifying condition under § 1.70004(b).

(c) That the applicant has created and will implement and update a cybersecurity and physical security risk management plan, and:

(1) That the plan describes how the applicant will take reasonable measures to employ its organizational resources and processes to ensure the confidentiality, integrity, and availability of its systems and services that could affect its provision of communications services through the submarine cable system;

(2) That the plan identifies the cybersecurity risks the applicant faces, the controls it uses or plans to use to mitigate those risks, and how the applicant will ensure that these controls are applied effectively to its operations;

(3) That the plan addresses both logical and physical access risks, as well as supply chain risks;

(4) That the plan has been signed by the entity's Chief Executive Officer, Chief Financial Officer, Chief Technology Officer, Chief Information Security Officer, or similarly situated senior officer responsible for governance of the organization's security practices;

(5) That the applicant will submit cybersecurity and physical security risk management plans to the Commission upon request; and

(6) That the applicant will preserve data and records related to its cybersecurity and physical security risk management plans, including documentation necessary to demonstrate how those plans are implemented, for a period of two years from the date the related risk management plan certification is submitted to the Commission.

(d) That the submarine cable system will not use equipment or services identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609.

13. Delayed indefinitely, amend § 1.70007 by adding paragraphs (f) through (h), (l), (m), (q), (s), (t), (v), and (x) to read as follows:

§ 1.70007 Routine conditions.

* * * * *

(f) The cable landing license and rights granted in the license shall not be transferred, assigned, or disposed of, or disposed of indirectly by transfer of control of the licensee, except in compliance with the requirements set out in §§ 1.70012 and 1.70013.

(g) Entities that are parties to a *pro forma* assignment or transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated, and the notification must include information and certifications required under § 1.70013.

(h) Unless the licensee has notified the Commission in the application of the specific geographic location information required by § 1.70005(e)(7) and (f), the licensee shall notify the Commission no later than ninety (90) days prior to commencing construction. The Commission will give public notice of the filing of each description, and grant of the cable landing license will be considered final with respect to that specific geographic location unless the Commission issues a notice to the contrary no later than sixty (60) days after receipt of the specific description, unless the Commission designates a different time period.

* * * * *

(l) The licensee shall comply with the requirements of § 1.70009.

(m) The licensee shall file annual circuit capacity reports as required by § 43.82 of this chapter.

* * * * *

(q) The licensee must implement a cybersecurity and physical security risk management plan consistent with the requirements in § 1.70006(c) as of the date the submarine cable is placed into service.

(1) The licensee must certify to the Commission, within thirty (30) days of the date the submarine cable is placed into service, that it has created and implemented the cybersecurity and physical security risk management plan as of the in-service date.

(2) The licensee must continue to implement and update, as required based on material changes to the cybersecurity and physical security risks and vulnerabilities that the licensee faces, the cybersecurity and physical security risk management plan.

(3) The licensee shall submit cybersecurity and physical security risk management plans to the Commission upon request. The Office of International Affairs, in coordination with the Public Safety and Homeland Security Bureau, may request, at its discretion, submission of such cybersecurity and physical security risk management plans and evaluate them for compliance with the Commission's rules in this subpart. The cybersecurity and physical security risk management plans provided under this paragraph (q)(3) shall be treated as presumptively confidential.

(4) The licensee shall preserve data and records related to its cybersecurity and physical security risk management plans, including documentation necessary to demonstrate how those plans are implemented, for a period of two years from the date the related risk management plan certification is submitted to the Commission.

* * * * *

(s) The licensee shall notify the Commission of any changes to the following within thirty (30) days:

(1) The contact information of the licensee provided under § 1.70005(a) and (c); and

(2) The name of the licensee (including the name under which the licensee is doing business).

(t) The licensee(s) shall notify the Commission of any changes to the name of the licensed submarine cable system within thirty (30) days of such change. If there are multiple licensees of the submarine cable system, the lead licensee shall file the notification.

* * * * *

(v) The licensee(s) that meet the applicant/licensee requirements of § 1.70003 and criteria under § 1.70017(b) shall submit a Foreign Adversary Annual Report every year consistent with the requirements under § 1.70017.

* * * * *

(x) Cable landing licensees with a license granted prior to [effective date of amendatory instruction 13], must submit a route position list consistent with the requirement under § 1.70005(e)(7)(iv) under the relevant license file number in the Commission's International Communications Filing System (ICFS), or any successor system, no later than sixty (60) days after [effective date of amendatory instruction 13]. Licensees may petition the Commission for waiver of the requirement, which may be granted only to the extent the licensee demonstrates that the required information is unavailable by the submission deadline.

14. Delayed indefinitely, add §§ 1.70008 and 1.70009 to read as follows:

§ 1.70008 Requests for special temporary authority.

(a) Special temporary authority may be used for construction, testing, or operation of a submarine cable system for a term up to and including 180 days.

(b) Applicants seeking special temporary authority must file the requisite application(s) related to the request for special temporary authority. Applicants must identify the file number(s) of any pending application(s) associated with the request for special temporary authority.

(c) An application for special temporary authority must include:

(1) A narrative describing the request for a special temporary authority including the type of request (e.g. new request, extension or renewal of previous request, or other), purpose for the special temporary authority (construction, testing, operating, or other), and the justification for such request;

(2) Information required by § 1.70005(a) through (d);

(3) Whether or not the request for special temporary authority is associated with an application(s) pending with the Commission, and if so, identification of the related file number(s);

(4) The date by which applicants seek grant of the request for special temporary authority and the duration for which applicants seek special temporary authority;

(5) An acknowledgement that any grant of special temporary authority:

(i) Does not prejudice action by the Commission on any underlying application(s);

(ii) Is subject to revocation/cancellation or modification by the Commission on its own motion without a hearing;

(iii) Will expire automatically upon the termination date unless the applicant has made a timely and complete application for extension of the special temporary authority; and

(iv) Does not preclude enforcement action for non-compliance with the Cable Landing License Act, the Communications Act, or the Commission's rules in this chapter for action or failure to act at any time before or after grant of the special temporary authority; and

(6) The certification required in § 63.18(o) of this chapter.

(7) Any other information that may be necessary to enable the Commission to act on the application.

§ 1.70009 Notification by and prior approval for cable landing licensees that are or propose to become affiliated with a foreign carrier.

Any entity that is licensed by the Commission ("licensee") to land or operate a submarine cable landing in a particular foreign destination market that becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, including an entity that owns or controls a cable landing station in that market, shall notify the Commission of that affiliation.

(a) *Affiliations requiring prior notification*. Except as provided in paragraph (b) of this section, the licensee must notify the Commission, pursuant to this section, forty-five (45) days before consummation of either of the following types of transactions:

(1) Acquisition by the licensee, or by any entity that controls the licensee, or by any entity that directly or indirectly owns more than twenty-five percent (25%) of the capital stock of the licensee, of a controlling interest in a foreign carrier that is authorized to operate in a market where the cable lands; or

(2) Acquisition of a direct or indirect interest greater than twenty-five percent (25%), or of a controlling interest, in the capital stock of the licensee by a foreign carrier that is authorized to operate in a market where the cable lands, or by an entity that controls such a foreign carrier.

(b) *Exceptions*. (1) Notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead by filed pursuant to paragraph (c) of this section, if either of the following is true with respect to the named foreign carrier, regardless of whether the destination market where the cable lands is a World Trade Organization (WTO) or non-WTO Member:

(i) The Commission has previously determined in an adjudication that the foreign carrier lacks market power in that destination market (for example, in an international section 214 application or a declaratory ruling proceeding); or

(ii) The foreign carrier owns no facilities in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in a cable landing station or in bare capacity in international or domestic telecommunications facilities (excluding switches).

(2) In the event paragraph (b)(1) of this section cannot be satisfied, notwithstanding paragraph (a) of this section, the notification required by this section need not be filed before consummation, and may instead be filed pursuant to paragraph (c) of this section, if the licensee

certifies that the destination market where the cable lands is a WTO Member and provides certification to satisfy either of the following:

(i) The licensee demonstrates that its foreign carrier affiliate lacks market power in the cable's destination market pursuant to § 63.10(a)(3) of this chapter; or

(ii) The licensee agrees to comply with the reporting requirements contained in § 1.70015 effective upon the acquisition of the affiliation.

(c) *Notification after consummation*. Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to the requirements of this section shall notify the Commission within thirty (30) days after consummation of the acquisition.

Example 1 to paragraph (c). Acquisition by a licensee (or by any entity that directly or indirectly controls, is controlled by, or is under direct or indirect common control with the licensee) of a direct or indirect interest in a foreign carrier that is greater than twenty-five percent (25%) but not controlling is subject to this paragraph (c) but not to paragraph (a) of this section.

Example 2 to paragraph (c). Notification of an acquisition by a licensee of a hundred percent (100%) interest in a foreign carrier may be made after consummation, pursuant to this paragraph (c), if the foreign carrier operates only as a resale carrier.

Example 3 to paragraph (c). Notification of an acquisition by a foreign carrier from a WTO Member of a greater than twenty-five percent (25%) interest in the capital stock of the licensee may be made after consummation, pursuant to this paragraph (c), if the licensee demonstrates in the post-notification that the foreign carrier lacks market power in the cable's destination market or the licensee agrees to comply with the reporting requirements contained in § 1.70015 effective upon the acquisition of the affiliation.

(d) *Cross-reference*. In the event a transaction requiring a foreign carrier notification pursuant to this section also requires a transfer of control or assignment application pursuant to the requirements of the license granted under § 1.70007(f) and (g), § 1.70012, or § 1.70013, the foreign carrier notification shall reference in the notification the transfer of control or assignment application and the date of its filing. See § 1.70007.

(e) *Contents of notification*. The notification shall certify the following information:

(1) The name of the newly affiliated foreign carrier and the country or countries at the foreign end of the cable in which it is authorized to provide telecommunications services to the public or where it owns or controls a cable landing station.

(2) Which, if any, of those countries is a Member of the World Trade Organization.

(3) The name of the cable system that is the subject of the notification, and the FCC file number(s) under which the license was granted.

(4) The name, address, citizenship, and principal business of any person or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the licensee, a statement to that effect.

(i) *Calculation of equity interests held indirectly in the licensee*. Equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier. Example: An entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a non-controlling 40 percent equity and voting interest in the licensee. The entity's equity interest in the licensee would be calculated by multiplying the individual's equity interest in Corporation A by that entity's equity interest in the licensee. The entity's equity interest in the licensee would be calculated as 12 percent (30% × 40% = 12%). The result would be the same even if Corporation A held a de facto controlling interest in the licensee.

(ii) *Calculation of voting interests held indirectly in the licensee.* Voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the

voting interest for any link in the chain is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. A general partner shall be deemed to hold the same voting interest as the partnership holds in the company situated in the next lower tier of the vertical ownership chain. A partner of a limited partnership (other than a general partner) shall be deemed to hold a voting interest in the partnership that is equal to the partner's equity interest. Example: An entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a controlling 70 percent equity and voting interest in the licensee. Because Corporation A's 70 percent voting interest in the licensee constitutes a controlling interest, it is treated as a 100 percent interest. The entity's 30 percent voting interest in Corporation A would flow through in its entirety to the licensee and thus be calculated as 30 percent (30% × 100% = 30%).

(5) An ownership diagram that illustrates the licensee's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (e)(4) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified.

(6) The name of any interlocking directorates, as defined in § 63.09(g) of this chapter, with each foreign carrier named in the notification.

(7) With respect to each foreign carrier named in the notification, a statement as to whether the notification is subject to paragraph (a) or (c) of this section. In the case of a notification subject to paragraph (a) of this section, the licensee shall include the projected date of closing. In the case of a notification subject to paragraph (c) of this section, the licensee shall include the actual date of closing.

(8) If a licensee relies on an exception in paragraph (b) of this section, then a certification as to which exception the foreign carrier satisfies and a citation to any adjudication upon which the licensee is relying. Licensees relying upon the exceptions in paragraph (b)(2) of this section

must make the required certified demonstration in paragraph (b)(2)(i) of this section or the certified commitment to comply with the reporting requirements in paragraph (b)(2)(ii) of this section in the notification required by paragraph (c) of this section.

(f) *Exemptions based on lack of market power.* If the licensee seeks exemption from the reporting requirements contained in § 1.70015, the licensee should demonstrate that each foreign carrier affiliate named in the notification lacks market power pursuant to § 63.10(a)(3) of this chapter.

(g) *Procedure*. After the Commission issues a public notice of the submissions made under this section, interested parties may file comments within fourteen (14) days of the public notice.

(1) If the Commission deems it necessary at any time before or after the deadline for submission of public comments, the Commission may impose reporting requirements on the licensee based on the provisions of § 1.70015.

(2) In the case of a prior notification filed pursuant to paragraph (a) of this section, the authorized U.S. licensee must demonstrate that it continues to serve the public interest for it to retain its interest in the cable landing license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in § 63.10(a) of this chapter. In addition, upon request of the Commission, the licensee shall provide the information specified in § 1.70005(j). If the licensee is unable to make the required showing or is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules in this chapter under 47 U.S.C. 34 through 39 and Executive Order 10530, dated May 10, 1954, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.

(3) Under § 63.10(a) of this chapter, the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

(h) *Continuing accuracy of information*. All licensees are responsible for the continuing accuracy of information provided pursuant to this section for a period of forty-five (45) days after filing. During this period if the information furnished is no longer accurate, the licensee shall as promptly as possible, and in any event within ten (10) days, unless good cause is shown, file with the Commission a corrected notification referencing the FCC file numbers under which the original notification was provided.

(i) *Requests for confidential treatment.* A licensee that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to § 0.459 of this chapter, for the first twenty (20) days after filing.

(j) *Electronic filing*. Subject to the availability of electronic forms, all notifications described in this section must be filed electronically through the International Communications Filing System (ICFS). A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.10000 through 1.10018 and the ICFS homepage at https://www.fcc.gov/icfs. See also §§ 63.20 and 63.53 of this chapter.

15. Delayed indefinitely, add §§ 1.70011 through 1.70013 to read as follows:

§ 1.70011 Applications for modification of a cable landing license.

A separate application shall be filed with respect to each individual submarine cable system for which a licensee(s) seeks to modify the cable landing license. Each modification application shall include a narrative description of the proposed modification including relevant facts and circumstances leading to the request. Each modification application must contain

information pursuant to §§ 1.70002(b) and (c) and 1.70004. Requirements for specific types of modification requests are set out below. For other situations, the licensee(s) should contact Commission staff regarding the required information for the modification application.

(a) An application to add a landing point(s), segment(s), or other like material changes to a submarine cable system must also include the following:

(1) Information as required by § 1.70005(a) through (i), (k), (m), and (o), except as specified in paragraph (a)(2) of this section, as it relates to the modified portion of the cable system and a description of how any new landing point(s) or segment(s) will be connected to the cable system;

(2) Certifications set forth under § 1.70006, except for § 1.70006(d). A licensee seeking a modification of a cable landing license must certify in the application that it has created, updated, and implemented a cybersecurity and physical security risk management plan, consistent with §§ 1.70006(c) and 1.70007(q);

(3) Any other information that may be necessary to enable the Commission to act on the application; and

(4) Signature(s) by each licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (a)(4).

(b) An application to add an applicant as a licensee for an existing cable landing license must also include the following:

(1) Information required by § 1.70005(a) through (c), (g), (j), (k), and (m), except as specified in paragraph (b)(4) of this section, for the proposed new licensee;

(2) Information required by § 1.70005(d) through (f);

(3) Information required by § 1.70005(i) for the proposed new licensee and current owners of the submarine cable system;

(4) Certifications set forth under § 1.70006 for the proposed new licensee, except for § 1.70006(d);

(5) Any other information that may be necessary to enable the Commission to act on the application; and

(6) Signature(s) by the proposed licensee and each current licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (b)(6).

(c) A notification of the removal of a landing point(s), segment(s), or other like changes to a submarine cable system must be filed no later than 30 days after the removal. The notification must also include the following:

(1) Information as required by § 1.70005(a) through (d);

(2) A description of which element(s) were removed from the submarine cable system and the date on which the element(s) was removed from the submarine cable system;

(3) An updated description of the submarine cable system after the removal of the elements of the submarine cable system;

(4) An explanation of what happened with the physical facilities upon removal from the submarine cable system;

(5) An explanation of how the removal affected the ownership of the remaining portions of the submarine cable;

(6) Any other information that may be necessary to enable the Commission to act on the notification; and

(7) Signature(s) by each licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (c)(7).

(d) A notification that a licensee(s) has relinquished an interest in a cable landing license must be filed no later than 30 days after the relinquishment. The notification must also include:

(1) Information required by § 1.70005(a) through (d) for the licensee(s) that relinquished an interest in the submarine cable system;

(2) The ownership interests that were held by that licensee(s) prior to the relinquishment;

(3) Whether the licensee(s) relinquished all of its interests in the submarine cable system or what interests it has retained;

(4) An explanation of what happened to the interests that were relinquished (whether the interests were re-distributed pro rata amongst the remaining licensees or otherwise re-distributed);

(5) A demonstration that the entity is not required to be a licensee under § 1.70003 and that the remaining licensee(s) retain collectively *de jure* and *de facto* control of the U.S. portion of the submarine cable system sufficient to comply with the requirements of the Commission's rules in this chapter and any specific conditions of the license;

(6) A signature(s) from the licensee(s) that relinquished its interest;

(7) Any other information that may be necessary to enable the Commission to act on the notification; and

(8) A certification that the notification was served on each of the other licensees of the submarine cable system.

(e) If any joint licensee(s) of a submarine cable no longer exists and did not file a notification to modify the license to relinquish its interest in the license, the remaining joint licensee(s) of the cable may collectively file a modification notification to remove the licensee from the license. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (e). The notification must also include:

(1) Information required by § 1.70005(a) through (d) for the licensee(s) that seeks to remove a licensee(s) from a cable landing license;

(2) An explanation of why the licensee(s) request removal of a licensee(s) from the license;

(3) A description of the efforts to contact the licensee to be removed;

(4) The ownership interests in the submarine cable held by the licensee(s) to be removed;

(5) An explanation of what will happen to the interests of the licensee(s) that will be removed (whether the interests were re-distributed pro rata amongst the remaining licensees or otherwise re-distributed);

(6) A demonstration that the remaining licensee(s) retain collectively *de jure* and *de facto* control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules in this chapter and any specific conditions of the license;

(7) A signature(s) from all of the licensee(s) of the submarine cable that seeks to remove the licensee(s);

(8) Any other information that may be necessary to enable the Commission to act on the notification; and

(9) A certification that the notification was served on each of the other licensees of the submarine cable system.

(f) A notification to add, remove, or otherwise change a condition on the cable landing license regarding compliance with a national security mitigation agreement (e.g., Letter of Agreement or National Security Agreement) must be filed no later than 30 days after the change. The notification must include the following:

(1) Information required by § 1.70005(a) through (c) of the licensee(s) that seeks to add, remove, or change a condition;

(2) Information required by § 1.70005(d);

(3) An explanation of the change in the national security condition;

(4) A copy of the new national security mitigation agreement, if applicable;

(5) A certification that the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector (Committee) agrees with the change;

(6) A certification that the notification has been served on the Chair of the Committee;

(7) A signature(s) from the licensee(s) that seeks to add, remove, or change a condition; and

(8) Any other information that may be necessary to enable the Commission to act on the notification.

(g) If a landing point is being moved within the same town/city/county as approved in the cable landing license, the licensee(s) must file a notification no later than 30 days after the landing point is moved. The notification must include:

(1) Information as required by § 1.70005(a) through (f), as it relates to the modified portion of the cable system;

(2) Any other information that may be necessary to enable the Commission to act on the notification; and

(3) Signature(s) by each licensee. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (g)(3).

(h) A notification to add an interconnection between two or more licensed cable systems must be filed no later than ninety (90) days prior to construction. The Commission will give public notice of the filing of this description, and grant of the modification will be considered final if the Commission does not notify the applicant otherwise in writing no later than sixty (60) days after receipt of the notification, unless the Commission designates a different time period. If, upon review of the notification, the Commission finds that the proposed interconnection presents a risk to national security, law enforcement, foreign policy, and/or trade policy or raises other concerns, it may require the licensee(s) to file a complete modification application to seek Commission approval for the interconnection. The notification must include:

(1) Information as required by § 1.70005(a) through (c) for each licensee of the submarine cables to be interconnected;

(2) Information as required by § 1.70005(d) and the license file number of each of the cable systems to be interconnected;

(3) A general description of where the interconnection will take place and the terms of the interconnection agreement;

(4) Any other information that may be necessary to enable the Commission to act on the notification; and

(5) Signature(s) by each licensee of each cable to be interconnected. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (h)(5).

(i) A notification to add a new connection between a branching unit of a licensed submarine cable and a foreign landing point must be filed no later than ninety (90) days prior to construction. The Commission will give public notice of the filing of this description, and grant of the modification will be considered final if the Commission does not notify the applicant otherwise in writing no later than sixty (60) days after receipt of the notification, unless the Commission designates a different time period. If, upon review of the notification, the Commission finds that the proposed connection presents a risk to national security, law enforcement, foreign policy, and/or trade policy or raises other concerns, it may require the licensee(s) to file a complete modification application to seek Commission approval for the connection. The notification must include:

(1) Information as required by § 1.70005(a) through (c) for each licensee of the Commission-licensed cable whose branching unit will be used to make the connection between two (or more) foreign points;

(2) Information as required by § 1.70005(d) and the license file number of the Commission-licensed cable whose branching unit will be used to make the connection between two (or more) foreign points;

(3) A description of the proposed connection, including which foreign points would be connected;

(4) The relationship between the owner of the proposed connection and the licensees of the Commission-licensed cable whose branching unit will be used to make the connection between two (or more) foreign points;

(5) An explanation of how the proposed connection would not allow for direct connection from the new foreign point(s) to the United States

(6) Any other information that may be necessary to enable the Commission to act on the notification; and

(7) Signature(s) by each licensee of the cable. Joint licensees may appoint one party to act as proxy for purposes of complying with this paragraph (i)(7).

§ 1.70012 Substantial assignment or transfer of control applications.

(a) Each application for authority to assign or transfer control of an interest in a cable system shall contain information pursuant to §§ 1.70002(b) and (c) and 1.70004(a). The application shall contain a certification as to whether or not the licensee, assignor/transferor, or assignee/transferee exhibit any of the criteria set out in the presumptive disqualifying conditions under §§ 1.70002(c)(1) and 1.70004(a)(1).

(b) An application for authority to assign or transfer control of an interest in a cable system shall contain a narrative description of the proposed transaction, including relevant facts and circumstances. The application shall also include the following information:

(1) The information requested in § 1.70005(a) through (c) for both the assignor/transferor and the assignee/transferee.

(2) The information required in § 1.70005(d) through (f).

(3) A narrative describing the means by which the assignment or transfer of control will take place.

(4) The information and certifications required in § 1.70005(j) for the assignee or the transferee and the licensee that is the subject of the transfer of control.

(5) The application shall also specify, on a segment specific basis, the percentage of voting and ownership interests being assigned or transferred in the cable system, including in the U.S. portion of the cable system (which includes all U.S. cable landing station(s)).

(6) The information and certifications required in § 1.70005(g) and (m), except as specified in paragraph (b)(7) of this section, for each assignee or licensee that is the subject of a transfer of control.

(7) The certifications set forth in § 1.70006, except for § 1.70006(d). A licensee seeking an assignment or transfer of control of a cable landing license must certify in the application that it has created, updated, and implemented a cybersecurity and physical security risk management plan, consistent with §§ 1.70006(c) and 1.70007(q). The application must also include a certification that the assignee or the transferee and the licensee that is the subject of the transfer of control accepts and will abide by the routine conditions specified in § 1.70007.

(8) In the event the transaction requiring an assignment or transfer of control application also requires the filing of a foreign carrier affiliation notification pursuant to § 1.70009, the application shall reference the foreign carrier affiliation notification and the date of its filing.

(9) The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination.

(10) An assignee or transferee must notify the Commission no later than thirty (30) days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer. The notification shall identify the file numbers under which the initial license and the authorization of the assignment or transfer were granted.

§ 1.70013 Pro forma assignment and transfer of control notifications.

(a) A *pro forma* assignee or a licensee that is the subject of a *pro forma* transfer of control of a cable landing license is not required to seek prior approval for the *pro forma* transaction. A *pro forma* assignee or licensee that is the subject of a *pro forma* transfer of control must notify the Commission no later than thirty (30) days after the assignment or transfer of control is consummated.

(b) Assignments or transfers of control that do not result in a change in the actual controlling party are considered non-substantial or *pro forma*. Whether there has been a change

in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in note 1 to § 63.24(d) of this chapter. The types of transactions listed in note 2 to § 63.24(d) of this chapter will be considered presumptively *pro forma* and prior approval from the Commission need not be sought. A notification of a *pro forma* assignment or transfer of control shall include the following information:

(1) The information requested in § 1.70005(a) through (c) for both the assignor/transferor and the assignee/transferee.

(2) The information required in § 1.70005(d).

(3) A narrative describing the means by which the *pro forma* assignment or transfer of control occurred.

(4) The information and certifications required in § 63.18(h), (o), and (q) of this chapter for the assignee or the transferee and the licensee that is the subject of the transfer of control.

(5) The notification shall also specify, on a segment specific basis, the percentage of voting and ownership interests being assigned or transferred in the cable system, including in the U.S. portion of the cable system (which includes all U.S. cable landing station(s)).

(6) The notification must certify that the assignment or transfer of control was *pro forma*, as defined in this paragraph (b), and, together with all previous *pro forma* transactions, does not result in a change of the licensee's ultimate control.

(7) The information and certifications required in § 1.70005(j)(2) through (5).

(8) A certification that the assignee or the transferee and the licensee that is the subject of the transfer of control accepts and will abide by the routine conditions specified in § 1.70007.

(9) A certification as to whether or not the licensee, assignor/transferor, or assignee/transferee exhibit any of the criteria set out in the presumptive disqualifying conditions under §§ 1.70002(c)(1) and 1.70004(a)(1).

(10) The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.

(11) The Commission reserves the right to request additional information concerning the transaction to aid it in making its public interest determination.

16. Delayed indefinitely, amend § 1.70016 by:

a. Removing the period at the end of paragraph (b)(1) and adding "; and" in its place; and

b. Adding paragraph (b)(2).

The addition reads as follows:

§ 1.70016 Eligibility for streamlining.

* * * * *

(b) * * *

(2) Certifying that individuals or entities that hold a ten percent or greater direct or indirect equity and/or voting interests, or a controlling interest, in the applicant are:

(i) U.S. citizens or entities organized in the United States; and/or

(ii) Individuals or entities that have citizenship(s) or place of organization in a foreign country and:

(A) Do not have a citizenship(s) or place of organization in a foreign adversary country, as defined in § 1.70001(f); and

(B) Whose ownership interest in the applicant has been previously reviewed by the Commission and the Committee.

17. Delayed indefinitely, add § 1.70017 to read as follows:

§ 1.70017 Foreign adversary annual report for licensees.

(a) *Annual report.* Licensees shall file every year an annual report in the relevant File Number in the Commission's International Communications Filing System (ICFS), or any successor system.

(b) *Criteria for who must report*. The annual reporting requirement in this section applies to a licensee:

(1) That is owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in § 1.70001(g);

(2) That is identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609;

(3) Whose authorization, license, or other Commission approval, whether or not related to operation of a submarine cable, was denied or revoked and/or terminated or is denied or revoked and/or terminated in the future on national security and law enforcement grounds, as well as the current and future affiliates or subsidiaries of any such entity; and/or

(4) Whose submarine cable system is licensed to land or operate in a foreign adversary country, as defined in § 1.70001(f).

(c) *Information contents*. The Foreign Adversary Annual Report shall include information that is current as of thirty (30) days prior to the filing deadline, as follows:

(1) The information as required in § 1.70005(a) through (g), (i), and (m).

(2) Certifications as set forth under § 1.70006, except for § 1.70006(b) and (d).

(d) *Reporting deadlines*. Licensees shall submit their initial Foreign Adversary Annual Report within six months of [effective date of amendatory instruction 17], and each year. OIA shall establish and modify, as appropriate, the filing manner and associated deadlines for the Foreign Adversary Annual Report. OIA may, if needed, consult with the relevant Executive Branch agencies concerning the filing manner and associated deadlines for the annual reports. Licensees shall file the Foreign Adversary Annual Report pursuant to the deadlines.

(e) *Filing with the committee*. Licensees shall file a copy of the report directly with the Committee.

18. Delayed indefinitely, add § 1.70020 to read as follows:

§ 1.70020 Renewal and extension applications.

(a) Licensees seeking to renew or extend a cable landing license shall file an application six months prior to the expiration of the license.

(b) The application must include the information and certifications required in §§ 1.70002(b) and (c), 1.70004, 1.70005, and 1.70006 (except for § 1.70006(d)). A licensee seeking a renewal or extension of a cable landing license must certify in the application that it has created, updated, and implemented a cybersecurity and physical security risk management plan, consistent with §§ 1.70006(c) and 1.70007(q).

(c) Upon the filing of a timely and complete application to renew or extend a cable landing license in accordance with the Commission's rules in this chapter, a licensee may continue operating the submarine cable system while the application is pending with the Commission.

19. Delayed indefinitely, add §§ 1.70023 and 1.70024 to read as follows:

§ 1.70023 Covered list certification for cable landing licensees.

Each cable landing licensee shall submit a certification, within sixty (60) days of [effective date of amendatory instruction 19], that it will not add to its submarine cable system(s) under its respective license(s) equipment or services identified on the Covered List that the Commission maintains on its website pursuant to the Secure Networks Act, 47 U.S.C. 1601 through 1609; except, this condition shall not apply to a licensee that is identified on the Covered List whose cable landing license was or is granted prior to [effective date of amendatory instruction 19].

§ 1.70024 One-time cybersecurity and physical security certification.

(a) *Existing licensees*. Each licensee whose cable landing license was granted before [effective date of amendatory instruction 19], must:

(1) Implement a cybersecurity and physical security risk management plan consistent with the requirements in § 1.70006(c) within one year of [effective date of amendatory

instruction 19]. To the extent the licensee does not commence service on the submarine cable by this timeframe, the licensee must implement a cybersecurity and physical security risk management plan as of the date the submarine cable is placed into service.

(2) Submit a certification to the Commission within thirty (30) days of [effective date of amendatory instruction 19], that it will implement a cybersecurity and physical security risk management plan consistent with the requirements in § 1.70006(c).

(3) The licensee shall submit cybersecurity and physical security risk management plans to the Commission upon request. The Office of International Affairs, in coordination with the Public Safety and Homeland Security Bureau, may request, at its discretion, submission of such cybersecurity and physical security risk management plans and evaluate them for compliance with the Commission's rules in this subpart. The cybersecurity and physical security risk management plans provided under this subsection shall be treated as presumptively confidential.

(4) The licensee shall preserve data and records related to its cybersecurity and physical security risk management plans, including documentation necessary to demonstrate how those plans are implemented, for a period of two years from the date the related risk management plan certification is submitted to the Commission.

(b) *Pending application for cable landing license*. If an application for a cable landing license is filed prior to [effective date of amendatory instruction 19], and remains pending on or after [effective date of amendatory instruction 19], the applicant(s) must submit a certification, within thirty (30) days of [effective date of amendatory instruction 19], attesting that it will create and implement a cybersecurity and physical security risk management plan as of the date the submarine cable is placed into service.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

20. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 35-39, 154, 211, 219, 220; sec. 402(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 129.

§ 43.82 [Amended]

21. Amend § 43.82 by removing and reserving paragraph (a)(1).

22. Delayed indefinitely, further amend § 43.82 by:

a. Revising the heading of paragraph (a);

b. Adding paragraph (a)(1);

c. Revising paragraph (a)(2);

d. In paragraph (b), removing "Section 0.459(a)(4) of the Commission's rules" and adding "§ 0.459(a)(4) of this chapter" in its place; and

e. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 43.82 Circuit capacity report.

(a) *Submarine cable capacity.* * * *

(1) *Capacity holder report.* Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables landing in the United States as of December 31 of the preceding calendar year.

(2) *United States.* United States is defined in section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

* * * * *

(d) *Compliance.* Submission of false or inaccurate certifications or failure to file timely and complete annual circuit capacity reports in accordance with the Commission's rules in this chapter and the Filing Manual shall constitute grounds for enforcement action, including but not limited to a forfeiture or cancellation of the cable landing license or international section 214 authorization, pursuant to the Communications Act of 1934, as amended, and any other applicable law.

(e) *Sharing of circuit capacity reports with Federal agencies.* For purposes of the information collected under this subpart, the Commission may disclose to the Committee for the Assessment of Foreign Participation in the U.S. Telecommunications Services Sector, the Department of Homeland Security, and the Department of State any information submitted by an applicant, petitioner, licensee, or authorization holder under this subpart. Where such information has been submitted in confidence pursuant to § 0.457 or § 0.459 of this chapter, such information may be shared subject to the provisions of § 0.442 of this chapter and, notwithstanding the provisions of § 0.442(d)(1) of this chapter, notice will be provided at the time of disclosure.

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